

Judicial corruption as a self-inflicted impediment to the independence of the judiciary in Nigeria

By Sunday Bontur LUGARD*

A corrupt judge is more harmful to the society than a man who runs amok with a dagger in a crowded street. The latter can be restrained physically. But a corrupt judge deliberately destroys the moral foundation of society and causes incalculable distress to individuals through abusing his office while still being referred to as honourable.¹

Abstract

The unique role of the judiciary as the stabilizing umpire in regulating intergovernmental relations, interactions among citizens inter se and businesses, the overseeing of the observance of the rule of law in private or public dealings, conduct, among others sets it apart as an organ of government that should be comprised of men of integrity who should live above board. In Nigeria, as the case with most democratic States, the important role of this arm of government necessitated the constitutional guarantee of its independence so as to give room for unobstructed and independent performance of its duties. But despite the constitutionally guaranteed independence, there is an avalanche of reported cases of judicial corruption which cast aspersion on or erodes their capacity to determine issues independently and on their merits.

This work would show that judicial corruption is an “internal interference” as against the traditionally known “external interference” in the form of executive meddling in the performance of judicial functions, skewed appointment processes, poor funding and tenure insecurity, among others. It would further show that judicial corruption is a disincentive for foreign investment, and a hindrance to social harmony and security, and economic development. This work would therefore prescribe a new functional stakeholder involvement in the appointment of judicial officers, civil awareness and the need for the strengthening the rule of law and combating corruption in the judiciary through a stiffer penalty regime.

* Sunday Bontur Lugard, Department of International Law and Jurisprudence, Faculty of Law, University of Jos, Nigeria, and Partner, Jus Associates (Legal Practitioners), Abuja, Nigeria; lugards@unijos.edu.ng.

1 *Uwaifo JSC* valedictory speech, reproduced in (2005) 1 SCNJ at 20 quoted in *Ibrahim Abdullahi, Independence Of The Judiciary In Nigeria: A Myth Or Reality?* (2014) 2(3) International Journal of Public Administration and Management Research 59, <http://rcmss.com/2014/IJPAMR-VOL2-No3/INDEPENDENCE%20OF%20THE%20JUDICIARY%20IN%20NIGERIA%2012%20Pages.pdf> accessed 26 February 2017.

A. INTRODUCTION

This work is divided into five parts: the first part undertakes a ground-mapping of the subject-matter. The second part shows the constitutional development of the judiciary as an arm of government in Nigeria from the first post-independence constitution to the present 1999 constitution (as amended) and the tortuous struggle towards judicial independence. The third part shows the elements that impede judicial independence in Nigeria, and the specific impediments that are self-inflicted: corruption and the internal manipulation of the process for the appointment of members of the bench. It concludes that despite the several external issues that have become clogs in the attainment of judicial independence in Nigeria, chief among them are internal, and are arguably the most potent of all the factors that have hampered the wheel of the justice delivery system in the country. The fourth part makes recommendations for the improvement of judicial accountability and restoration of integrity to the bench, and finally a set of recommendations is put forward in the fifth part.

I. Conceptual Definitions

1. Judiciary

The Black's Law dictionary defines it as the "branch of government responsible for interpreting the laws and administering justice."² It is the arm of government that plays the role of an independent arbiter in the determination of disputes brought before it; it also serves as a check on unconstitutional or unlawful conduct of the other arms of government in order to entrench the rule of law, good governance and peaceful and harmonious coexistence.

2. The Rule of Law and Judicial Independence

Rule of law means a judicial regime in which no one is above the law and everyone is equal before the law.³ The rule of law has also been considered as "a system of government in which the acts of agencies and officials of all kinds are subject to the principle of legality, and in which procedures are available to interested persons to test the legality of governmental action and to have an appropriate remedy when the action in question fails to pass the test."⁴ It thrives on an effective system of horizontal accountability wherein government institutions hold one another accountable to the law and public; and for the judiciary to function effectively as an accountability agency, it cannot be subordinated to other branches of government, the military or powerful non-state actors.⁵ The concept of the rule of law is

² *Bryan A. Garner* (ed), *Black's Law Dictionary* (8th edn), USA 2004, 2480-2481.

³ *AV Dicey*, *Introduction to the Study of the Law of the Constitution*, Indianapolis 1885.

⁴ *John H. Merryman*, *The Civil Law Tradition: An Introduction to the Legal Systems of Western Europe and Latin America* 2nd edn, California 1985, 40-41 quoted in RB Chavez (n 3).

⁵ *Ibid*.

therefore based on three principles: legal duties and liabilities of citizens is determined by regular law (not arbitrary law), disputes between persons or governments are determined by the ordinary courts applying regular laws, and the guarantee of human rights.

Judicial independence is a nonnegotiable component and arguably the most important ingredient of the concept of the rule of law. Other elements of the idea of the rule of law lean on the independence of the judiciary to find meaning. For instance, of what importance would access to justice, human rights, equality before the law and the predictability in the application of the rules and regulations be, if the integrity of the court system or the power to determine issues brought before it is compromised?

3. Corruption.

In the open parlance, the word corruption is associated with a range of acts such as bribery, extortion, buying influence, nepotism, favoritism, fraud and embezzlement. The word corruption is derived from the Latin: *rumpere* – “to break.” It expresses the prevalence of decadence in the ethical, moral, social, or administrative code of conduct of society; it is a conduct that breaks the fabric or backbone of core societal values or mores in seeking for private advantage. In this respect, corruption can be viewed as the betrayal and abuse of trust for private benefit. In this same vein, Transparency International considers corruption as generally related to “the abuse of entrusted power for private gain”.⁶ Corruption can be classified as grand, petty and political, depending on the amounts of money lost and the sector where it occurs. Grand corruption consists of acts committed at a high level of government that distort policies or the central functioning of the state, enabling leaders to benefit at the expense of the public good. Petty corruption refers to everyday abuse of entrusted power by low and mid-level public officials in their interactions with ordinary citizens, who often are trying to access basic goods or services in places like hospitals, schools, police departments and other agencies.⁷ Political corruption on the other hand is the manipulation of policies, institutions and rules of procedure in the allocation of resources and financing by political decision makers, who abuse their position to sustain their power, status and wealth.⁸

4. Judicial Corruption.

This entails the breaking of the rules or manipulation of a system of procedure for the determination of issues brought before the court for personal gains. The gains may come in the

6 *Transparency International*, How Do You Define Corruption? [http://www.transparency.org/what-is-corruption/?gclid=Cj0KEQiA88TFBRDYrOPKuvfY2p1BEiQA97Z8MTHed2B5KV7-rVYEK_6uAQNvYUupi3eGRqoQ9DD9MfQaAgn98P8HAQ#define-\(last accessed on accessed 25 February 2017\)](http://www.transparency.org/what-is-corruption/?gclid=Cj0KEQiA88TFBRDYrOPKuvfY2p1BEiQA97Z8MTHed2B5KV7-rVYEK_6uAQNvYUupi3eGRqoQ9DD9MfQaAgn98P8HAQ#define-(last%20accessed%20on%2025%20February%202017)).

7 *Ibid.*

8 *Ibid.*

form of money, favour from the beneficiary, among others. A judge who has taken a bribe cannot be independent, impartial or fair. When a litigant bribes a judge, that party immediately acquires a privileged status in relation to other parties who have not offered a bribe or inducement; the preferential treatment secured and the resulting discrimination obliterates objectivity and neutrality from the judicial process; a legitimate aim is not being pursued.⁹

The causes of judicial corruption are numerous. They include: poor remuneration, weak accountability requirement, non-transparent process for appointment of judicial officers, among others. Where the public is of the perception that the system is corrupt, most litigants would willingly make arrangements to get the judge bought over. For instance, in the past one year, three clients of mine have asked me to arrange for them to “see” the judges handling their cases because of the prevailing perception that you would not get justice in Nigeria if you do not bribe the judges. Some unscrupulous and auspicious lawyers extort their clients, besides collecting their legal fees, in order to bribe the judges. This is not always true as there are countless number of judges who have laboured to uphold personal and judicial integrity, but the activities of some corrupt ones have overshadowed their commitment to judicial independence and integrity. The perception that bribing the judge is the only sure way to getting “justice” is one of the main drivers of corrupt practices in the system. For instance, in Eastern Europe, research has validated this contention – when individuals thus direct their behavior the “expectation of legal failure,” save bribe is given, they do it to circumvent the law and legal institutions.¹⁰ This contrasts sharply with the positive perception in US and Western Europe where the people’s belief that the law would prevail is strong enough to “compel most people, including judges, to act in accordance with the law most of the time.”¹¹ Similarly, it has been contended that rule of law reform is more of the function of the change of public perception than it is also about the reform of legal institutions, hence civic education aimed at engendering or to “foster a rule of law culture” have become a prominent part of rule-of-law reform.¹² Aimed primarily at secondary schools, these programs teach children lessons such as: “the law governs everyone fairly and equally.”¹³

9 *The World Bank, An Analysis of the Causes of Corruption in the Judiciary*, 1999, 2 quoted in *Petter Langseth, Strengthening Judicial Integrity Against Corruption*, 2000, CIJL Yearbook 3.

10 *Marina Kurkchiyan, The Illegitimacy of Law in Post-Soviet Societies*, in: *J. Galligan & Marina Kurkchiyan*, (eds.), *Law and Informal Parlance*, 2003, 25, 27 quoted in *Brent T. White, Putting Aside the Rule of Law Myth: Corruption and the Case for Juries in Emerging Democracies*, *Cornell International Law Journal* 43(2) (2010) 309.

11 *Ibid* at 33.

12 *American Bar Association Rule of Law Initiative, Perspectives from the Field 2009*, Track 4: Fostering a Rule of Law Culture: Public and Civic Education Initiatives in Armenia, Kosovo, Kyrgyzstan and Qatar, http://www.abanet.org/rol/perspectives_09/track4.shtml (last accessed 22 March 2010) quoted in *White*, note 9, 309.

13 *White*, note 9, 307-308.

B. CONSTITUTIONAL DEVELOPMENT OF JUDICIAL INDEPENDENCE IN NIGERIA

In Nigeria's colonial context, the issue of independence of the judiciary was alien to the governance structure as the judiciary was not separated from the executive arm – it was a appendage of the executive and was controlled by that arm.¹⁴ In short, the courts were manned by principal agents of British trading firms, consular or other administrative staff as judges.¹⁵ This structure did not give room for any form of independence; hence fairness and impartiality could not have been a high expectation of litigants. The British *Secretary of State for the Colonies* commenting on the likelihood of abuse of power in post-independence Nigeria reported that he decided to separate some government agencies, including the Judicial Service Commission, and give them the power to operate independent of the control of the Governor General as it had always been the case under British rule.¹⁶

The independence constitution of Nigeria, 1960 changed the colonial arrangement by granting the judiciary some level of autonomy from the control of the executive arm. This constitution vested the power of appointment of Chief Justice of the Supreme Court in the Governor-General on the advice of the Prime Minister and other federal judges on the advice of the Judicial Service Commission of the Federation.¹⁷ The appointive power of the Governor-General as regards the Supreme Court judges also applied to the High Court of Lagos.¹⁸ It is noteworthy that this constitution also established the Judicial Service Commission which was comprised of judicial officers as members.¹⁹ This was a plausible departure from to pre-1960 situation where administrators were appointed judges. This constitution also granted the parliament powers to determine the tenure of office (retirement age) of federal judges. The challenge with this constitution was the likely politicization of the appointment of the Chief Justice of the Federation which was left in the hands of the Governor-General on the advice of the Prime Minister, and not the Judicial Service Commission.

The above position on appointment of justices was modified in the 1963 constitution to the extent that the President was empowered to appoint the Chief Judge and all the judges

14 *AG Karibi-Whyte*, The Relevance of Judiciary in the Polity in Historical Perspective, Fellows Day Public Lecture, Nigerian Institute of Advanced legal Studies, Lagos, 1987, 53 quoted in *A Zubair*, Judicial Reform in a Democratized Nigeria, Nigerian Association of Law Teachers Conference, University of Lagos, June 2012, 6.

15 *Yusuf Ali*, The Evolution of ideal Nigerian Judiciary in the New Millennium http://www.yusufali.net/articles/THE_EVOLUTION_OF_IDEAL_NIGERIAN_JUDICIARY_IN_THE_NEW_MILLENNIUM.pdf (last accessed on 27 February 2017).

16 *A Lennox-Boyd*, A Memorandum on Nigeria's Constitutional Conference (1957-1958) and Background to the Willink Commission http://waado.org/NigerDelta/ConstitutionalMatters/willink_commission/background_lennox_boyd.pdf (last accessed on 2 March 2017).

17 Section 105(1) and (2) of the Constitution of the Federation of Nigeria 1960.

18 Section 116 of the Constitution of the Federation of Nigeria 1960.

19 Section 120 of the Constitution of the Federation of Nigeria 1960.

of the Supreme Court on the advice of the prime Minister.²⁰ The resort to the Judicial Service Commission in the 1960 constitution was taken out. This constitution further made the appointment of federal judges a political issue. The involvement of the judicial commission would have given it a bit of professional and autonomous outlook. This constitution still retained the power of parliament to determine the age of retirement.²¹ The regions, and particularly the Northern Region also had a procedure for the appointment similar to what was obtainable at the federal level.²²

The 1979 and 1999 constitutions however, lowered the level of the executive's involvement in the appointment of judges by making it a matter that is determined by the Judicial Service Council (or Judicial Service Commission, at the states' level) in order to avoid the political manipulation of the process.²³

It should be borne in mind that the removal of the influence of the executive in the appointment of the judges was to guarantee their independence from political interference. However, can the judiciary in Nigeria be said to have used this power in order to guarantee its independence?

This is questionable in view of the cases of corruption and manipulation of the judicial processes.

C. INTERNAL IMPEDIMENT TO THE INDEPENDENCE OF THE JUDICIARY IN NIGERIA

Three major variables define the subject of the independence of judiciary: First, formal and informal pressure that can be brought to bear on judges with regard to shaping their specific decisions (including appellate review of judgements) – external, especially executive, interference; second, security of tenure of office; and thirdly, the methods of selecting judges.”²⁴

The first two variables mentioned above are mainly external, while the third is internal, at least in the Nigerian context as appointments to the bench are made either directly or with the ultimate concurrence of the judicial system. Unlike the case in the United States where judges are elected for specific terms, in the state of Texas, for instance, judges have only limited terms of office and are subject to popular and partisan elections;²⁵ in Nigeria, judges of superior courts of record are appointment by either the President (for federal courts) or the governor of a state on the recommendation of the National Judicial Council

20 Section 112 of the 1963 Republican Constitution of Nigeria.

21 Section 113 of the 1963 Republican Constitution of Nigeria.

22 See section 51 of the Constitution of Northern Nigeria, No. 33, 1963.

23 See sections 211, 218, 229, 235 of the 1979 constitution of the Federal Republic of Nigeria; and sections 231, 238, 250, 271, among others of the Constitution of the Federal Republic of Nigeria 1999.

24 *S Levinson*, Identifying 'Independence', *Boston University Law Review* 86 (2006) 1299.

25 *Ibid* at 1301.

on the recommendation of either the federal or the various states' Judicial Service Commissions.²⁶

In Nigeria, technically, it is the judiciary that actually makes the appointment by determining to the executive whom to appoint or remove from office. The role of the President or Governors, as the case may be is merely ceremonial. In the exercise of these powers, the judges on the "recommending" executive bodies choose their relatives and cronies to take up judicial appointments.²⁷ Another manifest form of corrupt practices by the judges is via the outright manipulation of their decisions in favour of specific parties because of financial and other benefits that they get from such persons.

The below elements have been considered as the basic requirements for an independent judiciary:

- a) Appointment and removal of judicial officers and judicial staff
- b) Security of tenure and remuneration of judges and supporting staff
- c) Budgetary provisions (process)
- d) Individual and institutional freedom from unwarranted interference with the judicial process by the executive arm of government and politicians.²⁸

I. Appointment of Judges

As have been mentioned, the 1999 Constitution of the Federal Republic of Nigeria has technically vested the powers of the appointment of judicial officers in the National Judicial Council (NJC),²⁹ which is comprised of Justices of Superior Courts of Records and a few

26 Articles 12 and 21 to the Third Schedule to the Constitution of Federal Republic of Nigeria, 1999. These two executive bodies are chaired by serving judicial officers and comprised mainly of serving judges and a few non-judicial personnel.

27 J Ogunye, A New Nigerian Judiciary Is Necessary, *Sahara Reporters*, 3 October 2011, <http://saharareporters.com/2011/10/03/new-nigerian-judiciary-necessary-jiti-ogunye> (last accessed on accessed 2 March 2017).

28 *Ibrahim*, note 1, 59.

29 The National Judicial Council is a body established under the Constitution of the Federal Republic of Nigeria to advise on the appointment and removal of judicial officers. Article 20 of the third schedule to the 1999 Constitution of the Federal Republic of Nigeria (as amended). It consists of the Chief Justice of Nigeria who serves as the Chairman; the next most senior Justice of the Supreme Court who is the Deputy Chairman; the President of the Court of Appeal, five retired Justices of the Supreme Court or the Court of Appeal selected by the Chief Justice of Nigeria; the Chief Judge of the Federal High Court; five Chief Judges appointed by the Chief Justice from among the Chief Judges of the States and of the High Court of the Federal Capital Territory Abuja serving for terms of two years; one Grand Kadi appointed by the Chief Justice of Nigeria from among the Grand Kadis of the Sharia Courts of Appeal for terms of two years; one President of the Customary Court of Appeal appointed by the Chief Justice of Nigeria from among the Presidents of the Customary Courts of Appeal for terms of two years; five members of the Nigerian Bar Association who have practiced for at least fifteen years, with at least one being a Senior Advocate of Nigeria, appointed by the Chief Justice of Nigeria on the recommendation of the National Executive Committee of the Nigerian Bar Association for terms of two years and subject to reappoint-

private legal practitioners.³⁰ The NJC “recommends” to the executive whom it should appoint as a judicial officer, whether at federal or states level. The implication of this is that, the executive cannot appoint any person whom the NJC has not recommended to it. It is without doubt that the role of the executive here is merely ceremonial as it merely sends the name and details of such nominee to the parliament for approval. The goal of this constitutional provision is to guarantee and protect the integrity of the appointment process from politicization and executive manipulations.

To underscore the core elements or requirements for the appointment of judicial officers, Charles

Evans Hughes opines that

*A poor judge [in terms of integrity] is perhaps, the most wasteful indulgence of the community. You can refuse to patronize a merchant who does not carry good stock, but you have no recourse if you are haled before a judge whose mental or moral goods are inferior. An honest, high minded, able and fearless judge is the most valuable servant of democracy, for he illuminate justice as reinterprets and applies the law, as he makes clear the benefits and the short comings of the standards of individual and community rights among a free people.*³¹

Regrettably, the appointing authorities have allowed personal prejudice and ethnic and political considerations to preponderate over competence.³² The procedure and criteria for the appointment and promotion of judicial officers are not transparent.... [E]xcept for the requirement of post-call experience, the factors which influence the members of the commission in their decision whether to nominate or not to nominate a person for appointment or promotion are known to members alone. This has resulted in intensive lobbying by those who aspire to become judges. In some cases, appointments and promotions are not based on merit but the strength or the connection of the appointee. A judicial officer whose appointment or promotion is the product of lobbying is unlikely to be independent, in cases involving his benefactors.

ment; and two non-lawyers, who in the opinion of the Chief Justice are of unquestionable integrity. The National Judicial Council exercises disciplinary control over both federal and state judicial officers. Article 21(d) of the third schedule to the 1999 Constitution of the Federal Republic of Nigeria (as amended).

30 See *ibid*.

31 Charles Evans Hughes in 1925 as part of a Presidential Address to the American Bar Association Charles Evans Hughes, quoted in *Itse Sagay*, Recent Trends in the Status and Practice of the Rule of Law, Ibadan 1988, 36.

32 *Okechukwu Oko*, Seeking Justice in Transitional Societies: An Analysis of the Problems and Failures of the Judiciary in Nigeria, Brooklin Journal of international Law, 31(1) (2005) 39 <http://brooklynworks.brooklaw.edu/cgi/viewcontent.cgi?article=1278&context=bjil> (last accessed on 3 March 2017).

Niki Tobi, a former Justice of the Supreme Court admitted that Supreme Court Justice, Niki Tobi observed:

Although the Constitution makes clear provisions on the appointment of judicial officers, the application of the provisions at times bring [sic] some problems. There are known instances where recommendations are made not on the merits but on grounds of favouritism and nepotism.... The position is fairly ugly these days. Some candidates go about campaigning for appointment as Judges and they do so shamelessly.

Nepotism and ethnic considerations are other manifest elements of corruption in the appointment of judges in Nigeria.³³

Similarly, the United Nations Congress on the Prevention of Crime and the Treatment of Offenders has posited concerning the qualification for appointment to the bench to be based on:

*Persons selected for judicial office shall be individuals of integrity and ability with appropriate training or qualifications in law. Any method of judicial selection shall safeguard against judicial appointments for improper motives. In the selection of judges, there shall be no discrimination against a person on the grounds of race, colour, sex, religion, political or other opinion, national or social origin, property, birth or status, except that a requirement, that a candidate for judicial office must be a national of the country concerned, shall not be considered discriminatory.*³⁴

The constitutional protection granted the judiciary from external political manipulations among others have been circumvented by the internal exploitation of the process of appointment of judges to the higher bench in Nigeria. This therefore erodes the independence of the judiciary and its capacity to make bold and fair decisions. This is because a judge who is not appointed through an open selection process based on competence and integrity becomes a willing tool for corrupt and unethical practices.

II. Taking of Bribes to Pervert the Course of Justice

Another internal form of corruption in the Nigerian judiciary is in the area of taking of bribes by judges to pervert the course of justice.

The judiciary has been accused of corrupt practices in the form of bribes taking and manipulation of the process for the appointment of judges. Unlike the external elements that impede judicial independence: executive interference, poor funding and remuneration of judges, among others, the issue of corruption in the process of appointment of judicial offi-

33 W Igbintade Appointment of Judges: How Nepotism, Impunity Undermined Merit — Investigation.

34 Principle 10 of the Basic Principles on the Independence of the Judiciary Adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985 and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985.

cers and taking of bribes by judges are internal rather than external problems. When a judge takes bribe to manipulate the outcome of a case, his capacity to take fair, independent decision is eroded. This is a self-inflicted impediment to his exercise of his independence.

Corruption in this context does not only entail taking of bribes, but as Justice Banjoko defines it,

Corruption is the abuse of power or entrusted authority by a public official for private gain, or any organized, interdependent system in which part of the System is either not performing duties it was originally intended to perform, or was performing them in an improper way, to the detriment of the System's original purpose. The abuse of public offices for private gain is [a] paradigmatic of corruption.³⁵

In Nigeria, the issue of corruption and perception of the judiciary as a corrupt institution is still prevalent. For instance, even recently, some Supreme Justices were arrested and are undergoing trial for corrupt practices.³⁶ Two Judges of the High Court were recommended for dismissal last year and were actually dismissed.³⁷ All these are pointers to the fact that sharp and corrupt practices by judicial officers in the conduct of their duties are still the norm.

Contemporary corpus on judicial independence suggests that there is a nexus between the rule of law, especially in developing countries, and political and economic development.³⁸ In the realization of this connection, international development banks like the World Bank and IMF have committed funds towards building independent judicial systems that have the capacity to encourage investment, protect rights, and bolster democracy.³⁹ This is because, “without the rule of law, democratic consolidation may never occur; judicial independence and the rule of law constitute important bulwarks against the erosion of democratic institutions.”⁴⁰ The belief that economic growth and democracy depend upon the “rule of law” have driven this investment.⁴¹ “Rule of law” in turn depends on a well-

35 *AAI Banjoko*, Corruption in the Judicial Process: Myth or Reality National Workshop For Judicial Officers On Judicial Ethics, Anti-Corruption And Performance Evaluation 25th To 26th May 2015.

36 *S Daniel*, Two Supreme Court Judges, 5 Others Arrested over Alleged Corruption (Vanguard, Lagos, 8 October 2016) <http://www.vanguardngr.com/2016/10/two-supreme-court-judges-5-others-arrested-alleged-corruption/> (last accessed on 2 March 2017).

37 *NM Abdallah*, DSS to Arrest 8 More Judges, 7 Still In Custody (Daily Trust Newspaper, Abuja, 10 October 2016) <http://www.dailytrust.com.ng/news/general/dss-to-arrest-8-more-judges-7-still-in-custody/165978.html#xiIJ3Owi84lwd18Q.99> (last accessed on 2 March 2017).

38 *Rebecca B. Chavez*, The Rule of Law and Courts in Democratizing Regimes, in: *Keith E. Whittington, Daniel Kelemen, and Gregory A. Caldeira*, (ed.), *The Oxford Handbook of Law and Politics* (New York 2010) chap. 5.

39 *Ibid.*

40 *Ibid.*

41 *Transparency International*, Global Corruption Report 2007: Corruption in Judicial Systems, 15 (2007) http://www.transparency.org/publications/gcr/gcr_2007.

functioning and independent judiciary that businesses and other economic actors can trust to render fair, just and consistent decisions.⁴²

D. RECOMMENDATIONS

A group of Chief Justices and high level judges invited by the United Nations Center for International Crime Prevention and Transparency International to help formulate a program to strengthen judicial integrity identified a set of preconditions necessary to curb judicial corruption: fair remuneration, transparent procedures for judicial appointment, adopting and monitoring of the judicial code of conduct, declaration of assets and computerization of court files.⁴³

- The war against corruption in Nigeria should be intensified nationwide as it is not just endemic in the judiciary alone, but the entire Nigeria society. For instance, the current corruption perception index positions Nigeria as the 136th most corrupt country out of the 176 assessed.⁴⁴ If corruption is endemic in the Nigerian society it would be extremely difficult to fight and overcome it in the judiciary, as it is a part of the larger Nigerian society.
- Perception reform through public education and anti-corruption advocacy, especially among youths and using faith-based organizations, the internet, etc should be encouraged, while integrity and ethical behavior should be rewarded.
- The penalty for judicial corruption should be separately set by law. It should be higher than what is obtainable in case of ordinary citizens in order to deter the indulgence in such unethical behavior.
- Open, transparent process for appointment of judicial officers with the participation of key stakeholders like civil society, legal practitioners, and the general public should be supported. According to the CJN, advertising to fill vacancies for judicial officers is one of the new measures contained in the 2014 Revised NJC Guidelines and Procedural Rules for the Appointment of Judicial Officers of All Superior Courts of Record in Nigeria. Advertisement is not enough. Let there be a process of public scrutiny of applicants to the bench.

42 *Norman L. Greene*, Perspectives from the Rule of Law and International Economic Development: Are There Lessons from the Reform of Judicial Selection in the United States?, *Denver University Law Review* 86 (2008) 53, 70– 71.

43 *Global Programme against Corruption*, Judicial Integrity and its Capacity to Enhance the Public Interest (2002) 9-13 <<http://www.unodc.org/pdf/crime/gpacpublications/cicp8.pdf>> accessed 3 March 2017.

44 *Transparency International*, Corruption Perception Index 2016 www.transparency.org/cpi (last accessed on 2 March 2017).

E. CONCLUSION

Nothing erodes the confidence of the public in the judiciary like the perception that it is a corrupt institution. Where the judgements of courts are auctioned to the highest bidder, it destroys the core values of society that should engender public harmony and security, and also encourage self-help. This also affects investors' confidence and foreign direct investments that should help ameliorate the standard of living of the Nigerian people. The Nigerian government, and the judiciary itself, must be intentional about repositioning the judicial institution; making it a corruption-free institution capable of operating independent of corrupting internal and external influences. A peaceful, prosperous and stable democratic Nigeria is feasible if the judiciary is actually independent and free of corruption.