
Blowing the Anti-Graft Whistle with Rewarding Rigour and Legal Vulnerability: A Turning Point in Nigeria's Democratic Space?¹

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Abstract: *Upon inception, the President Muhammadu Buhari-led government identified corruption as the bane of Nigeria's socio-economic development and vowed to nip it in the bud. The federal government, in its newly found zeal and determination to confront the menace of corruption headlong, adopted a new and largely effective strategy to aid its effort. This essay contributes to a growing effort to understand the effectiveness, mechanisms and hazards associated with the whistle blower policy, particularly in a country globally known for its corruption toga. The Federal Government's anti-corruption drive in that last two years essentially remains the focus of this essay as it emphasizes a novel set of posers capable of probing into the motive and agenda behind the whistle-blower strategy. It also explores the anti-corruption mechanisms/policies put in place by successive administrations in the country with a view to properly locating the gap, that is, why corruption has remained endemic in spite of them. While the discourse on how to dismantle the monster through legal and institutional frameworks - that will make it impossible for corruption to thrive- has always met a brick wall in the rapacious elite, the whistle blower strategy can become one of the most effective tools to be possessed by the Buhari-led administration in its anti-corruption war. A compelling step however, as advocated in this study, is to complement the whistle-blower policy by establishing the special courts needed to expedite corrupt cases while necessary legislations put in place to protect whistle blowers, as a matter of necessity, should be methodically enforced, and not be hindered by the Nigerian factor.*

Key words: *Anti-Corruption, Whistle-Blowing, Democratic, Strategy*

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1. Introduction

There is a growing academic literature on the nature and character of the socio-political ecology that facilitates the degree or variant of corruption that exists in a particular society. Indeed, as would be discussed in this study, there are many factors that combine to nurture corruption. Given experiences, the root of corruption has often been deeply and rightly located in the independence and interplay of bureaucratic, corporate and socio-political institutions. With reference to Nigeria, corruption has almost become a culture; a situation which has tolled heavily not only on the country's development but even on its image. Indeed, it has retarded its development to such an alarming point that the vast majority of the populace now live in abject poverty, having serially lost their commonwealth to a deeply connected and entrenched band of thieving elite. Little wonder, corruption has assumed the most topical issue of discourses on governance in Nigeria today.

Corruption and its discourse in Nigerian public life are central to the country's political history. Over the years, in spite of popular anger against corruption and bad governance, which have robbed the collective wellbeing of the people of Nigeria, there has been a lack of national consensus on repulsion against the perpetrators (irrespective of their ethnicity, religion, class and gender) and emergence of a popular movement that is capable of galvanizing the palpable rage of the people and channel it to series of actions and outcomes that challenge the status quo. Indeed, the country's main problem has been the unwillingness or inability of its leaders to rise to the challenge of managing resources honestly to develop the country and enrich its citizens.

Upon inception, the President Muhammadu Buhari-led government identified corruption as the bane of Nigeria's socio-economic development and vowed to nip it in the bud. The federal government, in its newly found zeal and determination to confront the menace of corruption, headlong, adopted a new and largely effective strategy to aid its effort. President Muhammadu Buhari's new policy on whistle-blowing is revolutionary. Its goal is to broaden the attack on corruption by encouraging the general public to expose corrupt practices. The hope is that the whistle-blower policy would provide agencies like the Economic and Financial Crimes Commission (EFCC) with actionable tips to track and recover stolen government funds. While the discourse on how to dismantle the monster through legal and institutional frameworks that will make it impossible for corruption to thrive has always met a brick wall in the rapacious elite, the whistle blower strategy can become one of the most effective tools to be possessed by the Buhari-led administration in its anti-corruption war.

Legislation particularly aimed at protecting whistle-blowers in Africa has evolved over recent years and as a result many countries in the region have adopted Anti-corruption and whistle-blower protection laws (e.g. RSA, 2000; Ghana, 2006; Nigeria, 2008; Uganda, 2010; Tanzania, 2015 etc.). The legal trends developing in the different African countries have made whistleblowing an important part of organizations' overall ethical code. In Nigeria, the whistle blowing programme is designed to encourage anyone with information about a violation of financial regulations, mismanagement of public funds and assets, financial malpractice, fraud and theft to report it (<http://whistle.finance.gov.ng>). Suffice it to say the a whistle blower is a person who exposes any kind of information or activity that is deemed illegal, unethical, or not correct within an organization (or community) that is either private or public (Wikipedia)

The importance of whistleblowing in the drive for a corruption-free society is underscored by the fact that the institutional mechanisms put in place to check corruption may not be effective without whistleblowing, especially from insiders who identify and draw attention to corrupt acts that other mechanisms may fail to pick up (Oakley and White, 2006). Oakley and White (2006) submit that anticorruption campaigns may not be successful without effective whistleblowing. Thus, whistle blowing, as rightly observed by Transparency International (2010), is increasingly recognised as an important tool in the prevention and detection of corruption and other malpractice. By disclosing wrongdoing in an organisation, whistle-blowers can avert harm, protect human rights, help to save lives and safeguard the rule of law. This essay contributes to a growing effort to understand the effectiveness, mechanisms and hazards associated with the whistle blower policy, particularly in a country globally known for its corruption toga. The Federal Government's anti-corruption drive in that last two years essentially remains the focus of this essay as it emphasizes a novel set of posers capable of probing into the motive and agenda behind the whistle-blower strategy. It also explores the anti-corruption mechanisms/policies put in place by successive administrations in the country with a view to properly locating the gap, that is, why corruption has remained endemic in spite of them.

2. Background to Anti-Corruption Policies in Nigeria

Corruption is broadly understood as the abuse of resources, theft, fraud, mal-administration, favouritism, nepotism, embezzlement and conflict of interest. Within the public sector, corruption can be described as any conduct or behaviour in relation to individuals entrusted with responsibilities in public office which violates their duties as public officials and which is aimed at obtaining undue gratification of any kind for themselves or for others (Department of Public Service and Administration, 2006:3). Corruption, which violates the public service code of

*Blowing the Anti-Graft Whistle with Rewarding Rigour and Legal Vulnerability: A
Turning Point in Nigeria's Democratic Space?*

conduct; deters foreign investment, increases the cost of public service delivery undermines the fight against poverty and unnecessarily burdens the criminal justice system. Thus, any act which promotes self-interest at the expense of public interest against the overall objectives of government can be construed as corruption. Corruption results in the ineffective and inefficient use of public service resources while it undermines public confidence in the public service.

Nigeria's progress has been significantly impeded by its inability to distribute the country's immense oil wealth to citizens. This is corroborated by a recent report from the Legatum Institute, a London-based think tank, which measured "prosperity delivery" to citizens in comparison to a country's actual wealth. Of the 38 countries covered by the research, Nigeria ranked 26th, with the report saying it was "under-delivering" prosperity to its citizens (Kazeem, 2017).

Corruption, according to the United Nations Development Programme, has atrophied development and kept over 60 per cent of the population in poverty. The 40 per cent of all contract sums that the US Department of Commerce estimated to be lost to graft 10 years ago is believed to have climbed to 100 per cent in some instances as in the Niger Delta Development Commission, where some N183 billion is alleged to have been paid out for fictitious contracts (The Guardian, January 18, 2016). According to Osuntokun (2016:17), "the kind of looting we are being told happened is enough to depress any sane and patriotic Nigerian. The level of looting poses existential threat to this republic. In China some of what happened in the recent past would have attracted ultimate punishment. People walk into the office of the National Security Adviser, sign a piece of paper, and walk out with a mandate to go to the CBN or banks where government has money to go and collect billions for some spurious work for government or the ruling party or for no work at all!"

Since the return to civil rule in 1999, Nigeria government has taken some steps to address the twin problems of corruption and bad governance in the country. These measures include public service reform (monetization to reduce waste and reduction of over bloated personnel, reform of public procurement); establishment of anti-corruption enforcement agencies such as the Economic and Financial Crime Commission and Independent Corruption and other Practices Commission (Chukwuma, 2010: ii). However, it has always been alleged that these agencies are selective in their prosecution of corruption cases. Corruption cases are hardly ever pursued to a logical conclusion. There are so many inconclusive cases, and many instances of corruption that the agencies declined to prosecute. In many of these glaring cases, successive governments in the country failed to convince anyone that Nigeria is committed to checking graft (PointBlank Editorial, 2014:10).

While most countries have established a legal framework to fight corruption, they often struggle to enforce their laws. Far too frequently, perpetrators are able to evade their national judicial system in direct proportion to the magnitude of their illicit wealth and power (Ramasastry, 2015:710). However, as observed by Enweremadu (2012:15), the conception of an independent, specialised commission against corruption as an indispensable tool for fighting corruption is an idea that has proved successful in some countries (notably Hong Kong and Singapore) and is now well rooted in global academic discussions on corruption. Nevertheless, its emergence in Nigeria immediately raised at least two important sets of questions. First, is the idea transferable to countries such as Nigeria, with its multiple experiences of weak or failed institutions? If yes, under what specific conditions? Second, given the fact that a considerable number of other institutions dealing with corruption in one form or the other were already in existence at the time these institutions were created, what role exactly were these new institutions expected to play? And what would their relationship be with the hitherto existing institutions? According to Human Rights Watch (2007), for all of the publicity the Nigerian government's anti-corruption war has generated, its victories have in fact been rather limited.

Other anti-corruption existing laws in the country include: Advance Fee Fraud and Other Related Offences Act 2006, Money Laundering (Prohibition) (Amendment) Act 2012, Miscellaneous Offences Act, Code of Conduct Act, Nigerian Extractive Industries Transparency Initiative Act, Freedom of Information Act 2011, Fiscal Responsibilities Act 2010, Penal Code Laws of Federation of Nigeria 2004, Criminal Code Law of Federation of Nigeria 2004, Banks and Other Financial Institutions (Amendment) Act 1991 Failed Banks (Recovery of Debts) and Financial Malpractices in Banks (Amendment) Act 1994.

Generally, before now, it is argued that the Acts establishing the Anti-Corruption Agencies, had been weak and ineffective. The agencies had been poorly funded and there were evidences of lack of political will by the crusaders to actualize an objective anti-corruption campaign. Apart from this, the fight has been of vindictive, selective, biased, one-sided and falsely attractive (Ademola, 2011). The former chairman of the Independent Corrupt Practices and other Related Offences Commission (ICPC), Justice Emmanuel Ayoola, once pointedly accused the Executive branch and the National Assembly of frustrating the commission's efforts through inadequate funding. In fact, the Information Minister, Lai Mohammed, on a radio programme attested to the fact that these agencies are underfunded (FRCN, Radio Link, March 12, 2016). According to Osipitan and Odusote (2014), there are multi-dimensional challenges inhibiting the fight against

corruption in Nigeria. This can partly be ascribed to incompetence of enforcement officers; lack of political will on the part of government; and political interference with the work of enforcement agencies.

3. Buhari Administration and the Fillip to Anti-Corruption War: Body Language, Policies and Strategies

Nigeria has been synonymous with corruption for many years now. Repeatedly, governments have been characterized by wayward spending and a lack of accountability. But many people hoped the country had taken a turn for better when, in May 2015, Muhammadu Buhari took office as Nigeria's president. A former military dictator known for an austere lifestyle and strict anti-corruption stance, Buhari was seen as the perfect man to rid government of its excesses and instil a semblance of financial responsibility (Kazeem, 2016).

Thus, President Buhari was given tremendous leeway and was lauded across the world upon entering office. Many observers – and even those in the human rights community – were willing to give him the benefit of the doubt, desperately wanting to believe his claim of being a “born again democrat” (Smith, 2016). Upon entering office in May 2015, Nigerian president Muhammadu Buhari faced the daunting tasks of living up to exceedingly high international expectations and meeting the needs of a nation that was clearly yearning for change. According to Tijani (2016), “Nigerians expect President Buhari to redirect the cause of our nation's history by reinforcing the fight against corruption; freeing Nigeria from the narrow and selfish agenda of tiny elites, rebuilding our moribund institutions, bring back the abducted Chibok girls, and the total rejuvenation of our social, economic and political paralysis”.

Buhari campaigned on a promise to address alleged multibillion dollar corruption scandals, which stem largely from mismanagement of the country's oil reserves. These kinds of scandals weaken Nigeria's legitimacy both domestically and abroad (Albright and Carson, 2015). Thus, a significant building block of democracy is confronting the scourge of corruption, which has severely stunted socio-economic progress in Nigeria since its independence from the United Kingdom in 1960. A widespread concern in Nigeria that actually helped to push Buhari's predecessor out of office was the billions of dollars of oil revenue that disappeared under his administration, in addition to credible allegations of graft and runaway illicit outflows. Unsurprisingly, Buhari was elected on an anti-corruption ticket and has since cracked down on graft in various sectors of the government.

At the White House meeting with President Barack Obama, the host president praised his guest as someone with high integrity, a quality much needed at this time in Nigeria's history; a commendation that was celebrated back home by supporters of this president as if Nigerians needed any confirmation from abroad on that score (Okuofu, 2015). To fulfill his anticorruption pledges, Buhari initiated a series of reforms, including the reorganization of the notoriously opaque state oil company. Nigeria's main anticorruption agencies launched investigations into several high-profile politicians, including the Senate president and top officials from former president Goodluck Jonathan's administration (Freedom House, 2016). Although no high profile corruption conviction has been secured, certain indicators point to considerable progress. In all, as pointed out by Campbell (2016), some 140 have been prosecuted, tried, and convicted of corruption -- far more than in any previous administration. However, it is unclear how many have actually been jailed.

According to a report by Buharimetre (CDD, 2016), a civil society monitoring report tracking the implementation of the president's campaign promises, "there had been visible efforts to combat corruption since the inauguration of the present administration, naming the arrest and prosecution of some notable persons and the efforts to recover looted funds". Within two months of assumption of office, the fear of his name alone worked wonders in several areas of national affairs. Accountability rose in government departments and agencies. The nation's account was singularized for the remittance of funds by public institutions and leakages blocked in several areas. Quiet 'carrot and stick' persuasions flushed some stolen funds back into the treasury while many now sing openly on the cause and scope of the large-scale looting that reigned uncontrolled under Goodluck Jonathan (Larr, 2015). Thus, from the beginning of the present administration, Buhari's body language was certainly perceived as a new formula for governance by many Nigerians.

The administration has earned the people's confidence with its anti-corruption efforts. The President has seized every opportunity to reiterate his disapproval of the ills that bedevil the nation while warning officials working in his government that he would not tolerate corruption in any form. Nigerians have witnessed in this dispensation criminal charges levelled against professional politicians, amongst whom are legislators. They have read of reorganisation of public enterprises that have inculpated public officials of corruption (The Guardian, February 9, 2016). President Muhammadu Buhari made it clear that the fight against corruption will be a top priority of his government. He has done this effectively by setting the tone at the top, what commentators has dubbed body language. Setting the tone at the top is very important in fighting corruption. It is the way that the top leadership

*Blowing the Anti-Graft Whistle with Rewarding Rigour and Legal Vulnerability: A
Turning Point in Nigeria's Democratic Space?*

will show from posture, statements and action that corruption will not be tolerated (Igbuzor, 2016).

The administration started making good its pledge to probe the big-time financial transactions of the previous administration with the on-going investigation of arms deals between 2007 and May 29 2015. Already, a 13-man committee constituted to examine the transactions has unearthed what it described as large-scale scams totaling N643.817 billion and \$2.193 billion after a preliminary inquiry (Vanguard, December 25, 2015). With the anti-corruption drive, a number of highly placed government officials, politicians and former officials had been handcuffed and brought to trial to answer corruption charges.

Revelations emerging from the on-going trial of some notable individuals detail how \$2.1 billion of recovered loot was surreptitiously taken, ostensibly for arms procurement, but apparently liberally shared out among party stalwarts under the corrupt Goodluck Jonathan government (The Punch, January 25, 2016). Indeed, the country is currently gasping for breath on account of the debilitating corruption which has, for far too long, thrown the most populous Black Country in the world into an asphyxiating coma (Agekameh, 2015). Emails leaked by anti-corruption charities Global Witness and Finance Uncovered suggested that a \$1.3 billion payment by oil giants Shell and Eni in 2011 for a lucrative but undeveloped Nigerian oilfield never went to the public trust for which it was intended. Instead, almost all of the money (nearly half of that year's national education budget) was divvied up as kickbacks between high-ranking government officials (Kazeem, 2017).

The Presidential Advisory Committee Against Corruption (PACAC) in its report of activities from August 2015 to July 2016 presented to civil society organisations (CSOs) by its Executive Secretary, Prof. Bolaji Owasanoye, revealed that fifty-five people stole N1.3trillion from the national treasury in seven years under President Goodluck Jonathan's watch. PACAC said corruption is Nigeria's greatest challenge and is directly associated with the current economic decline, poverty rates, reduced life expectancy, mortality and deteriorated living standards (The Nation, October 21, 2016). Overall, it is estimated that Nigeria has lost over \$400bn to large-scale corruption since independence in 1960. According to Ndikumana and Boyce (cited in Falana, 2015), more than half of the money borrowed by African states, including Nigeria, in recent decades was misdirected within a year, transferred in many cases to private accounts in offshore tax secrecy jurisdictions.

Public office holders in Nigeria are notorious for looting the treasury. This fact is well documented by the World Bank, International Monetary Fund, African Union and other anti-graft watchdogs such as the Global Financial Integrity, a US-based group. The GFI, in a report it prepared based on World Bank and IMF data, asserted that \$182 billion was illicitly taken away from Nigeria and laundered offshore between 2000 and 2009 (The Punch, 2017).

A report by AU's special committee, which a former President of South Africa, Thabo Mbeki, headed, also confirmed in 2014 such financial heist. Out of every \$60 billion illegally transferred out of Africa, the AU said, \$40 billion was traced to Nigeria, in a haemorrhage that has been on for over four decades. President Muhammadu Buhari, who took the loot recovery campaign to the global stage during the 70th General Assembly of the United Nations last October, said in the 10 years to 2015, about \$150 billion was looted. This explains why Nigeria is ranked 136th out of 168 countries, in the Corruption Perception Index of 2015 (The Punch, 2017).

According to Falana (2015) the criminals who stole the huge funds and western countries which are keeping the funds have violated the human rights of Nigerians with respect to development. If a large chunk of the stolen funds is retrieved and earmarked for socio-economic development, the government can create jobs, guarantee security and ensure infrastructural development. As President Buhari puts it, "The fight against corruption is in reality a struggle for the restoration of law and order. Corruption and impunity become widespread when disrespect for law is allowed to thrive in society. Disrespect for law also thrives when people get away with all sorts of shady deals and the court system is somehow unable to check them. Ability to manipulate and frustrate the legal system is the crowning glory of the corrupt and, as may be expected, this has left many legal practitioners and law courts tainted in an ugly way" (cited in Falana, 2015).

Interestingly, some measures have been put in place by the government to checkmate corrupt practices in the system. For instance, the Federal Government started the implementation of Treasury Single Account (TSA) with the e-payment component since 2012, while the e-collections components of commenced in January 2015. Larson (2007 cited in Ocheni, 2016) explains that TSA is bound to improve transparency and accountability in Public Financial Management. First, it will remove organisational/MDA secrecy around the management of public finances. The second is that revenue generating agencies that have been depriving the Treasury of due revenue through a plethora of bank accounts under their purview unknown to the authorities will no longer be able to defraud government since all funds will be swept into the TSA. However, it should be noted that the

*Blowing the Anti-Graft Whistle with Rewarding Rigour and Legal Vulnerability: A
Turning Point in Nigeria's Democratic Space?*

effective implementation of these policies in Nigeria is yet to materialise until recently.

Many Nigerians are concerned to find out that many government agencies that remitted peanuts to government coffers annually under the previous administration are now declaring billions of naira revenue due to the implementation of the Treasury Single Account (TSA). With the TSA in place, they could no longer divert and steal their internally generated revenue. As a starter, the Minister of Finance disclosed that the Joint Admissions and Matriculation Board (JAMB), which has been remitting N3 million annually, remitted N5 billion in 2017 alone (as at August) and still had another N3 billion to remit to government purse that same year. She was also worried that the Nigerian Maritime Administration and Safety Agency (NIMASA), which remitted N4.95 billion only in 2015, remitted a whopping sum of N24 billion in 2016 (Ehikioya, 2017).

Other reforms aimed at improving the quality of the nation's Public Financial Management (PFM) systems are Government Integrated Financial Management Information System (GIFMIS); Automated Accounting Transaction Recording and Reporting System (ATRRS); Integrated Payroll and Personnel Information System (IPPIS); and International Public Sector Accounting Standard (IPSAS). Also, President Muhammadu Buhari has requested the National Assembly to consider two executive bills as part of improved legal framework to fight corruption. The bills are Money Laundering Prevention and Prohibition Bill 2016 and the Criminal Matters Bill 2016. The bills are believed to be part of the enhanced legal approach to Mr. Buhari's anti-corruption war.

Earlier, in August 2015, the administration inaugurated a Presidential Advisory Committee Against Corruption (PACAC). The duties of the PACAC headed by Professor Sagay include the following: promotion of the anti-corruption struggle by developing comprehensive interventions in Nigeria's Administration of Criminal Justice System; Engendering Inter Agency Cooperation and Information sharing; promoting the efficiency and effectiveness of the anti-corruption agencies; Examining the workings of the present system of the Administration of Criminal Justice; Seeking to put an end to all orders of Perpetual Injunctions against the investigation, interrogation, arrest and prosecution of anyone for corruption with the objective that such persons must defend themselves in court and such cases must go through the full trial process; the lifting of all existing injunctions protecting anyone from investigation, interrogation, arrest and prosecution for corruption; and revisiting outstanding cases of egregious corruption and impunity which have been stalled or suspended.

To strengthen institutions, the committee staged series of workshops and produced strategy documents including: the Corruption Case Management Manual (full and abridged versions), Plea Bargain Manual, Corruption Information/Intelligence Sharing Protocol and the Federal Sentencing Guidelines for Corruption and other Related Economic Offences. Others are: the Strategic Communication Blueprint for the Federal Government in the Fight Against Corruption, Assets Recovery Strategy Document, Framework for Management and Administration of Recovered Stolen Assets, Training Manual for Federal Prosecutors on Drafting charges under the Administration of Criminal Justice Act 2015. Besides producing a draft Bill and Explanatory Memorandum for the Establishment of Special Crimes Court, the committee has advised on improvement of prosecutorial capacity, asset recovery and on reopening of dormant high profile cases while fostering inter-agency cooperation (Jibueze, 2016).

4. Whistle Blower Policy and Chain of Looted Funds

Nigeria's problems with corruption are well-documented. In a bid to buck the trend, Nigeria's ministry of finance decided to try a new approach: allowing citizens who report corruption-related offenses earn a cut from the recovered loot. President Buhari's new policy on whistle-blowing is revolutionary. Its goal is to broaden the attack on corruption by encouraging the general public to expose corrupt practices. The government will in turn reward those whose revelations result to recovery of funds or assets (Ogbonnia, 2017). The term whistle-blowing is a relatively recent entry into the vocabulary of public and corporate affairs, although the phenomenon itself is not new. Recently, whistle-blowing has become common from government agencies to business corporations world over. Whistle blowing has been regarded as a Western idea, being perceived as abandonment of cultural traits and of the norms of social behavior and loyalty.

The policy, co-ordinated by the Ministry of Finance, requires anyone with information about a violation, misconduct or improper activity that impacts negatively on Nigerians and the government to report it (The Nation, 2017). To report corruption, whistle-blowers need to provide key information via a secure online portal. Offenses that can be reported include mismanagement of public funds and assets, violation of financial regulations, solicitation of bribes, and manipulating data and records. The ministry of finance also promises whistle-blowers that "confidentiality will be maintained to the fullest extent possible within the limitations of the law" (Kazeem, 2017). The subject matter of the report may include mismanagement or misappropriation of public funds and assets (e.g. properties and vehicles), financial malpractice or fraud, collection/soliciting bribes

*Blowing the Anti-Graft Whistle with Rewarding Rigour and Legal Vulnerability: A
Turning Point in Nigeria's Democratic Space?*

and corruption. Others are diversion of revenues, fraudulent and unapproved payments, splitting of contracts and procurement fraud (kick-backs and over-invoicing etc.).

The Federal Government spelt out the benefits awaiting whistle-blowers as it also pledged their protection. Any whistle-blower whose information leads to the recovery of up to N1 billion will receive five per cent of the amount. The reward for any amount between one and five billion naira would be five per cent for the first N1 billion and four per cent of the remaining N4 billion, and any amount over N5 billion will attract 2.5 per cent reward. The Federal Government had promised that any whistle-blower, whose information led to the recovery of cash or assets worth N5 billion, would earn N210 million (Vanguard, 2017). According to the Minister of Finance, Kemi Adeosun (2017):

Any person who voluntarily discloses information in good faith about a possible misconduct or violation that has occurred, is ongoing, or is about to occur will receive a certain amount of financial reward from 2.5 to 5 per cent of the amount recovered. If you whistle-blow in public-spirit and in good faith, you will be protected. If you feel that you have been treated badly because of your report, you can file a formal complaint. If you have suffered harassment, intimidation or victimisation for sharing your concerns, restitution will be made for any loss suffered.

Among the selling points of the policy are (a) the possibility of increased accountability and transparency in the management of public funds and (b) the possibility that more funds would be recovered that could be deployed in financing Nigeria's infrastructural deficit. In the final analysis, it is hoped that the more accountable the government becomes, the higher will be Nigeria's ranking on the indicators of openness and ease of doing business. The ultimate goal is to develop a corruption-free society and attract more and more foreign investors (Akinnaso, 2016). For the finance Minister, Adeosun (2017) the purpose of the initiative is to increase exposure of financial or financial-related crimes, improve level of public confidence in public entities, enhance transparency and accountability in the management of public fund and improve the country's Open Government Ranking and Ease of Doing Business Indicators. The minister notes further that whistle blowers are expected to report mismanagement or misappropriation of public fund and assets, financial malpractice or fraud, collecting or soliciting bribes, diversion of revenues, fraudulent and unapproved payments, splitting of contracts and procurement fraud (kickbacks and over-invoicing etc.).

The Federal Government said that its Whistle-Blower policy is greatly yielding fruits as it has recovered US\$151 million and 8 billion Naira looted funds. The Minister said the looted funds, which do not include the \$9.2 million in cash allegedly owned by a former Group Managing Director of the NNPC (which was also a dividend of the whistle-blower policy), were recovered from just three sources through whistle-blowers 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 an apparently fake account name, followed by 7 billion Naira and \$15 million from another person and 1 billion Naira from yet another (Vanguard, 2017).

The Nigerian government says its whistleblowing platform received a total of 2,251 communications – enquiries, tips, compliments and general advice from the public. In essence, 282 Nigerians provided 154 actionable intelligence in three months (December 22, 2016 to April 2017). Not to be outdone, the Inspector General of Police, Mr. Ibrahim Idris once urged whistle-blowers to report the misconduct of policemen to the appropriate quarters. Members of the public can report malfeasance and corrupt tendencies of Nigeria Police personnel to the Police Complaint Rapid Response Unit (PCRRU), through any of these – phone lines, SMS, WhatsApp, Blackberry Messenger (BBM), Emails, Facebook, Twitter platforms (Okereke, 2017).

| | Looted Funds Discovery | Progress Report/Reactions |
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| 1. | The commission said a special operation conducted by its operatives on 3rd February on a building belonging to Andrew Yakubu, a former Group Managing Director of the Nigerian National Petroleum Corporation, in Kaduna yielded the staggering sum of \$9,772,800 (Nine Million, Seven Hundred and Seventy Two Thousand, Eight Hundred United States Dollars) and another sum of £74,000 (Seventy Four Thousand Pound Sterling) stuffed in fireproof safes. | On February 8, 2017, Andrew Yakubu reported to the Commission's Zonal office in Kano and made statement wherein he admitted ownership of the recovered money, claiming it was gift from unnamed persons. The Economic and Financial Crimes Commission, EFCC, on March 16, docked Yakubu on a six-count criminal |

***Blowing the Anti-Graft Whistle with Rewarding Rigour and Legal Vulnerability: A
Turning Point in Nigeria's Democratic Space?***

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| | | charge, following which the court ordered his remand in prison custody pending ruling on his bail application. |
| 2. | <p>Operatives of the Economic and Financial Crimes Commission, EFCC, Kaduna zonal office, on March 14, 2017, intercepted N49 million at the Kaduna Airport.</p> <p>Ibrahim Bappa, the Kaduna zonal head of the EFCC, while addressing journalists in Kaduna, said the money was stashed in five large 150 kilogramme coloured sacks (Premium Times, March 14, 2017).</p> <p>Mr. Wilson Uwujaren, Head, Media & Publicity of EFCC said the interception was carried out following a tip off.</p> | <p>The owner of the money later showed up but couldn't state the exact money in the sack or present any document authenticating the genesis of the money.</p> <p>"However, his inability to give any concrete explanation made him become uncomfortable and he disappeared into thin air before the arrival of EFCC operatives," the zonal head said.</p> <p>Mr. Bappa said the operatives later found out that the suspect had fled the airport vicinity leaving the sacks behind</p> |
| 3. | <p>The Nigerian anti-corruption unit discovered more than \$43 million in US dollars at an upscale apartment in Lagos. The anti-graft agency said in a statement it raided the apartment after a tipoff about a "haggard" woman in "dirty clothes" taking bags in and out of the apartment. The agency said it also found 23.2 million naira (Nigerian currency worth \$75,000) and £27,800 (UK currency, worth \$35,000 US) "neatly arranged" inside cabinets hidden behind wooden panels of a bedroom wardrobe (CNN, April 14). The money was found in a residential building on the 7th floor of a four-bedroom apartment at</p> | <p>The Economic and Financial Crimes Commission (EFCC) got a Federal High Court in Lagos to grant a temporary forfeiture of the sums of \$43,449,947, £27,800 and N23,218,000 (totalling \$43.6 million or N13.3 billion) belonging to the National Intelligence Agency (NIA).</p> |

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| | Osborne Towers located at 16 Osborne Road, Ikoyi, Lagos | |
| 4. | The Economic and Financial Crimes Commission recovered N449, 000, 860 hidden in an abandoned shop in Lagos. An official of the EFCC who was actively involved in the investigation said: “We received information from a whistle-blower regarding a huge sum of money stashed in an office in Nigerian Air Force complex at Legico bus stop... He said investigation revealed that the shop belonged to a Bureau De change operator (The Punch, April 8, 2017). | |
| 5. | The Economic and Financial Crimes Commission (EFCC) recovered N1.25 billion from a public servant (The Nation, February 10, 2017). EFCC boss, Ibrahim Magu made the disclosure on February 9 when he appeared before the House of Representatives Committee on Financial Crimes. | |

Source: Compiled by the Author

The news of the recovered funds signals gains made by president Buhari’s anti-corruption drive as he remains intent on ensuring transparency in state institutions and agencies previously known for being opaque and corrupt. The timing of the recovery of the funds was crucial for Nigeria’s stumbling economy. The recovered funds were set to come in at a time when the government was doubling down on efforts to diversify its oil-dependent economy and fund a record \$30.6 billion national budget (Quartz Africa, 2016). While assessing the policy so far, the Information and Culture Minister, Lai Mohammed opines that:

When we told Nigerians that there was a primitive and mindless looting of the national treasury under the last administration, some people called us liars. Well, the whistle-blower policy is barely two months old and Nigerians have started feeling its impact, seeing how a few people squirrelled away public funds. It is doubtful if any economy in the world will not feel the impact of such mind-boggling looting of the treasury as was experienced in Nigeria (africanews, 2017).

It is safe to conclude that the average Nigerian is sick and tired of the looting of public funds. Therefore, the whistleblowing policy, which encourages the

provision of information in respect of 1) mismanagement or misappropriation of public funds and assets, 2) collection or soliciting of bribes, 3) diversion of revenues, 4) making of fraudulent and unapproved payments, 5) splitting of contracts, and 6) procurement fraud, would be welcome by many Nigerians. A civil servant with key information on stashed funds or a scheme to divert public funds would be more likely to report to the authorities, if there is an assurance his identity would not be revealed (Odude, 2017). Commenting further on enthusiasm with which Nigerians bought into the policy, Lai Mohammed (2017) submits that:

Nigerians, fired by a fervid resolve to help banish corruption from their country, have daily inundated the offices of the appropriate government agencies with valuable information. We have been told how looters have resorted to burying stolen funds in their backyards, in deep forests and even in burial grounds... Yes, there is monetary reward for any information that leads to recovery of looted funds, but from what we have seen, most of the Nigerians who have come forward with useful leads were driven by patriotism rather than reward... As the looters continue to run helter-skelter, many of them are even abandoning their booty at unusual places, including airports (InformationNigeria, 2017).

Beyond the policy however, Shittu (cited in Onanuga, 2017) advocates that there should be a legal framework detailing parameters and guidelines for its operation. This should cover scope, powers, limitations, protections, endorsement and remedies. Shittu described the whistleblowing policy as “an excellent idea that should cover all aspects of our national life to reduce corruption, crime and other forms of impunity”. A cursory look at the recoveries of illicit money after the introduction of the policy showcased the fact that it is very effective and should be extended to other sectors and the government should be faithful in honouring those who give out the vital information that leads to success unless they opt out of being paid.

5. Whistle Blowing and the Risk in a Corruption-Ridden Society

The clandestine nature of corrupt behaviour means that it may never come to light unless cases are reported by people who discover them in the course of their work. But reporting can come at a high price: whistle-blowers often expose themselves to great personal risks in order to protect the public interest. As a result of speaking out, they may lose their jobs, dampen their career prospects, and even put their own lives at risk (Transparency International, 2010). The risk of corruption is significantly heightened in environments where the reporting of wrongdoing is not supported or protected. Public and private sector employees have access to up-to-date information concerning their workplaces' practices, and

are usually the first to recognise wrongdoings (United Nations Office on Drugs and Crime).

Corruption is a notoriously secretive activity and it is usually only those engaged in corrupt deals or those who work with them that are aware of it. Insiders are among the few people who are able to report cases of corruption (past or ongoing) and identify the risk of future wrongdoing. By helping to detect corruption cases, whistle-blowers play a critical role in converting a vicious cycle of secrecy into a virtuous cycle (Transparency International, 2010). Major bribery and corruption scandals demonstrate the damage done by the failure to report wrongdoing as soon as it is discovered. Yet indifference, fear of reprisal, and misplaced loyalty as well as an overall culture of silence often deter potential witnesses and whistle-blowers from speaking out (Transparency International, 2010).

Culturally, whistle-blowing has connotations of betrayal. Whistle-blowers were hitherto perceived as disloyal malcontents, troublemakers and villains, not heroes or courageous employees. Speaking out has been difficult, especially in a culture where this is not promoted or even actively discouraged (Ajibola, 2017). Lack of support from others may render institutional mechanisms against corruption ineffective and hinder whistleblowing (Rehg et al., 2008). Whistleblowing is not without consequences. It has adverse effects on the public confidence in the organizations concerned, the profession of the corrupt person (Oakley & White, 2006), and the whistle-blowers (Cortina and Magley, 2003). Rehg et al. (2008) reported that whistleblowing was strongly connected with retaliation from culprits, which culminated in strained relationships between whistle-blowers and supervisors. Whistleblowing may also have adverse effects on the whistle-blowers' access to work-related benefits (Rehg et al., 2008).

Whistle blowers could commonly “face discipline or dismissal” because they are being seen as “particular threat to, and thorn in the side of, an employing organization.” They may also earn more negative labels such as informants, snitches, rats, squabbles, sneaks, or stoolies which could have impact on them or their families (Sule, 2014) especially in Nigeria where, more often than not, citizens are wary of reporting suspicious persons or activities to the security agencies because confidentiality is not always guaranteed and bearing in mind that “a typical corrupt Nigerian ‘big man’ is unscrupulous, desperate, vindictive, and bloodsucking; human life means nothing to them hence eliminating anyone who snitches or stands on their way is elementary” (Okereke, 2017). Thus, whistleblowing best practice demands that inter-alia whistle blowers must be safeguarded against any form of retaliation – threats, harassment and demotion,

*Blowing the Anti-Graft Whistle with Rewarding Rigour and Legal Vulnerability: A
Turning Point in Nigeria's Democratic Space?*

amongst others while also ensuring confidentiality to the fullest extent possible and ability to anonymously report malfeasance and corrupt tendencies (ibid).

Admittedly, considering the state of Nigeria's economy and given that unemployment and under-employment are on the rise, a veritable investment option as it stands today is whistle-blowing. However, like other forms of investment, there are risks attached to this (Ogunjobi, 2017). Instances now abound where whistle blowers have been exposed to danger and suffered some harassment and reprimand especially in their work place. For example, in February 2017, a top career civil servant, Mr. Ntia Thompson, was fired after sending a petition to the Economic and Financial Crimes Commission (EFCC), asking it to probe an allegation of fraud involving some top officials of the Directorate of Technical Cooperation in Africa (DTCA). The move came just two months after the President Buhari-led administration, through the Executive Council of the Federation, approved the whistle-blowing policy, promising full protection and restitution for any informant against harassment, intimidation or victimisation. Thompson had exposed alleged corruption by some officials in the Ministry of Foreign Affairs, where he was an assistant director (New Telegraph, 2017). In 2014, former Central Bank Governor Sanusi Lamido Sanusi was suspended by erstwhile President Goodluck Jonathan for "financial recklessness and misconduct", after the Kano prince caused shock waves in Nigeria when he alleged that \$20 billion in oil revenue had gone "missing" at the NNPC (Ajibola, 2017).

In 2011, a member of staff of National Women Development Centre, Abuja, was dismissed from service for exposing the alleged embezzlement of N300 million meant for poverty alleviation by some top officers. In 2016, three members of staff of at the Federal University of Agriculture, Abeokuta - Lasun Somoye, Abdulsalaam Sobbor and Bimbo Bankole, -were suspended by the university and later sacked by its governing council for whistle-blowing. They had written to the EFCC, accusing the institution's vice chancellor and the pro-chancellor of fraud. By an interesting turn of events, the Vice Chancellor of the University, Olusola Oyewole, who suspended and later sacked three whistle-blowers, has himself been arrested for alleged fraud (Ajibola, 2017).

What is however, worrisome is how the National Assembly seems to be repugnant to such policy/law in its internal operations as manifested in the suspension of its members. For instance, Mr. Ali Ndume, a member of the Senate, was suspended by the Senate for triggering investigations into allegations of forgery against the senate president, Bukola Saraki, and Kogi senator, Dino Melaye. News reports accused Mr. Saraki of importing a Range Rover SUV without paying appropriate import duty, and attempting to clear the vehicle with

falsified papers. Mr. Melaye was accused of falsely claiming to have graduated from Ahmadu Bello University. The Senate dismissed both allegations, and sanctioned Mr. Ndume by suspending him for six months (Premium Times, 2017).

Also, the House of Representatives in 2016 suspended the former Chairman of Appropriation Committee, Hon. Abdulmumini Jibrin for a period of 180 legislative sitting days. Jibrin had accused the Speaker of the House, Yakubu Dogara and other principal officers of the Lower Legislative Chamber of padding the 2016 budget to the tune of over N40bn (Daily Post, 2016). Mr. Jibrin began stirring what experts now described as one Africa's biggest parliamentary scandals in recent memory on July 21, 2016 a day after he was eased out as chairman of the powerful committee. Although the House was taking a two-month recess at the time, Mr. Jibrin remained resolute in his quest to "end the massive corruption in the House" (Ogundipe, 2016). Mr. Jibrin's suspension would see him banned from the premises of the National Assembly in the course of the disciplinary action. He would also not receive salaries or allowances.

This ugly development may have justified the submission of Adebanwi and Obadare (2011:187) that the gravest threats to anti-corruption campaigns often emanate from a combination of intra-elite rancour and political intrigue, based on corrupt practices which are reflections of deeper socio-political pathologies of a 'normal' post-colonial state. Those pathologies, they argue, are manifestations of the structures of patrimonial domination. This is because anti-corruption campaigns, by their very nature, pose a serious danger to the material basis of elites and the possibility of their continued reproduction.

The Nigerian government is promising whistle-blowers anonymity, but the Whistle blowing portal to expose illegal activity is very prone to hacking. The site lacks basic HTTPS encryption that protects Internet traffic from eavesdroppers (Nigerian Bulletin, 2017). Also, Sahara Reporters spoke to the whistle blower responsible for the recovery of almost \$50 million in an Ikoyi apartment. Although the whistle blower was not named in the media report, one is curious as to how the media house got access. The article also reveals that the whistle blower in that case is a security guard. Who will stop his employer from firing him? (Nigerian Bulletin, 2017). This clearly suggests that a whistle blower in Nigeria is still highly vulnerable.

6. The Needed Institutional and Policy Frameworks

Studies have shown that there can be a huge array of anti-corruption institutions, regulations and laws available in a given society and there have been some success stories in fighting corruption. This study subscribes to the fact that, in curbing the

*Blowing the Anti-Graft Whistle with Rewarding Rigour and Legal Vulnerability: A
Turning Point in Nigeria's Democratic Space?*

menace of corruption or to ensure effective war against it, there should be a legal framework that encapsulates the applicable strategies to achieve such. These strategies fall into three main categories: “reducing the scope for corruption through policy change; increasing the costs of corruption through external monitoring and sanctioning; and devising systems to induce self-restraint within government organisations” (Hamilton-Hart, 2001:67). Strategies to limit corruption have to be realistic and achievable and tailored to the needs of particular countries. Corruption is essentially a governance issue. Increased governmental accountability and transparency, enhanced public participation in decision making, strengthened public sector and civil society institutions and greater adherence to the rule of law will not only improve governance but will help counter corruption (Policy Forum - Document on Corruption and Development in Africa, 1997).

Over the years, scholars, activists and international organizations have identified elements which when present can assist in winning the war against corruption. These elements include: (a). Legislative framework for transparent and accountable government and for fighting corruption including Freedom of Information Act (FOI Act), Budget law, Fiscal responsibility law, Whistle blowers Act e.t.c. (b). Political will and commitment to fight corruption; (c). Comprehensive strategy that is systematic, comprehensive, consistent, focused, publicized, non-selective and non-partisan; (d). Protection of Whistle blowers (e). Political Reform to curb political corruption; (f). Reform of substantive programmes and administrative procedures; (g). Mobilisation for social re-orientation with participation of civil society and faith based organisations; (h). Effective parliamentary oversight through the Public Accounts Committee (i). Independent media; (j). Adequate remuneration for workers to reflect the responsibilities of their post and a living wage; (k). Code of ethics for Political office holders, business people and CSOs; (l). Independent institutions; and (m). Mass Movement for Anti-corruption (Igbuzor, 2016). For Nigeria, two pillars for the anti-corruption coalition in the on-going fight against corruption, as noted by the Vice President, Yemi Osinbajo (Cited in Ademolekun, 2017), are: (i) President as anti-corruption champion (ii) the provisions in the 1999 Constitution that mandate fighting corruption and (iii) a National Anti-Corruption Strategy that needs to be adopted through a participatory process involving all three tiers of government, the private sector, civil society organisations and concerned citizens.

Interestingly, the Nigerian Senate on July 18, 2017 passed another anti-corruption bill: ‘the whistle blower protection bill,’ after its third reading at plenary. The bill amongst other things aims at ensuring that persons who make disclosures about corruption do not suffer reprisals in relation to such disclosures

and are duly protected by law. Previous bills passed by the eighth Senate in the fight against corruption include: the witness protection bill and the mutual assistance in criminal matters bill (Okakwu, 2017). The Bill, which was read the first time on the floor of Senate on 15th of March, 2016, according to Daily Post (2016), “seeks to protect persons making disclosure for the public interest (Whistle-blowers) to be protected from the knowledge or aggression of the accused”. Others are; the Office of the Financial Ombudsman Bill 2015, National Convicts and Criminal Records Bill 2015, Electronics Transactions Bill 2015, and the Nigerian International Financial Centre Bill 2015. The 2015 version of the Whistle-Blower Protection Bill was one of the 46 bills that the Seventh Senate passed into law within 10 minutes on the eve of the end of its tenure in 2015. They were not signed into law by former President Goodluck Jonathan. Senator Biodun Olujimi (See Daily Post, 2016) argues that the effectiveness of Nigeria’s legal framework and fight against corruption/fraud depends on the quality of the country’s whistle blowing standards/protection. She opines further:

Although the anti-corruption agencies have internal mechanism and made provisions for the protection of Whistle-blowers, this protection has appeared insufficient, given the country’s poor performance in the fight against corruption. The enactment of a comprehensive and dedicated law as the basis for providing Whistle-blowers protections is generally considered the most effective legislative means of providing such protection.

Suffice it to say that the role of legislation in the fight against corruption cannot be undermined because the risk of corruption is significantly heightened in environments where the reporting of wrongdoing is not supported or protected by law. The law, in fact, improves co-ordination among relevant players in the fight against corruption and monitors progress of the war. Put differently, while whistle-blower protection is essential to encourage the reporting of misconduct, fraud and corruption, providing effective protection for whistle-blowers serves to entrench an organisational culture where employees are not only aware of how to report but also have confidence in the reporting procedures.

It is in this light that the whistleblowing Bill, passed by the Senate, becomes a potent instrument in the fight against corruption in the country. It is apposite to state that the whistleblowing bill, when fully assented to, should be diligently enforced with a view to supporting a culture of compliance and integrity. Several international conventions recognise whistleblowing as an effective tool for fighting corruption, fraud and mismanagement, and commit the signatory countries to implement appropriate legislation (Transparency International, 2010). However, existing legal provisions are fragmented and weakly enforced in most jurisdictions.

*Blowing the Anti-Graft Whistle with Rewarding Rigour and Legal Vulnerability: A
Turning Point in Nigeria's Democratic Space?*

Only in rare cases do they provide sufficient protection for whistle-blowers. Many laws may cover only the public sector or may be not tailored to the specific needs of whistle-blowers.

It is therefore pertinent to probe into how the whistle-blowers will be protected under the new law in Nigeria. Otherwise known as “An Act to Protect Persons Making Disclosures for the Public Interest and Others from Reprisals, to Provide for the Matters Disclosed to be Properly Investigated and Dealt with and for other Purposes Related Therewith”, the Bill also seeks to ensure that persons who make disclosures and persons who may suffer reprisals in relation to such disclosures are protected under the law.

The Bill also specifies who is qualified to make disclosure of improper conduct; the procedure for making disclosures; and the protection due to ‘whistle blowers.’ Under the newly passed Bill, a person who makes a disclosure shall not be subject to victimisation by his or her employers or by fellow employees. Additionally, a person who makes a disclosure has the right to take legal action if he or she is victimised, dismissed, suspended, declared redundant, transferred against his or her will, harassed or intimidated in any manner (The Punch, 2017). the bill also seeks to ensure that persons who make disclosures and persons who may suffer reprisals in relation to such disclosures are protected under the law. The reprisals could include victimization, job losses and humiliation which are some of the consequences of whistle blowing.

With the passage of this Bill, the Senate has concluded work on three anti-corruption Bills. In May 2017, it passed the Mutual Assistance in Criminal Matters Bill, while in June 2017, it passed the Witness Protection Bill (The Punch, 2017). The Bill will now be sent to the House of Representatives for concurrence. If passed and assented by the President, Nigeria will join other countries like United States, United Kingdom, New Zealand, South Africa, Ghana, South Korea, Uganda, Netherlands, Canada with comprehensive whistle blower laws.

Another anti-corruption bill passed by the Senate is the bill for mutual assistance in criminal matters between Nigeria and other foreign countries to facilitate the identification, tracing, freezing, restraining, recovery, forfeiture and confiscation of proceeds, property and other instrumentalities of crimes. The bill, sponsored by the executive arm, would provide a legal framework that would strengthen the fight against corruption, terrorism, economic and financial crimes, money laundering and other related offences. It would also facilitate the voluntary attendance of persons in the requesting state. It is also intended to effect the temporary transfer of persons in custody to assist in investigations or to appear as

witnesses, facilitate obtaining and preserving of computer data, and providing any other assistance that is not contrary to the law of the requesting state (Okocha, 2017).

For the anti-graft agencies, they should painstakingly ensure that there are robust and independent investigations of high-level corruption cases by engaging quality investigators, prosecutors and adequate witness protection that could potentially assist in ensuring that admissible evidence against powerful, rich and high-ranking members of government (Kupoluyi, 2017). Also, there should be better coordination and synergy among the various security agencies in the country such as the Police, EFCC, the Department of State Services (DSS), the Code of Conduct Bureau (CCB), Independent Corrupt Practices and other related offences Commission (ICPC) and the Office of the Attorney- General of the Federation, among others, for a better anti-corruption fight (Kupoluyi, 2017).

While making a case for effective anti-corruption war, the Presidential Advisory Committee Against Corruption Chairman, Itse Sagay (SAN) advocated “stiff punishment for counsel, particularly Senior Advocates, who have turned obstruction and frustration of proceedings on high-profile corruption cases into an art” (The Nation, July 27, 2017). He said such punishment for SANs must include denial of right of appearance in such high profile corruption cases. According to Sagay, prosecuting authorities must “insist on full application of Sections 306 and 396 of the Administration of Criminal Justice Act, namely: No stay of proceedings under any circumstances – S. 306. Any preliminary objection must be taken together with the substantive issue – S. 396(2), and hearings shall be on a daily basis, but in exceptional cases, adjournments not to be in excess of 14 working day, may be granted. Such adjournments not to exceed five in any proceedings – S. 396 (3) and (4)” (ibid). He recommended that “a High Court judge, who is elevated whilst presiding over a criminal case, should be allowed to conclude the case without any effect on his new status” (ibid).

Similarly, there are calls that public officers convicted of looting public funds even in the current war on corruption by anti-corruption agencies should be barred from partaking in partisan politics and holding any public office. As a corollary to the ban law, Sule (cited in The Guardian, October 6, 2016) for instance, also suggests that recovered loot should not be left to the vagaries of public expenditure framework that are not supported by specific provisions of the law. Thus, the authorities, as opined by the Leadership Editorial (2017), must punish the act of stealing for the lesson it tends to teach. The recovered item, in this instance, the money, will serve as exhibit during trial to be used to implicate, prosecute and jail

*Blowing the Anti-Graft Whistle with Rewarding Rigour and Legal Vulnerability: A
Turning Point in Nigeria's Democratic Space?*

them. There must be a price to be paid for the betrayal of public trust, for getting involved in an odious manipulation of officialdom for one's pecuniary gains.

Accordingly, there should be another law to enable the government utilise the recovered funds to improve the living standard of Nigerians. Obviously, the issue of ban on convicted looters of public funds is not new. There have been laws and white papers from reports of administrative and judicial panels suggesting same. But since 1999 when democracy returned, no institution of governance including the election management agency has been able to secure any tangible conviction of any candidate who corrupted even the electoral process. Suffice it to say that the only way to prevent criminals and state thieves from getting elected and appointed into power is to enact a law that will prevent them from buying their way into office. And there is need for a fresh law to prevent indicted treasury looters from holding public offices. This is the least that can be done to sanitise the nation's leadership recruitment process.

It is argued that maximizing the advantages offered by the Administration of Criminal Justice Act 2015 is crucial to the success of this new war against corruption. Some of its details are: day-to-day trial of an accused person upon arraignment until the conclusion of the case; or granting maximum of five adjournments if need be; and giving no room for objections on the grounds of flawed charge, among others. The 2013 practice directions issued to federal courts had the same provision for speedy dispensation of justice. But for some inexplicable reasons, as observed by Falana (2016:16) "the practice directions have not been applied by any of the courts". In view of this, the need for special courts for the prosecution of financial crimes has also been advocated by some Nigerians just as the Federal government sent a proposal to the National Assembly in respect of that. Those who hold this view contend that the establishment of special courts to handle corruption and related cases will buttress the seriousness of the government in its campaign against corrupt practices.

A compelling step, according to Ogonnia (2017) is "to complement the whistle-blowing programme by establishing the special courts needed to expedite corrupt cases. The anti-graft agency can follow by recruiting and training tens of thousands of jobless graduates adequate to wage a full-scale offensive combing from the 774 local governments upward. After all, the corrupt proceeds have been so overwhelming for the agency that many visible ill-gotten assets, such as the shady castles located in the various villages, are ironically ignored". Available indicators show that most corruption cases being prosecuted by the Economic and Financial Crimes Commission, (EFCC) so far have been traveling with the speed of a snail through the regular courts. That has raised the argument in favour of

special courts, and the fact that such facility would remove the vexatious frivolous adjournments that rob the cases of their real essence (Fanoro, et al, 2015). It could be deduced that within special courts, cases stand great chance of being disposed of quickly. Moreover, trials within special courts would be more rapidly processed than within a court of general jurisdiction. Again, by its ad hoc nature, special courts may not follow the same procedural rules as general-jurisdiction courts. Suffice it to say that why special courts are being proposed is the failure of the court system to facilitate prompt prosecution of suspects. Judges in the regular courts are fond of questionable long adjournments, frivolous injunctions and undue emphasis on technicalities that detract from the essence of corruption trials.

Nigeria's leaders have consistently and progressively failed the nation in the areas of building strong institutions to fight corruption in the public sector. That is why it is still shameful that even after 18 years of democracy, some leaders past and present are still facing investigations into their alleged corrupt practices.

Criminal justice reform would, therefore, entail reviewing our existing laws and court procedures. After the EFCC exhausts the powers of obtaining remand warrants to keep suspects in detention for an extended period of time, it would still have to charge such suspects to court. The suspects will, more than likely, be granted bail because these offences are bailable under our law, although the bail conditions to be imposed are left to the discretion of the judges (Odude, 2017). Odude (2017) submits that:

Nevertheless, whistleblowing would remain just the nuts and bolts of our anti-corruption war. For the anti-corruption war to effectively work, we must not shelve the task of sanitizing our legal and judicial system as well as our political system. While we must carry out the necessary reforms, we as a people must also change the yardsticks for selecting our leaders

If adequately implemented, legislation protecting whistle blowers can become one of the most effective tools to support anti-corruption initiatives, and detect and combat corrupt acts, fraud and mismanagement. The absence of appropriate legislation impedes the fight against corruption and exposes whistle blowers to risks of retaliation (Banisar, 2011:7). Protection of whistle blowers may also be provided for by specific provisions in different laws, such as in the criminal code, labour laws or laws regulating public servants. A criminal code may impose a fine and/or imprisonment for retaliation against a whistle blower that provides information about the commission or possible commission of an offence to law enforcement authorities. A labour law may protect workers against retaliation by employers when they report work-related offences and in some countries laws

*Blowing the Anti-Graft Whistle with Rewarding Rigour and Legal Vulnerability: A
Turning Point in Nigeria's Democratic Space?*

regulating public servants contain provisions aimed at protecting public servants who report wrongdoing in or relating to the public sector from reprisals. Whistle blower protection may also be provided for by specific laws, such as anti-corruption laws, competition laws, accounting laws, environmental protection laws, and company and securities laws (OECD, 2012:7).

It is argued that while the government has shown unmatched commitment to curbing corruption, such effort should be institutionalised. While the persona of the President as a staunch anti-corruption crusader is very important, it must be pointed out that the fight against corruption must be institutionalised for it to survive beyond the term of the present administration. Strategies that could help institutionalise the anti-corruption war include value reorientation, an effective legal and policy framework, strengthening institutions and degrading the conditions that currently make corruption attractive to the populace. Furthermore, the state governments must join in the war against corruption at the state level (CDD, 2016). For Suberu (2016), it is imperative that “Buhari goes beyond personal example to implementing some institutional reforms and building the institutions for fighting corruption.” Corruption is like water seeping into the ground; it will find any crack or crevice and make use of it. The only way to fight it is with a system of horizontal accountability that is vigorous, comprehensive, independent, and interlocking (Diamond, 2014).

7. Conclusion

President Buhari's government has been learning from other crusading countries, such as Georgia. But not everyone is impressed. His political opponents, who ruled Nigeria for 16 years until 2015, call the campaign a witch-hunt (The Economist, July 26, 2016). It is a great challenge to President Buhari and the judicial order at the present time to bring respect for the rule of law into a fruitful and transformative relationship with justice (Jeyifo, 2016:12). The Buhari administration, as rightly posited by Omotseye (2016:48), is a product of law and it cannot overthrow that same process without enthrone hypocrisy. In a democracy, the quality of the law prospers on equality before the law. President Buhari, according to Sekoni (2016), may not have provided a grand narrative of how he plans to govern the country, he has, undoubtedly, clearly stated that no change can come to the economy until looters of the economy and the polity in the past are made to return their loot.

It has become imperative for the President to immediately redeem his campaign promise to create an enabling environment, legal framework and strong institutions to effectively combat the war against corruption. Top of the list is the guarantee of independence to EFCC and ICPC in three areas, namely prosecutorial

independence, financial autonomy and guaranteed tenure of office. To support the promulgation of an effective legal framework for the war against corruption, the Money Laundering Prevention and Prohibition Bill 2016 and the Mutual Legal Assistance in Criminal Matters Bill 2016 (which are presently before the National Assembly) should be expedited and passed into law (CCD, 2016:14).

There is growing awareness about the crucial role of whistle-blowing in fighting corruption and ensuring ethical business behaviour across the African continent in both public and private sectors. Citizens, Civil society organizations, Donors, Investors and other stakeholders are asking for stricter measures to combat corruption and to ensure good corporate governance and enhance corporate sustainability. Thus, the war against corruption should be of major concern to every individual and organisation in the country. Put differently, “civil society groups and various non-governmental constituencies, including youth and student groups, must join the crusade. Committed individuals and groups must make efforts to develop the capacity to source for, and put crucial information at the disposal of relevant anti-corruption agencies and legislative assemblies. The press in particular should devote more energy to effectuating its watchdog function through rigorous investigative journalism” (Ehusani, 2005). The moment it dawns on everyone that sleaze would not go unpunished, no matter from whatever quarters, Nigeria stands the chance of fulfilling its manifest destiny, which, for too long, has been shunted aside by large-scale turpitude.

While the recovery of these funds is a step in the right direction, the EFCC needs to exercise caution in disclosing information of recovered looted funds to the public before investigations are concluded. The Nigerian masses are quick at pronouncing guilt even before trial is conducted, and concocting, implicating and fabricating stories that may hinder the smooth sail of investigation, thereby distracting many from the true position of things (Bulusson, 2017). The rush by citizens for more information about the whistle-blower policy indicates public willingness to report financial crimes and corruption. The Federal Government should capitalise on this willingness to broaden its anti-corruption fight to states, educational and health institutions, and the private sector. The broader the fight, the more citizens will get involved (Akinnaso, 2016).

8. References

Adebanwi Wale and Obadare, Ebenezer (2011) When corruption fights back: democracy and elite interest in Nigeria's anti-corruption war, *The Journal of Modern African Studies*, Vol. 49, No. 2

*Blowing the Anti-Graft Whistle with Rewarding Rigour and Legal Vulnerability: A
Turning Point in Nigeria's Democratic Space?*

- Ademola, A. (2011) Endangering Good Governance for Sustainable Democracy: The Continuity Struggle against Corruption in Nigeria, *Journal of Research in Peace, Gender and Development*, Volume 1 (11), pp. 307 – 314 December
- Ademolekun Ladipo (2017) The missing link in the fight against corruption, *Guardian*, March 13
- Africanews (2017) Nigeria's whistleblower initiative yields recovery of over \$176m, Available at: <http://www.africanews.com/2017/02/13/nigeria-s-whistleblower-initiative-yield-recovery-of-over-176m/>
- Agekameh, Dele (2015) This Dasukigate, *The Nation*, December 16
- Ajibola, Samuel (2017) How to Make Whistle-blowing Work in Nigeria, *The Nigerian Expression*, March 14
- Akinnsaso, Niyi (2016) Nigeria's Whistle-blower Policy, *The Punch*, December 27
- Banisar, David (2011) "Whistleblowing: International Standards and Developments" in Sandoval, I. (editor), *Corruption and Transparency: Debating the Frontiers between State, Market and Society*, World Bank-Institute for Social Research, UNAM, Washington, D.C. 2011, p.7
- Bulusson, Daniel (2017) Whistle blowing in Nigeria, *Daily Trust*, April 18
- Campbell, John (2016) The Buhari Administration One Year Later, Available at: <http://www.friendsofnigeria.org/John-Campbell>
- Centre for Democracy and Development (CDD-West Africa) (2016) The Buharimeter Report, Abuja, CDD
- Chukwuma, Innocent (2010) "Preface" in *Corruption and Governance Challenges in Nigeria: Innocent Conference Proceedings*, CLEEN FOUNDATION Monograph Series. No 7
- CNN (2017) Nigeria's anti-corruption unit finds \$43 million cash in Lagos apartment, April 14
- Cortina, L. M., & Magley, V. J. (2003) Raising voice, risking retaliation: Events following interpersonal mistreatment in the workplace. *Journal of Occupational Health Psychology*, 8(4), 247-265
- Daily Post (2016) House of Reps suspends Jibrin over 2016 Budget padding allegations, September 28
- Daily Post (2016) Whistle-blowers Protection Bill Passes Second Reading, October 20
- Department of Public Service and Administration (2006) *Anti-corruption Capacity Requirements: Guidelines for implementing the minimum anti-corruption capacity requirements in departments and organisational components in the public service*, Pretoria: Government Printer
- Diamond, Larry (2014) Nigeria: Anatomy of a Feckless State, *Premium Times*, June 30
- Ehusani, George (2005) *Sustaining the War Against Corruption in Nigeria*, Retrieved October 5 from:

- <http://www.georgeehusani.org/home/index.php/papers-and-essays/107-sustaining-the-war-against-corruption-in-nigeria?format=pdf>
- Enweremadu, David (2012) Anti-Corruption Campaign in Nigeria (1999-2007) The Politics of a Failed Reform, African Studies Centre (ASC) Institut Français de Recherche en Afrique (IFRA) West African Politics and Society Series, Vol. 1
- Falana, Femi (2007) Ethics and Governance, the Rule of Law and Anti-Corruption: A Nigerian Dilemma, Sahara Reporters, December 8
- Falana, Femi (2013) Pardon, Amnesty and Impunity in Nigeria, Being the Paper Delivered at the Training of the Stakeholders and Implementers of the Stop Impunity, Organised by Stop Impunity Now Campaign from May 2-3, 2013 in Lagos, The Punch, May 6
- Falana, Femi (2015) Using Human Rights to Promote Corruption and Impunity, Vanguard, December 18
- Fanoro, Abiodun et al (2015) Corruption: Special Courts To Be Or Not, The Guardian, September 5
- FreedomHouse (2016) FREEDOM IN THE WORLD 2016, Available at: https://freedomhouse.org/sites/default/files/FH_FITW_Report_2016.pdf
- Hamilton-Hart, N (2001) Anti-Corruption Strategies in Indonesia, Bulletin of Indonesian Economic Studies, Vol. 37, No. 1, 2001: 65–82
- Human Rights Watch (2007b) Criminal Politics: Violence, Godfathers and Corruption in Nigeria. 19(16) (A), Available at: <http://hrw.org/reports/2007/nigeria1007/>
- Igbuzor, Otiye (2016) The Buhari Administration and War against Corruption in Nigeria, Available at: <http://www.otiveigbuzor.com/the-buhari-administration-and-war-against-corruption-in-nigeria/>
- Information Nigeria (2017) Whistle-blowing Policy: FG Will Give Account of All Looted Funds, April 16
- Jeyifo, Biodun (2016) The Barrel of the Law: the Judiciary as Subsoil for Unregenerate Primitive Accumulation (An Open Letter to CJN Mahmud Mohammed), The Nation, April 3
- Jibueze, Joseph (2016) Sagay Committee Unfolds Strategies to Fight Corruption, The Nation, November 2
- Kazeem, Yomi (2016) An \$8 million refugee fund scandal shows Buhari's anti-corruption drive in Nigeria is not going to plan, Quartz Africa, December 9
- Kazeem, Yomi (2017) Nigeria's whistle-blower plan to pay citizens to report corruption is off to a great start, Quartz Africa, February 13
- Kazeem, Yomi (2017) Some of the world's biggest countries have managed to reduce extreme poverty—except Nigeria, Quartz Africa, April 21
- Kupoluyi, Adewale (2017) Still on the Anti-Graft Crusade, The Nation, April 25

*Blowing the Anti-Graft Whistle with Rewarding Rigour and Legal Vulnerability: A
Turning Point in Nigeria's Democratic Space?*

- Larr, Frisky (2015) Obstacles in Buhari's path: Can Nigeria still be salvaged?
Available at: <https://friskylarr.com/2015/08/24/obstacles-in-buharis-path-can-nigeria-still-be-salvaged/>
- Leadership (2017) Magu's Startling Revelations, February 13
- New Telegraph (2017) Whistle-blower: Lawyers root for protection, April 17
- Oakley, J., and White, L. (2006) Whistleblowing, virtue, and accountability in an age of precarious employment. Retrieved from <http://www.arts.monash.edu.au/wage/pdfs/Oakley-andWhite.pdf>
- Ocheni, Stephen (2016) Treasury Single Account: A catalyst for Public Financial Management in Nigeria, The Nation, January 25
- Odude, Funmilayo (2017) The whistleblowing policy is good, but we need deeper reform,
- OECD (2012) Whistle-blower protection: encouraging reporting, Available at: <http://www.oecd.org/cleangovbiz/toolkit/50042935.pdf>
- Ogbonnia, S.K.C (2017) The Problem With Buhari's Whistle-Blowing Policy, Sahara Reporters, January 18
- Ogundipe, Samuel (2016) House of Reps suspends Jibrin, Premium Times, September 28
- Ogunjobi, Michael (2017) The limits of whistle-blowing, Nigerian Tribune, August 2
- Okakwu, Evelyn (2017) Senate passes bill to protect whistle-blowers, Premium Times, July 19
- Okereke, Don (2017) Nigeria's Whistleblowing Policy: Urgent Case For Whistle Blowers Protection Law, Available at: <http://thenigerialawyer.com/nigerias-whistleblowing-policy-urgent-case-for-whistle-blowers-protection-law/>
- Okocha, Chuks (2017) Senate and Buhari's Anti Graft War, Vanguard, July 22
- Okuofu, Osilama (2015) President Buhari And The Burden Of Integrity! Available at: <https://politics.naij.com/517555-president-buhari-burden-integrity.html>
- Omatseye, Sam (2016) The Marathon, The Nation, February 8
- Onanuga, Adebisi (2017) Illegal arms and magic of whistle-blowing, The Nation, April 25
- Osisoma, Cajetan (2015) Non-Enforcement of Judgments of the ECOWAS Court of Justice by Member, Retrieved October 22, 2016 from: <http://www.nigerdeltanews.com/non-enforcement-of-judgments-of-the-ecowas-court-of-justice-by-member/>
- Osuntokun, Jide (2016) Economy: Way out, The Nation, March 3
- Pointblank Editorial (2014), "Corruption Index: Nigeria's Improvement Confirms Jonathan's Anti-Corruption Fight", Friday, December 5
- Policy Forum (1997) Document on "Corruption and Development in Africa" GCA/PF/N.2/11/1997

- Premium Times (2017) How EFCC intercepted N49 million stashed in sacks at Kaduna airport, March 14
- Premium Times (2017) Huge protest at National Assembly over Ndume's suspension by Senate, April 4
- Quartz Africa (2016) Nigeria says it's recovered \$9.1 billion in looted funds, but won't name the culprits, June 6
- Ramasastry, Anita (2015) Is There a Right to Be Free from Corruption? University of California, Davis, Vol. 49:703
- Rehg, M. T., Miceli, M. P., Near, J. P., & Van Scotter, J. R. (2008) Antecedents and outcomes of retaliation against whistleblowers: Gender differences and power relationships. *Organization Science*, 19(2), 221–240.
- Sekoni, Ropo (2016) In the Court of Public Opinion: Anti-Corruption versus Rule of Law? *The Nation*, October 16
- Smith, Jeffrey (2016) Buhari is Treading a Perilous Path in Nigeria, *Vanguard Africa Movement*, June 20
- Suberu, Rotimi (2015) Challenges Confronting Buhari in Nigeria, *AfricaPlus*, July 18
- Sule, Ibrahim (2014) Sanusi, The Whistleblower and The Nigerian Laws, *Sahara Reporters*, March 10, 2014
- The Economist (2016) The \$20-Billion Hole in Africa's Largest Economy, February 2
- The Guardian (2016) Banning Looters from Public Offices, October 6
- The Guardian (2016) Sending Corrupt Judges to Jail, January 28
- The Nation (2016) Sagay Panel Report: 55 Nigerians Stole N1.3trn Under Jonathan, October 21
- The Nation (2017) Corruption cases: EFCC not working in concert with AGF's office, says Buhari's aide, July 27
- The Nation (2017) EFCC recovers N1.25b from public servant, February 10
- The Nation (2017) Whistle-blowing and Loot Recovery, February 28
- The Punch (2016) How to Deploy Recovered Loot, January 25
- The Punch (2017) EFCC recovers N449m in abandoned Lagos shop, April 8
- The Punch (2017) Whistle-blowing in Nigeria's Anti-graft Crusade, January 15
- The Punch (2017) Senate passes Whistleblower Protection Bill into law, July 19
- Tijani, Taju (2015) President Buhari and the Anxious Expectations of Nigerians, *CounterPunch*, January 13
- Transparency International (2010) Whistleblowing: An effective tool in the fight against corruption. Retrieved from http://cism.mycismv2uploads/articles/article201106151722010.TI_PolicyPosition_Whistleblowing_17_Nov_2010.pdf
- Transparency International (2013) Whistleblower Protection and the UN Convention Against Corruption, Available:

*Blowing the Anti-Graft Whistle with Rewarding Rigour and Legal Vulnerability: A
Turning Point in Nigeria's Democratic Space?*

http://www.europarl.europa.eu/meetdocs/2009_2014/documents/libe/dv/ti_report/ti_report_en.pdf

United Nations Office on Drugs and Crime, UN Anti-Corruption Toolkit, 3rd Edition, Vienna, 2004, p. 67.

Vanguard (2016) Unravelling The Arms Deals, December 25

Vanguard (2017) Whistle Blowing as Panacea to Corruption, April 15