IMPACT OF THE WHISTLEBLOWING POLICY IN THE FIGHT AGAINST CORRUPTION IN NIGERIA

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ABSTRACT
The menace of corruption and its corrosive effects on the Nigerian people and polity is pervasive and obvious throughout her history. These fatal effects corruption has produced and will continue to produce if left unchecked, has propelled successive Nigerian governments to devise strategies and policies to decisively tackle corruption with the aim of reducing it as much as possible. The necessitating factor for this research, however, is that despite these efforts, the problem of corruption still persists in Nigeria with insinuations that it is getting even worse. This study, therefore examines the impact of the whistle-blowing policy on the fight against corruption in Nigeria; From the findings of this work, the whistle blowing policy has not had the desired impact on the country's anti-corruption crusade. This work, therefore, recommends, among other things, that the whistle blowers should be given adequate legal and security protection and adequate public awareness be embarked upon to educate the people of the need to expose corrupt individuals.

Introduction

Over the last few decades, corruption around the world has manifested in different forms including bribery, embezzlement, subsidy and pension theft, fraud, contract and procurement inflation, money laundering, price-fixing, and rent-seeking among others. In the case of Nigeria, the act of indiscipline, bribery, misuse and misappropriation of public resource as well as favouritism and cronyism are common acts of corruption that forms headlines in the news. Other manifestations of corruption in Nigeria include admission fraud, grade trading and all forms of examination misconducts in the educational institutions; perversion of justice among law enforcement agencies and the judiciary; and outrageous criminalities such as foreign exchange swindling, hoarding and smuggling, and over-invoicing of goods perpetrated against the economy and so on (Salihu and Gholami, 2018).

The effects of corruption are immense and widely felt across the country. It is evident in the inability of the government at all levels to invest in, and effectively manage the productive sectors and infrastructures, increased production costs, slowed economic growth and weakened rule of law. The implications of these on the average Nigerian include, but not limited to, poverty, unemployment, provision of substandard goods and uneven service delivery, injustice, and impunity (Salihu and Gholami, 2018).

However, the fight against corruption has been the claimed agenda of successive governments in Nigeria since independence in 1960. To this end, many policies in the form of detection, preventive and punitive measures are

put in place to address all forms of corrupt practices.Such notable efforts were the Federal Assets Investigation Panel (FAIP) of 1975;War Against Indiscipline (WAI) which operated between March 1984 to September 1985;National Committee on Corruption and other Economic Crimes (NCCEC) inaugurated by the Babangida's administration on 3rd April 1989; the two anti-corruption agencies established by the Babangida administration namely; Mass Mobilization for Economic Recovery, Self-Reliance and Social Justice (MAMSER) and National Orientation Agency (NOA) and War Against Indiscipline and Corruption (WAIC) introduced by Sani Abacha's administration in 1994.

In the Fourth Republic, former President Olusegun Obasanjoinherited the second most corrupt nation in 1999, and this prompted him to embark on many optimistic measures aimed at sanitising the Nigeria society. These include: Commencement of the process of recovery of looted funds from foreign banks; Setting up of ad-hoc panels of inquiry to investigate and report on allegations of corrupt practices especially of failed contracts; establishment of ICPC and subsequently the EFCC for investigation and prosecution of persons implicated in corrupt practices and economic crimes; Initiation of reform of the public sector through privatization and commercialization of government business ventures; monetization of benefits of public servants, guaranteeing pensions and retirement benefit; Signed international anti-corruption instruments such as the UN Conventions, the AU Conventions, the ECOWAS Protocol; and constant reaffirmation of zero tolerance for corruption and the need for ethical and values reorientation.

Other measures put in place by the Federal Government also include the launching of a new National Orientation Campaign; introduction of a code of Ethics for Federal Ministers and Special Advisers. The code of conduct for Ministers and Special Advisers of the Federal Government of Nigeria subscribes the officers to the seven principles of public life, namely: selflessness, integrity, objectivity, accountability, openness, honesty and leadership (Anifowose, 2002:116). This is the anti-corruption blueprint sustained by the Yaradua/Jonathan administrations. However, the above measures to curtail the menace of corruption may appear to be the scourge that has continued to ravage the country. Nevertheless, as efforts to eradicate corruption progresses, so does corruption advances in methods.

Typically, Nigeria's anti-corruption agencies, particularly the Economic and Financial Crimes Commission (EFCC), rely essentially on public complaints and petitions about corruption allegations to initiate investigations. People are often encouraged to notify the authority of any financial misconducts they noticed around them. However, this method has suffered several challenges. Among the major challenges include lack of credibility in many of the petitions received by the authority (some are politically motivated) and lack of direction and adequate information that may assist in the investigation and evidence gathering. Also, the fear of unknown consequences often prevents many people from reporting corrupt activities around them (Enweremadu, 2012).

Thus, this method seems ineffectual as it fails to produce desirable outcomes (in term of evidence-gathering) within a reasonable time to convict perpetrators. This is evident in the inability of the EFCC to successfully gather evidence to prosecute many individuals accused of corruption; there are cases of corruption under investigation for more than ten years (Ethelbert, 2016). Also, the Commission continues to lose corruption cases even after spending substantial time and resources on investigation and evidence-gathering. The fact remains that there is hardly any credible evidence rising to a level of conviction. Judges and legal practitioners have, in several cases, suggested to the Commission to conduct proper investigations and gather relevant and tenable evidence before bringing up a trial against suspects. These thus suggest that the petition method has not contributed meaningfully to the fight against corruption in Nigeria.

Recently, however, the Nigerian government through the Federal Ministry of Finance introduced whistleblower policy as a tool to complement the existing anti-corruption measures. The policy seeks to detect corruption in both the public and private sectors. Although, the policy has not received legislative approval for it to be fully implemented and supported by law, yet it appears to have produced considerable outcomes compared with the petition system adopted in the past. Generally, whistleblowing policy is one of the anti-corruption tools widely adopted around the world to detect corrupt practices. Its adoption has improved governance, transparency and

promoted healthy government in some countries (Transparency International, 2010). It is against this background that this study seeks to investigate the impact of the whistleblowing policy in the fight against corruption in Nigeria.

Conceptual Issue

Whistleblowing and Whistleblower

There is no consensus definition of whistle-blowing (Brennan & Kelly, 2007). One consistent element that scholars agree on is that whistle-blowing is an act to account, report as well as expose wrongdoings. The whistle-blowing term has been differently defined and debated in the available literature. The substantial disagreement, as well as arguments, surround which channels (external vs. internal whistle-blowing) to report and whether auditors (external or internal), should be countered as whistleblowers.

According to the Cambridge Advanced Learner's Dictionary (2010), whistle-blowing as "[causing] something bad that someone is doing to stop mainly by bringing it to the attention of other people". Lewis (2001) stated that what is very important is not the definition of the term but the definition of the condition and conditions under which the employees who disclose wrongdoing are at liberty to protection from reprisal. Though, a working definition for this article may be significant. Dehn (2003) stated whistle-blowing as: "…a colloquial term usually applied to the raising of concerns by one member of an organization about the conduct or competence of another member of the same organization or about the activities of the organization itself".

Gilan (2003, quoting Latimer, quoting Cripps 1986) defined whistle-blowing as "passing on information from a conviction that it should be passed on despite (not because of) the embarrassment it could cause to those implicated". Lately, it has been defined as "a tradition that supports the challenge of unsuitable behaviour at all levels" (Getting the Balance Right, 2005, Cm 2407). It may also be synonymous with the culture of raising concern by a member of staff about wrongdoing or misdemeanour taking place in his place of work (Shipman's Inquiry (b) 2005). Whistle-blowers are persons (usually workers) who at their own risk, having been "motivated by a sense of ownership, and/or public duty, may unveil what they see as specific examples of wrongdoing, which may be within the private and/or public sector" (Shipman's Inquiry (b) 2005).

The term "whistleblowing" is thought to have its root in two different but related activities. First, the term follows from the practice of the police who blow whistles when attempting to apprehend a suspected criminal. Secondly, it is thought to follow from the practice of referees during sporting events that blow their whistle to stop an action. It can be deduced from the above that whistleblowing involves the disclosure of illegal, immoral or illegitimate practices with the aim that wrongdoing will be minimized if not tackled. There are two types of whistleblowing: internal and external whistleblowing. Internal whistleblowing encompasses the disclosure of wrongdoing to a supervisor within the organisation.

On the other hand, external whistleblowing is reporting unethical activities to outside parties believed to have the power to correct it.It, therefore, presupposes that the motivation towards internal whistleblowing is dependent upon the existence of effective internal channels of complaint in the organisations. Nevertheless, internal reporting should be first resorted to before going outside the walls of an organisation. Internal whistleblowing, if successfully carried out, is capable of concealing the ugly state of the organisation to the society. Whistleblowing may also be public or private. It is public when the disclosure relates to a public company and private when the disclosure has to do with a private company or an individual. In all these, the jurisprudence behind the disclosure is the protection of public interest.

According to the 2017 Bill section, an act of disclosure may be made where it can be shown that concerning the performance of a public function, a public authority, a public officer, or a public sector contractor is, has been, or proposes to be involved in improper conduct. It could also be that there is a miscarriage of justice, an act or omission that constitutes an offence under a written law or an act or omission that involves the risk of injury to the public health, prejudices public safety, or harm to the environment has been committed. A similar provision is found in Ghana, UK, and Zambia. The import of these provisions is that whistleblowing must proceed from a genuine foundation which contemplates public interest.

Literature Review

There is growing literature on Whistleblowing globally as a strategy of curbing corruption. Brown (2008) researched on whistle-blowing in the Australian public sector: enhancing the theory and practice of internal witness management in public sector organizations, recommends that internal whistle-blowing mechanism should be given attention to achieve an effective result. Clark (2013) wrote on external whistle-blowing in the public service: a necessarily messy practice argues that external whistle-blowing should not be practised, and recommends the strengthening of the internal reporting mechanisms to limit external disclosures made in the public service. However, these studies do not assess the impact of the whistleblowing policy on the fight against corruption in Nigeria.

Bordeleau (2011) argues that external whistle-blowing by whistleblowers would disrupt the feedback loop of accountability bypassing those who are charged with responsibility when problems emerge. The influence of attitude in explaining the intention of external whistle-blowing is not as great as for internal whistle-blowing, which explains why the widely observed disjunction between attitude and intentions is greater for external than for Internal whistle-blowing. However, this study does not assess the impact of the whistleblowing policy on the fight against corruption in Nigeria.

Shelvin (2012) argues that stakeholders who play an important role in the effective running of an Organization need to recognize the value that the organization brings to the economy and the wider society. Therefore, the interests of all stakeholders should not be jeopardized by improper management of whistleblowing practices. However, these studies do not assess the impact of the whistleblowing policy on the fight against corruption in Nigeria.

Bond and Manyanya (2003) incited and exciting debate on the moral justification of whistle-blowing. Proponents of whistleblowing have advanced lines of argument to vindicate the contentions that whistleblowing is morally justifiable. Whistleblowers are morally justified to report immoral business practices if they have good reasons to think that they are potentially harmful to the health and well-being of the public. Fasua and Osifo (2017) examined effective whistle-blowing mechanism and audit committee in the Nigerian banking sector, discover that there is a strong relationship between effective whistleblowing mechanism in the Nigerian banking sector and audit committee independence, audit committee financial expertise, and audit committee meeting. They conclude that whistleblowing mechanism in the Nigerian banking sector should be strengthened. However, these studies do not assess the impact of the whistleblowing policy on the fight against corruption in Nigeria.

Sunday (2015) researched on effects of whistleblowing practices on organizational performance in the Nigerian public sector, discovered that there is a positive association between the whistle-blowing system in the public sector and performance and practice in public service and encouraged the establishment of whistleblowing mechanisms in the public sector. According to Miceli and Near (2002), when research is designed to capture the experiences of a wider range of whistleblowers, managers and case handlers a more varied picture of whistle-blowing is found in which the outcomes for both organizations and whistleblower is sometimes negative but often positive. However, these studies do not assess the impact of the whistleblowing policy on the fight against corruption in Nigeria. It is against this background this study seeks to make contributions to the research endeavour.

Theoretical Framework

There is various theory to the study of whistleblowing in the literature. The standard theory is not just about whistleblowing, as such, but about justified whistleblowing and rightly so. Whether this or that is or is not whistleblowing is a question for lexicographers. Standard theory corresponds to the original model of generative grammar laid out by Chomsky in 1965 and later developed by Richard De George. A core aspect of this theory is the distinction between two different representations of a sentence, called deep structure and surface structure. The question is, when, if ever, is whistleblowing morally justified that will not result in disloyalty to an organization or the public interest?

According to Standard theory, disloyalty is morally permissible when: the organization to which the would-be whistleblower belongs will, through its product or policy, do serious and considerable harm to the public; the would-be whistleblower has identified that threat of harm, reported it to her immediate superior, making clear both the threat itself and the objection to

it and concluded that the superior will do nothing effective; and the would-be whistleblower has exhausted other internal procedures within the organization or at least made use of as many internal procedures as the danger to others and her safety make reasonable.

Therefore, whistleblowing is required according to this theory when; the would-be whistleblower has evidence that would convince a reasonable, impartial observer that her view of the threat is correct; and the would-be whistleblower has good reason to believe that revealing the threat will probably prevent the harm at a reasonable cost (all things considered).

The complicity theory proposed by Michael Davis is an account of when whistleblowing is morally required of one. It is developed out of a critique of the now-standard theory identified with the work of Richard De George. Davis labels the standard theory as the paradoxes of burden, missing harm and failure. To burden, Davis argues that Standard theory asserts that whistleblower can act with little cost to themselves, but the history of whistleblowing shows this is false. Furthermore, Standard theory does not justify the central case of whistleblowing. It fails to justify the considerable burden placed on the whistleblower. Whistleblowers are not minimally decent Samaritans. If they are Samaritans at all, they are good Samaritans. They always act at considerable risk to career and generally, at considerable risk to their financial security and personal relations.

Assessment of Whistle-Blowing on Corrupt Practices in Nigeria

Although no law presently guarantees the protection of whistleblowers in Nigeria, some patriot Nigerians have provided valuable information that led to the recovery of funds, arrest and prosecution of guilty parties. Immediately after the launch of Whistle-Blowing Policy by the Federal Government of Nigeria, recovery of looted fund increases with the personnel of Economic and Financial Crime Commission, Independent Corrupt Practices and Other Related Offence Commission, Department of State Security, and other security agencies, on alert with available information.

So far, the actual amount of money recovered through whistleblowers' information is not known. However, in 2017, the government disclosed that more than $160 million (US dollars) have been recovered through whistleblowing policy (Jannah, 2017). Also, the record of recoveries reported in the media revealed that on February 3rd, 2017, the EFCC raided an apartment in Kaduna State, following a whistleblower's information, where a sum of $9.2 million (US dollars) was found. Similarly, on April 10th 2017, N250 million (Naira) was found in an abandoned shop in Lagos. Also, on April 13th 2017, $43 million, N23 million and £27,000 was found in a building at Osborne Tower in Ikoyi, Lagos (Vanguard News, 2017, Ibrahim, 2017, Akinkuotu, 2017, Akinkuotu and Godwin, 2017, Akinkuotu, 2017). Daily Trust on April 18, 2017, reported that this laudable initiative has resulted in the discovery of $9.8 million cash in a Kaduna slum residence in Sabon-Tasha and over $30 million cash in an apartment in Ikoyi, Lagos State. At an exchange rate of N350 to $1, the cash recovered so far will be over N14,000,000,000 (fourteen trillion naira in cash), just to name a few.

Besides, News Agency of Nigeria reported on February 12, 2017, that, Minister of Information and Culture, Lai Mohammed says the Federal Government's Whistleblowing policy has yielded $151million and N8billion in looted funds. In a statement signed by Segun Adeyemi, the Special Assistant to the Minister, Alhaji Mohammed said the looted funds were recovered via the clues provided by three whistleblowers who gave actionable information to the office of the Minister of Justice and Attorney-General of the Federation. The biggest amount of $136,676,600.51 was recovered from an account in a commercial bank, where the money was kept under a fake account name. This was followed by the recovery of N7 billion and $15 million from another person and 1 billion Naira from yet another. The recovered loots do not include the $9.2 million in cash allegedly owned by a former Group Managing Director of the NNPC, MrYakubu, which was also a dividend of the whistleblower policy, All the monies recovered so far totalled over $160million (NAN, 2017).

Moreover, the Minister of Finance, Mrs Kemi Adeosun, in her word stated that Whistle-Blowing Policy has made every Nigerian a detective. Speaking about the whistle-blowing policy and the treasury single account (TSA) as tools for fighting corruption, the minister revealed that some whistleblowers are not requesting reward. "We have over 2,500 tips

from various quarters. Not just the big money that you all see in the papers, but a lot of these small monies," she said "Somebody diverting the petty cash for the university, we were able to get in there and stop him. The fight against corruption is now the people's fight. "And not all the whistleblowers are looking for a reward. Some are just patriotic citizens who tell us this is what is going on in a particular institution, and they are not asking any reward, they are just sharing information. "We thank everybody who has helped the government. This is a national fight against corruption" (The Cable, 2017).

Nevertheless, the question of who is responsible for some of the alleged recovered loot is still hanging on the investigative panels of the police and those set up by the government and the prosecution of those culprits is yet to have a green light. The media reportage of recovered loots cannot be said to be the final answer to the question with which Whistleblowing policy was initiated by the administration of President Mohammadu Buhari. Though the policy has identified that there is embezzlement of public fund, the next action of investigation and prosecution is the cause for concerns.

Whistleblowing generally seeks among others to expose corruption. However, to blow the whistle is not an easy task. It needs courage, moral evaluation and one has to put the interest of the public first. Effective implementation of the whistleblowing policy leads to increased accountability and transparency in the management of public funds, and more funds would be recovered that could be deployed in financing Nigeria's infrastructural deficit. Where the policy is successful, there will be transparency and accountability. For this to be feasible, the citizens should be willing to expose corruption, the law enforcement agency should be sincere in prosecuting those involved in alleged corruption. Credible reports of the recovered funds and its application are paramount.

Whistleblowers are heroes. They are agents of change as they oppose corruption by exposing it. They uphold transparency and credibility hence they do not accommodate illegal dealings. This fact will only be appreciated by those that place a premium on public interest over organizational or individual interest. Thus, where reporting culture is a common practice, whistleblowers are held in high esteem as ambassadors of change. Another benefit the policy bestows on the whistleblower is the financial incentive. A successful whistleblower receives monetary compensation from the Government. If the act or culture of raising concern against illegalities affecting the people can attract reward, then it should be embraced. As a tip of an iceberg, the Nigerian Federal Government through the ministry of finance paid the sum of ₦421,000,000.00 to the Ikoyi whistleblower in December 2017. In another development, the Federal Government paid a set of 14 whistleblowers the sum of ₦439,276,000.00 for providing tips on tax evaders.78 Whistleblowing may thus serve as a means of income to the blower.

Whistleblowing may also have a negative impact on the blower or an organisation. On the whistleblowers, they suffer in various ways including ostracism, harassment, punishment, punitive transfers, discrimination, reprimands and dismissal. This is common where no legal instruments are protecting those exposing acts of corruption. These negative reactions may emanate from an employer or fellow employees who feel the whistleblower is an enemy to the organisation. Thus: Organisations typically regard whistleblowing as a form of betrayal. They believe that whistleblowing is a deviant act that threatens the profitability of the organisation and tarnishes its reputation. They, therefore, tend to deal with whistleblowers as traitors by punishing those who engage in this kind of activity.

In Nigeria, some whistleblowers experienced this form of retaliation. Mr. Aaron Kaase, a public officer with Nigeria's Police Service Commission (PSC) blew a whistle on 22 May 2015 to the Independent Corrupt Practices and other Offences Commission (ICPC) involving the Chairman and Nigeria ‘s former Inspector General of Police, Mr. Mike Okiro. The alleged fraudulent dealing by Mr. Okiro was to the tune of N275 million. Following Kaase‘s allegation against Okiro, the PSC on 27 May 2015 suspended him (Kaase) indefinitely without pay. He was also denied accruing promotions and entitlements. His suspension persisted without pay until 7 March 2018 when he was reinstated.

Another instance was that of members of Senior Staff Association of Nigerian Universities (SSANU) at the Federal University of Agriculture, Abeokuta (FUNAAB), in Ogun State in 2016. The workers made the allegations of massive corruption and abuse of office against the Governing Council, the Vice-Chancellor and

some University staff by writing to the EFCC and ICPC in July and August 2016. The act which later triggered off a crisis within the University led to a clampdown on the workers, their suspension and later dismissal. However, after various petitions, letters and calls by the National Body of SSANU, Nigeria Labour Congress (NLC) and other concerned individuals and groups, they were eventually reinstated by the university authority in December 2016.

Jurisdictions with formal statutes have provisions protecting whistleblowers from victimization on grounds of the disclosure. The Zambian Act section 42 protects whistleblowers from reprisal. The Act also empowers a person to approach a court for remedies where he can establish that he has been subjected to reprisals. A similar provision is found under the Indian Act section 11 and the Ghanaian Act sections 12-15. Under the Ghanaian Act, a person subjected to victimization can file a complaint to the Commission on Human Rights and Administrative Justice and the order of such Commission has the same effect as the judgment of the High Court. Under the UK Act section 47B clothes the whistleblower with the right not to suffer detriment on grounds of protected disclosure. The right not to be subjected to an occupational detriment as well as to approach a court for redress is also provided for under the South African Act sections 3 and 4. In *Solidarity Obo Ross v South African Police Service &Ors* decided under the South African Act, the applicant, Col Ross was removed from his position as the head of Internal Audit Crime Intelligence Division of the South African Police Service as a result of disclosure he made regarding fraud and corruption that has been committed in his workplace. The Court ordered his reinstatement.

Under the 2017 Bill section 23, a whistleblower does not incur civil or criminal liability as a result of making a protected disclosure. It is also an offence punishable with a fine of five hundred thousand Naira or three years' imprisonment or both for taking or threatening to take detrimental action against a whistleblower. A person who attempts to commit a detrimental act, or who incites another person to take a detrimental act commits an offence and is liable on conviction to a fine of five hundred thousand naira or a term of imprisonment for three years or both. By the 2017 Bill section 25, a tort action may be taken against a person who takes or threatens to take detrimental action against a whistleblower and such action may be taken against a perpetrator of an act of such victimization or an employer of the perpetrator. However, an employer may be exculpated if he can show that he did not knowingly involve in the act of victimization, or did not know and could not reasonably be expected to have known about the act of victimization and could not by the exercise of reasonable care have prevented the act of victimization.

Apart from the banking industry, the whistle has also been blown in the Nigerian judiciary. The officers of Department of State Security (DSS) in October 2016 invaded, searched the homes of some judicial officers and arrested them on allegations of corruption. What makes this action unprecedented is that it has broken the myth of the sacrosanct authority of the judge in Nigerian affairs.48 On the other hand, the legality or otherwise of this act generated controversies among stakeholders. Some of the judges caught in the web of corruption include Justices Nwali Sylvester Ngwuta and John Inyang Okoro of the Supreme Court. Others are Justices Mohammed Yunusa, HyeladziraNganjiwa and Ibrahim Auta of the Federal High Court. Some of the affected judicial officers were suspended by the National Judicial Council.

Also, Nganjiwa, Ngwuta Justice Adeniyi Ademola of the Federal High Court and Justice Rita Ofili-Ajumogobia were prosecuted. The recent case of the then Chief Justice of Nigeria, Justice Walter Onnoghen is also worth mentioning. In *the Justice HyeladziraNganjiwa v Federal Republic of Nigeria*,50 the appellant, was by a 14-count information charged for offences ranging from unlawful enrichment by a public officer to making false information contrary to the Criminal Law of Lagos State 2011 section 82(a) and the EFCC Act 2004 section 39(2)(a). The appellant raised a preliminary objection challenging the jurisdiction of the Trial Court on the ground that conditions precedent to the filing of information had not been fulfilled. The trial Court dismissed the preliminary objection and ruled against the appellant who appealed. The issue on appeal was the propriety or otherwise of prosecuting a judicial officer by the EFCC without first exhausting the disciplinary procedure of the National Judicial Council (NJC) as provided in the CFRN 1999 as amended. The Court of Appeal, Lagos division considered the CFRN 1999 as amended sections 153(1), 158(1) and paragraph 21(b) of Part 1 of the Third Schedule which deals with the establishment, and the disciplinary powers of NJC over judicial

officers and held that, as a serving judge, the appellant is under the management, control and disciplinary jurisdiction of the National Judicial Council and that whenever there is any allegation of misconduct by a judge, recourse to the NJC is a condition precedent as clearly set out by the Constitution.

Similarly, in *Federal Republic of Nigeria v Sylvester Ngwuta*, the defendant was arraigned before Justice John Tsoho of the Federal High Court, Abuja on 13 count charges bordering on corruption and false declaration of assets. The defendant filed a motion on notice challenging the jurisdiction of the court inter alia that by the CFRN 1999 as amended section 158(1) and paragraph 21(b) of Part 1 of the Third Schedule and the Court of Appeal's decision in *Nganjiwa v FRN*,52 the action was incompetent, premature, is a gross violation of the Constitutional provisions and liable to be dismissed. On his part, the respondent posited that a judicial officer can be arrested and prosecuted directly without recourse to NJC for offences committed outside the scope of the performance of his official function and as such the action brought should be entertained. In his rulings the trial judge held that haven failed to fulfil the condition precedent for action against the applicant, the action was a nullity. The applicant was therefore discharged and acquitted.

Another judicial officer that was not spared by the anti-graft war is late Justice Innocent AzubikeUmezulike, the former Chief Judge of Enugu State. Umezulike was suspended by the NJC over an allegation that he accepted ₦10,000,000.00 donation from a litigant. This disclosure was made by an Enugu based legal practitioner, Mr Peter N Eze. Umezulike was subsequently arraigned by EFCC before a Port Harcourt High Court for corruption and false declaration of assets.

In the *Federal Republic of Nigeria v Justice OnnoghenNkanu Walter,* the defendant, the Chief Justice of Nigeria was charged before the Code of Conduct Tribunal Abuja for false declaration of assets among others. His application to strike out and or dismiss the charge against him on grounds that he is a judicial officer, Justice of the Supreme Court, as well as the Chief Justice of Nigeria, was dismissed. He was subsequently tried and suspended as the Chief Justice of Nigeria.

The analysis of whistleblowing in the judiciary shows the political will of the Buhari administration to tackle corruption. Despite the reactions by some people that the arrest, detention and prosecution of judges are unusual in a democratic state like Nigeria, others are of the view that though highly respected and regarded as an embodiment of justice, a judge sits in rank with other public officers in both the states and the federal government. A judge is not above the law.

However, using the DSS to arrest and investigate judges is not legally proper. The DSS is meant to detect and prevent crimes not to investigate and arrest persons alleged to have committed acts of corruption. By the CFRN 1999 as amended section 158(1), in exercising the power of appointment or discipline, the NJC is not under the direction or control of any other authority or person. It follows that the NJC is the first and competent body to investigate and discipline judicial officers alleged to have involved in acts of corruption before the intervention of any other body or authority like the DSS. This is also recognised in the 2017 Bill section 4(3)(h), which is to the effect that a disclosure relating to a judicial officer is made to the NJC. The DSS investigation and arrest of judicial officers was, therefore, a right action with the wrong approach.

Whistleblowers have not spared the legislature either. A member of the House of Representatives (the lower house of the Nigerian National Assembly) Hon AbdulmuminJibrin blew the whistle that the House padded the 2016 Appropriation Bill (budget). Padding the budget takes place when legislators resolve to rewrite the budget by introducing new items outside the estimates prepared and presented to them by the president. Jibrin disclosed that the aggregate expenditure as contained in the budget details as passed was higher than that in the Appropriation Bill by about ₦481 billion. The CFRN 1999 as amended section 81(1) vests the president with exclusive powers to prepare and present the budget to the National Assembly for approval. Upon receipt of the budget by the legislators, they may make reasonable corrections. The National Assembly is however not clothed with any legal right to add or insert anything that was not included in the Appropriation Bill by the executive. Neither are the lawmakers competent to add any amount in an Appropriation Bill that does not contemplate public interest.

While the issue of budget padding saga was in its tempest, the speaker of the House of Representatives, YakubuDogara asserted that

budget padding is not a crime under the Nigerian law. This statement received public reactions. Jibrin's idea of blowing the whistle is to do a clean-up, flush out corruption and corrupt members of National Assembly so that in 2019, only corrupt-free people who want to serve will be elected. Conversely, some members of the House of Representatives were not on the same agenda with him. In the light of this, the House made counter allegations that MrJibrin single-handedly changed the budget estimate by adding ₦250 billion.

He was also accused of a deliberate plot to blackmail the president during the budget process by inserting funds for the so-called Muhammadu Buhari Film Village in his (Jibrin) Kano constituency without the consent of the President.

To this end, his removal was justified by the Chairman House Committee on Media and Public Affairs, AbdurazakNamdas based on acts of misconducts, incompetence, total disregard for his colleagues and abuse of the budgetary process, immaturity and lack of capacity to handle the affairs of his office. The whistle has also been blown in respect of allegedly ownerless funds. One of the remarkable cases of whistleblowing policy in Nigeria is that of a young man who blew the whistle that led to the recovery of funds at Flat 7B Osborne Towers, Ikoyi, Lagos State on 7 April 2017.The money which was in foreign and domestic currencies was valued at ₦13,000,000,000.00 at that time.

Immediately after the news of the recovery of the funds, Governor NyesomWike of Rivers State alleged that the money belonged to the Rivers State Government. Governor Wike added that investigations by his administration revealed that the money was the proceeds from the sale of gas turbines by the immediate past governor of the State, Rotimi Amaechi. Amaechi on his part debunked the claim by Governor Wike whom he described as being frivolous and baseless. While the real owner of the recovered funds deepened, the National Intelligence Agency (NIA) laid claims that the recovered funds belonged to them.

In another development, there were wide speculations that the money belonged to the former NNPC Managing Director, Mrs Esther NnamdiOgbue. This allegation was based on the fact that the apartment that housed the recovered sum belonged to her. Ogbue on her part denied ownership of the money. In the same vein, it was equally alleged that the money belonged to the former chairman of the People's Democratic Party (PDP), AdamuMu'azu on the ground that the entire building was linked to him. To shoulder himself out of the ownership saga, Mu'azu explained that he built the house but had since sold out all the apartments in the building. In the midst of this, a Federal High Court sitting in Lagos ordered the temporary forfeiture of the Ikoyi fund in April 2017. As of the time of writing, there is no available information showing the genuine owner of the recovered Ikoyi funds. From the forging analysis, it can be said that the whistleblowing policy has made a significant effort in curbing the growing tide of corruption in Nigeria in recent years.

Whistleblowing being a praiseworthy and commendable policy had led to the discovering of $9.8 million cash in Kaduna State in a house in Sabon-Tasha and above $30 million cash in a residence in Lagos State. At an exchange rate of N350 to $1, the cash recovered so far will be over fourteen trillion naira in cash, just to mention a few (Akinnaso, 2017).

In a different report, Gabriel (2017) reported that thestolen funds discovered via whistleblowing include €547,730 and £21,090. The sum was recovered from three sources excluding the $9.8m recovered from a former group MD of the NNPC, Mr Andrew Yakubu. who however claimed that the amount was a present from an unidentified Nigerian. Besides, the Minister noted that the largest sum discovered was $136,676,600.51 (N42billion) from a commercial bank account. The money was banked under a false account name. N7bn and $15m, he said, followed this, from another person and N1bn from yet another Nigerian (Gabriel**,** 2017**)**.

A whistleblower who provides the government with relevant information that directly resulted to the intentional returns of embezzled or hidden public funds or properties will be worthy of 2.5% to 5.0% of any sum recovered from the embezzler (Akinnaso, 2017). However, to be eligible for the compensation, the whistleblower should supply the government with dependable information it does not possess previously, and could not otherwise obtain from any new publicly obtainable source to the government. The real recovery must also be on report of the information provided by the whistleblower (Akinnaso, 2017).

In a different view, Gabriel (2017) submitted that previously the Federal government specified the reward awaiting whistle-blowers and guarantees their security. Any whistle-blower whose information resulted in the discovery of up to N1b received 5% of the sum. Compensation for any recovered sum between N1b and N5b would be 5% for the initial N1b and 4% of the outstanding N4b, and any sum above N5b will receive 2.5% reward. Furthermore, The Federal Government had pledged that any whistle-blower whose information resulted in the discovery of cash or assets with a value of N5b, would be paid N210 million (Gabriel, 2017).

Meanwhile, the Federal Government of Nigeria cited in Ogbomo (2019) outlined the relevant information under the whistleblowing policy via the online portal of the FMF by email or by phone. This can be on issues like; misappropriation of government resources and assets; fraud; soliciting/collecting bribes; corruption; diversion of revenues; falsified and unapproved payments; dividing of contract's sum; over-invoicing and kickbacks (FGN, cited in Ogbomo, 2019).

Conclusion

The general global perception about graft in Nigeria is that it is generally acknowledged that corrupt practices are endemic and systemic in both public and private sectors of Nigeria. Over the years several statutory and policy attempts have been devised to arrest this ill, with hardly a positive result. Whistle-blowing Policy is not new in the recent time of Nigeria fight against corruption underthe present administration of President Muhammadu Buhari. On 1st October 2016, duringIndependence Celebration Speech, President Buhari stated that “Corruption will kill us if we did not kill corruption”. The present administration tackles corruption in Nigeria through the whistleblowing policy. Whistleblowing is one of the international best measures used in tackling corruption. Its introduction in Nigeria must be commended. Corruption is a hidden crime that is difficult to detect except it is reported. Although the policy was received with mixed feelings, it recorded tremendous success at the initial stage. However, the story subsequently changed. The decline may be attributed to the number of problems the policy created more than it sought to solve. One of the major challenges associated with this policy is the lack of legislation facilitating it. Similarly, the policy is more interested in recovering funds than in punishing the actors behind the act thus vitiating the punitive objective of the criminal justice system which serves as deterrence. The whistleblower seems inadequately protected. It is against this background this study seeks to make recommendations on ways of improving the whistleblowing policy of the Federal Government of Nigeria in a bid to sustain the successes already recorded.

Recommendations

a. The National Assembly should expedite action on the passage of the Whistleblower Protection Bill before it. Thus, there should be adequate protection for whistleblower against loss of job, reputation and adequate compensation.

b. There should be a separate court for corruption cases to reduce long and indefinite adjournment being experienced on cases in Nigeria’s court system. The court should ensure speedy dispensation of justice on corruption related cases to ensure that it serves as a deterrent to other public office holders who may be thinking of embezzling public fund.

c. Furthermore, the adoption of plea bargaining should be discouraged as it is capable of encouraging corruption. Just like any other crime, punishment is the right pill for the ill of corruption and this should be treated as such. To this end, any person found to have involved in the looting of public treasures or any act or omission capable of affecting the interest of the public should be prosecuted and punished appropriately. It is immaterial whether the person involved has voluntarily returned the stolen funds.

d. Finally, the principles of sincerity and transparency must be applied in giving rewards to the whistleblowers, this will encourage people to come forward to unveil information about financial irregularities. However, people should be enlightened that public interest comes first and it is above the rewards or personal interest. Whistleblowing or revealing information about misconducts should, therefore, be seen as a moral responsibility.

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