

Perspectives on the Nigerian Legal Profession and Judicial Corruption

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Abstract: *It examines the involvement of judges, lawyers and judiciary staff in judicial corruption and also considers the code of conduct in the legal profession in Nigeria. It further examines the role of the Judicial Service Commission, National Judicial Council and the Legal Practitioners Disciplinary Committee in the discipline of members of the legal profession. This chapter concludes that whenever any member of the legal profession is found culpable or in breach of the code of conduct or rules of professional conduct, as the case may be, it is not sufficient for him to be dismissed from his judicial office or have his name struck off the roll. He should, in addition, be handed over to the relevant security agency for prosecution where the misconduct constitutes an offence under any law. This is to restore public confidence in the judiciary and the legal profession in Nigeria.*

Keywords: Legal profession, judicial corruption, prosecution, professional misconduct, dismissal, public confidence and judiciary.

INTRODUCTION

The legal profession in Nigeria consists of the Bench and the Bar. The Bench represents the judges or judicial officers while the Bar represents the lawyers. It is noteworthy that it is from the pool of the Bar that members of the Bench are appointed. Therefore, there is a strong synergy between the Bench and the Bar. As a result, the Bar has a duty to preserve the integrity of the Bench. This is so because whatever affects the Bench has its spiral effect on the Bar. It is therefore the concern of this paper to consider the involvement of judicial officers and legal practitioners in judicial corruption since judicial corruption has become a contemporary issue in Nigeria, the codes or rules that guide them and the disciplinary measures. The paper also examines the adequacy of the discipline of members of the Nigerian legal profession and suggests additional measures in order to eradicate or reduce the menace of involvement of members of the legal profession in judicial corruption in Nigeria.

Judicial Officers and Judicial Corruption

The level of judicial corruption in Nigeria has got to the extent that one is tempted to conclude that legal sanction which hitherto applicable to such unlawful conducts have

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virtually become dead letter law.¹ Judicial corruption has hindered justice, frustrated investigation and made prosecution and trials unreliable and inefficient resulting to loss of public confidence in the judicial system.² This made Akinseye-George to believe that the concept of incorruptibility of the judiciary seems not to gain ground in the administration of justice in Nigeria.³ According to him:

It is disheartening that while the advanced democracies are working hard at routing corruption from their judicial system, the cankerworm continues to have a field day in the Nigerian judicial system. What is even more alarming is that certain judicial personnel who are known to all and sundry, lawyers and litigants alike known to be deeply corrupt, continue to sit in some of our courts notwithstanding well documented and proven evidence of corruption.⁴

The effect of corruption in Nigeria is having adverse impact on the nation and the citizenry. Hence, the ordinary man believes that justice is for the rich in Nigeria. Notwithstanding, there are still outstanding and honest Nigerians and judicial officers that are resolute in honesty and integrity.

In 2017, the National Bureau of Statistics reported that over ₦400 billion was paid out to public officials as bribe in one year.⁵ The report stated that after the Police and other law enforcement agents, judges and magistrates followed closely by the rating of bribe -taking in Nigeria.⁶ It is difficult to see a judicial officer demanding, asking for or receiving a bribe in the open. The act of bribery is usually done in the secret. This is because the image of the judiciary is very important to a democratic society to allow it to be tarnished in any way by any ill-motivated act of impropriety by any member of the legal profession. Some judicial officers use their staff to collect bribe. The funniest thing about bribery is that it is the giver that will still let the cat out of the bag on a later occasion to a third party who could be the

¹ T Akinseye-George, *Legal System, Corruption and Governance in Nigeria* (New Century Law Publishers Ltd., 2000) 39.

² AT Akujobi., 'Perspective on Corruption and Its Control in Nigeria' in DC Maidoh, and others (eds), *Judicial Administration and Other Legal Issues in Nigeria: Essays in the Honour of Honourable Justice R.P.I. Bozimo*, Chief Judge of Delta State (Malthouse Press Limited, 2000) 157.

³ Akinseye-George, n. 1 above at 60.

⁴ *Ibid.*

⁵ Y Kolawole and others, "Public Officials Took ₦400bn Bribe in 1 Year – NBS" *Vanguard* (Lagos, 17 August, 2017) 5.

⁶ *Ibid.*

giver's friend or a relation. The secrecy about bribery cannot be hidden forever.⁷ In some cases, senior lawyers are fingered as the link or the conduit pipe through which bribery are conveyed to corrupt judges. Mahmud Mohammed, CJN as he was then, was reported to have said while playing host to the leadership of the Nigerian Bar Association led by its then President, Augustine Alegeh, S.A.N., that some senior lawyers are behind the increased level of corruption bedeviling the judiciary and that corrupt politicians use the lawyers to tempt and corrupt the judges with bribes.⁸ There is no gainsaying the fact that there are some corrupt persons who sit as judicial officers to preside over the affairs of members of the society in court. Some of these judicial officers have inordinate ambition for wealth and acquisition of material gains at all cost. Some of them are influenced by the process that brought them to the Bench while some are deficient in moral rectitude. However, the truth is that in judicial corruption involving bribery, the agents between the litigants and the judicial officers are essentially the lawyers and judiciary staffs. This is a shameful act that is inimical to societal progress, sustainable development and the rule of law.

The judicial officer is human. He is a product of the society. He is not a spirit.⁹ He lives in the society and interacts with other members of the society.¹⁰ However, he is a semi-god or a mini- god who presides over the affairs of men and passes judgment on fellow men. He is therefore a higher mortal like Napoleon in the imaginary *Animal Farm* by George Orwell.¹¹ It is argued that as a result of the vulnerability of a mortal man inherent in judicial officers, some of them engaged in judicial corruption and accept bribe in the course of their official duties as judicial officers. There have been serious allegations of corruption against judicial officers in Nigeria for some time now. Adeyemi condemned the increasing rate of judicial corruption which has come to the public perception. He noted that there is high level of judicial corruption among the judges of the superior courts and that it would be very sad and humiliating for judicial officers to be arrested, tried, convicted and sentence to terms of imprisonment for judicial corruption.¹² It is clear that the prediction has been fulfilled. Few instances will suffice here. In 2002, a judge of the Kano State High Court was arraigned on a three count charge of demanding and accepting the sum of ₦100,000 as gratification in the course of his duties. In August 2005, the Niger State Government suspended a Chief Magistrate, Seidu Ibrahim for allegedly extorting ₦100,000 from a cattle rearer.¹³ Ayodeji and Odukoya also chronicled list of some judges that were dismissed for judicial corruption in Nigeria to include: Justice M.M. Adamu, Justice T. Ahura, Justice James Isede and Justice

⁷ PC Obiora, "The Judiciary in the Eye of the Storm: The Role of the Lawyer" being paper delivered at the 2019 Annual Law Week of the Nigerian Bar Association, Warri Branch on 4 July, 2019 at 6.

⁸ I Nnochiri, "Some Senior Lawyers Behind Corruption in Judiciary – CJN"<<https://www.vanguardngr.com>> accessed 10 April, 2020.

⁹ K Eso, *Thoughts on Law and Jurisprudence* (MIJ Professional Publishers Limited, 1990) 141.

¹⁰ *Ibid.*

¹¹ G Orwell, *Animal Farm* (Longman Group Limited, 1945) 92.

¹² AA Adeyemi, "The Challenge of Administration of Justice in Nigeria for the 21st Century" in IA Umezulike and CC Nweze (eds), *Perspective in Law and Justice* (Fourth Dimension Publishing Company, 1996) 202 .

¹³ CC Ani, "Corruption in Criminal Justice Administration in Nigeria: The Role of the Legal Profession" [2011] (7) (1) *Nigerian Bar Journal*; 118 – 119.

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A.M. Elelegwu who were dismissed over bribery allegations in election petition cases in 2004; Justice Christantus Senlong who was dismissed in 2004 for attempting to bribe Election Petition Tribunal members on behalf of a party; Justice Okechukwu Opene and Justice David Adeniji were also dismissed in 2005 over bribery allegation in election matters; Justice Rita Ofili-Ajumogobia was dismissed and arraigned over judicial corruption while Justice Abubakar Talba was seriously warned and suspended for 12 months in 2013 over perceived bribery in a corruption case.¹⁴ The charges against Justice Rita Ofili – Ajumogobia were later withdrawn and she was re-arrested by EFCC. The commission prosecuted Justice Rita Ofili-Ajumogobia with Godwin Obla, a Senior Advocate of Nigeria on 18 count charge of money laundering, unlawful enrichment, illegal concealment, corruption, forgery amongst others before the Federal High Court, Lagos presided over by Justice A.L. Allagoa. The trial judge discharged her upon an application to quash the charges against her.¹⁵ The commission also arrested and arraigned Justice Nganjiwa of the Federal High Court for judicial corruption. In the course of the prosecution of the case, the defendant raised a preliminary objection to the charge that being a judicial officer, EFCC cannot prosecute him until he has been tried and dismissed by NJC except for offences such as murder, stealing and others if such offences were committed outside the discharge of his judicial duty. The Court of Appeal upheld the objection and discharged the defendant.¹⁶ EFCC also arrested, arraigned and prosecuted Joseph Nwobike, a Senior Advocate of Nigeria on 18 counts charge bordering on offences of offering gratification to a public officer, attempting to pervert the course of justice and giving false information to an officer of EFCC. The trial court found the defendant guilty in counts 1,2,4,5,6, and 18 which were in connection with the offence of offering gratification to a public official and giving false information to an officer of EFCC. He was also found guilty on counts 3, 7 to 17 which deal with attempting to pervert the course of justice and was sentenced to thirty days' imprisonment on each count while the terms of imprisonment are to run concurrently. The defendant was, however, discharged and acquitted on the other counts. On appeal to the Court of Appeal, the court set aside the defendant's conviction in counts 3, 12 and 14 but affirmed his conviction in counts 7, to 11, 13, 15 to 17 of the amended information. On further appeal to the Supreme Court, the apex court held that the offence of attempting to pervert the course of justice is not an economic and financial crime which EFCC is empowered to investigate and prosecute. The apex court ultimately allowed the appeal, set aside the appellant's conviction and sentence and consequently discharged the appellant.¹⁷ EFCC also arrested, arraigned and prosecuted Justice Yinusa on allegations of bribery. However, in the course of the prosecution, the defendant's suspension as a judicial officer was lifted by NJC. This led the trial court to discharge him of the bribery charges

¹⁴ GI Ayodeji and SI Odukoya, "Perception of Judicial Corruption: Assessing Its Implication for Democratic Consolidation and Sustainable Development in Nigeria" [2014] (16)(2) *Journal of Sustainable Development in Africa*, 67 at 74.

¹⁵ R Egbe 'Court Clears Justice Ofili-Ajumogobia of Money Laundering Charges' <<https://www.thenationonline.net/court...>> accessed 12 December, 2021.

¹⁶ *Nganjiwa v. F.R.N.* (2017) LPELR – 43391 (CA).

¹⁷ *Dr. Joseph Nwobike, SAN v. F.R.N.* in Appeal No. SC/CR/161/2020 delivered on 20 December, 2021 by the Supreme Court *coram* Olukayode Ariwoola, John Inyang Okoro, Helen Ogunwumiju, Abdu Aboki and Tijjani Abubakar, JJSC. Hon. Justice Tijjani Abubakar delivered the lead judgment.

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against him. However, EFCC has appealed against the order to the Court of Appeal.¹⁸ In 2019, the National Judicial Council recommended the dismissal of Justice James T. Agbadu-Fishim of the National Industrial Court over judicial corruption.¹⁹

The allegation of judicial corruption is not limited to the lower courts but also extends to the apex court in Nigeria. In 2005, the Supreme Court came under severe attack of allegation of judicial corruption. For the first time in the history of the Supreme Court, a lawyer who appeared before the Supreme Court accused the Justices of the Supreme Court of collecting a bribe of 14 Honda Civic cars. The allegation was made by Ephraim Duru, counsel to Globe Motors. Globe Motors was a party in that appeal. The allegation was made by the learned counsel in open court when proceedings were on in the case. The justices, while denying the allegation said they would not be intimidated or harassed as a result of the allegation and challenged the learned counsel to provide evidence to substantiate the allegation.²⁰ Nothing was heard about the matter again till date.

It is argued that a judicial officer should not put himself in a compromising circumstance as to soil his judicial robe. A judicial officer is a representative of God on earth. As such, he must demonstrate integrity, fairness, justice and equity. The moment a judicial officer is under investigation for judicial corruption, he should not be allowed to sit in the hallowed temple of justice to preside over the affairs of fellow men. He should be placed on suspension by the NJC pending the outcome of the investigation. Where he is not indicted by the investigation, he can resume his judicial functions. However, where he is indicted, he should be immediately dismissed and be prosecuted in accordance with the ordinary laws of the land.

Legal Practitioners and Judicial Corruption

It has been observed earlier that some legal practitioners act as agents and carriers of bribe to some corrupt judicial officers. Here, there are two situations. First, there are the clients who want or desire lawyers who can contact the judge. Second, there are lawyers who suggest to the clients to contact the judge.²¹

i. Clients who want the Lawyer to contact the Judge:

There are clients who request the lawyer to establish a contact with the judicial officer handling their cases. The object or purpose is to bribe the judicial officer. An honest and diligent lawyer must refuse such request from his clients. However, there are some lawyers, due to lack of self-dignity do accept to make contacts with judicial officers on behalf of their clients. These categories of lawyers have the effrontery and boldness to meet corrupt judicial officers of their kind to discuss and negotiate bribe in respect of cases pending before such

¹⁸ Channels Television, 'EFCC Appeals Order Discharging Justice Yinusa of Bribery' <<https://www.channelstv.com>> accessed 12 December, 2021.

¹⁹ H Ali, "NJC Recommends Sack of Two Corrupt Nigerian Judges" <<https://nialslibraryblog.wordpress.com>> accessed 3 June, 2021.

²⁰ Ani, n. 13 above at 120 – 121.

²¹ Obiorah, n. 7 above at 7 – 10.

judicial officers. Sometimes, such lawyers catch on the ceremonies of the judge to induce him with overwhelming gifts; all in the bid to induce and bribe the judicial officer on behalf of their clients.²² Some of such lawyers will also collect the bribe money but will not deliver it to the judicial officer. He will however pretend to his client that he has given the money to the judicial officer.²³

ii. Lawyers who suggest to the Clients to contact the Judicial Officer:

There are other category of lawyers who take the initiative and counsel their clients that there is need to reach out to the judicial officer for a favourable outcome of their case. In this case, it is the lawyer that suggests the amount of money to be given as bribe. The lawyer in this case, charges his fees and another fee to be given to the judicial officer as bribe. Usually, the lawyer will charge an amount for the judicial officer which he cannot charge as his fees because of lack of confidence.²⁴

It is a known fact that Nigerians are proud people and court cases in the customary parlance is a test of might and pride. Every party to it wants to win and is therefore gullible to every suggestion that may result in victory. They will not mind taking a loan to ensure victory. They are willing to go out of their way to make the money available provided they get victory. Where they win at the end of the case, they will attribute the victory to the contact. However, where the case is against them, the lawyer, who may not have delivered the money to the judge or magistrate, will invent another story that the opposite party gave a higher bribe.²⁵ From the above analysis, it is argued that there are two categories of lawyers in Nigeria – those who know the law and those who know the judge. A lawyer who is worth his onions and knows his calling should not be involved in such degrading and criminal activity.²⁶ It is the activities of these corrupt and wicked lawyers that can best be described as agents of bribery or agents of judicial corruption that have given the Nigerian judiciary a negative image.²⁷

However, the immutable truth remains that there are honourable judges in the Nigerian judiciary who will not accept a kobo from anyone and will not allow the hallowed temple of justice to be polluted under any guise of corruption.²⁸ These judges are resolute on their judicial oath and will always protect and defend the dignity of the office no matter whose ox is gored. Many of the judges in Nigeria are hardworking, patriotic and honest and can compare favourably with other judges from any commonwealth countries. On the other hand, there are some lazy, ignorant, dishonest and corrupt judges in the system. It is these corrupt

²² *Ibid.*

²³ *Ibid.*

²⁴ *Ibid.*

²⁵ *Ibid.*

²⁶ *Ibid.*

²⁷ IA Salami, “Eradicating Corruption in Nigerian Judiciary”<<https://saharareporters.com/2015/12/04/eradicating-corruption-in-nigerian-judiciary.htm>> accessed 9 December, 2024.

²⁸ *Ibid.*

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judges that have desecrated the temple of justice that needs to be flushed out to enable sanity return to the judicial system.²⁹

As a result, the legal profession in Nigeria has body of rules regulating members of the profession in order to avoid corrupt practices and other vices. For the judicial officers, there is the Code of Conduct for Judicial Officers, 2016 while for the Lawyers; there is the Rules of Professional Conduct for Legal Practitioners, 2023. These rules are considered hereunder in relation to this article.

Code of Conduct for Judicial Officers

It has been said that a country can put up with laws that are harsh or unjust so long as they are administered by just judges who can mitigate their harshness or alleviate their unfairness and not the other way round.³⁰ In other words, no country put up with good laws that are administered by unjust and corrupt judges.

The office of a judge or a judicial officer is a high office and honourable coupled with dignity and respect. A judicial officer is expected therefore to rise up to the highest occasion and dictate of his office. As a result, a lot of importance must be attached to the caliber of people appointed into the office of a judge. A judge should be a person of great knowledge with unimpeachable character and strong moral fibre.³¹ He should be blameless and stainless. He should be one who should not only be prepared to live up to the words of his oath, that is, to do justice among all manner of persons without fear or favour, affection or ill-will but one who should be accepted by the generality of the public to be such a person.³²

It is the duty of every judicial officer, after his appointment, to consciously stand clear of all odium. In this respect, he should give no room whatsoever to be suspected of a proximity to anything that is shady, dishonest or contrary to his judicial oath. He, like a white linen, must not only remain stainless but above all, he must guard against stain. He is in effect, the proverbial Caesar's wife and must live above board.³³ However, therein lies his test. A judicial officer is also a man. He is certainly not a spirit. He responds to human situations. He does not live in isolation. He is not a monk neither a scientist but a participant in the living stream of natural life, steering the law between the dangers of rigidity as a judicial officer on one hand and reality as a man who interacts with others in the society on the other hand.³⁴

The judicial officer therefore belongs to a class. A class that is human. A class that is not a dummy. A class that is neither a monk nor a scientist but a class that must evolve its own style free from infamy and disgrace. A class that should be incorruptible. It is the mandatory

²⁹ *Ibid.*

³⁰ I Sagay, quoting Lord Denning in his book, *Road to Justice* in the Forward he wrote in K Eso, *Further Thoughts on Law and Jurisprudence* (Spectrum Law Publishing, 2003) vii.

³¹ Eso, n. 9 above.

³² *Ibid.*

³³ *Ibid.*

³⁴ *Ibid.*

duty and responsibility of every judicial officer to frown at any other judicial officer who falls short of this standard. The judicial officer is part of the society wherein exist corrupt practices. Corruption does not consist of only monetary benefit. Its price, especially in present modern society could range from pecuniary benefit to position and to non-pecuniary favour. A judicial officer has the primary responsibility to instill confidence in the judicial system because it is upon the confidence of the judiciary the entire superstructure of the society is built.³⁵ The enormous expectation from a judicial officer has necessitated an enactment of a code of conduct for judicial officers in Nigeria.

The objective of the code of conduct for judicial officers is to promote public confidence in the integrity of the judiciary.³⁶ In 1967, legal practitioners in Nigeria had had the Rules of Professional Conduct in the Legal Profession which prescribes standards of professional conduct, etiquette and discipline but judges did not have any code of conduct to guide and regulate them until 1998 and was revised in 2016. So judges operated unwritten ethics which were to some extent, of common knowledge in the profession and applied in cases of misconduct.³⁷ The National Judicial Institute under the chairmanship of the then Chief Justice of Nigeria, Honourable Justice Muhammed Lawal Uwais published the Code of Conduct for Judicial Officers in response to chronic occurrences of corrupt practices in the judiciary. The Code of Conduct for Judicial Officers in Nigeria was patterned after similar Codes of Conduct for Judicial Officers already existing in other countries such as the United States of America.³⁸

The code of conduct was enacted in realization of the fact that an independent, strong and respectable judiciary is indispensable for the impartial administration of justice in a democratic State.³⁹ It also has the underlying philosophy to ensure that judicial officers actively participate in establishing, maintaining, enforcing and observing a high standard of conduct so that the integrity and respect for the independence of the judiciary may be preserved.⁴⁰ The code of conduct applies to all categories of judicial officers in Nigeria including holders of similar office in any inferior court whatsoever and the breach or violation of any of the rules contained in the Code constitute judicial misconduct or misbehavior that attracts disciplinary action.⁴¹ Rule 1(3) of the Code of Conduct for Judicial Officers, 2016 enjoins judicial officers to respect and comply with the laws of the land and to conduct themselves at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. This provision makes it clear that judicial officers

³⁵ *Ibid.*

³⁶ S Preble, *Judging Judges* (Macmillan Publishers Company, 1981) 132.

³⁷ N Tobi, "Code of Conduct and Professional Ethics for Judicial Officers in Nigeria" in IO Irukwu and IA Umezulike (eds), *Judicial Excellence: Essays in Honour of Hon. Justice Anthony I. Iguh* (Snap Press Ltd., 2004) 37.

³⁸ Ani, n. 13 above at 168 – 169.

³⁹ National Judicial Institute, *Code of Conduct for Judicial Officers of the Federal Republic of Nigeria* (Spectrum Books Limited, 1998) 1.

⁴⁰ *Ibid.*

⁴¹ *Ibid.* at 1-2; See also Rule 1(1) Code of Conduct for Judicial Officers, 2016.

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are first of all bound by the laws of the land including anti – corruption laws.⁴² These laws include the Constitution,⁴³ the Criminal Code,⁴⁴ Penal Code,⁴⁵ Independent Corrupt Practices and Other Related Offences Act, 2000,⁴⁶ Money Laundering Prohibition Act, 2004⁴⁷ and Economic and Financial Crimes Commission Act, 2004.⁴⁸

Rule 13(5)(1) of the Code of Conduct for Judicial Officers, 2016 indirectly addresses the issue of judicial corruption by judicial officers without the mention of the word ‘corruption.’ It provides that a judicial officer and members of his family shall neither ask for, nor accept any gift, bequest, favour or loan on account of anything done or omitted to be done by him in the discharge of his duties. This rule extends its provisions and application beyond the judicial officer to forbid members of his family from corrupt acts that could affect the integrity of the judicial officer. The philosophy behind this Rule 13(5)(1) of the Code is to guide against situations where members of the family of a judicial officer may demand or receive gratification to influence the judicial officer to act or refrain from acting in a certain manner.⁴⁹ This provision is good for the judicial system giving the fact that family members naturally have strong influence on a person.⁵⁰ However, the Code would have covered further loopholes if it had extended the application of the provision to friends and associates or other persons who may or might present themselves as agents of a judicial officer since friends and associates could also exert as much influence as family members depending on the closeness and the relationship.⁵¹

Rule 13(5)(2(i) of the Code of Conduct for Judicial Officers permits a judicial officer to accept personal gifts or benefits from relatives or personal friends to such extent and on such occasions as are recognized by custom. It is a known fact that giving of gift is a common feature of the custom of the various tribes in Nigeria. It is part of Africans’ hospitality to give gifts.⁵² So, the issue now is at what point will giving or receiving of gift by a public officer or judicial officer becomes an offence? Must the gift be given when the judicial officer is bereaved, or when he is getting married or when his children are getting married or during festivities? The law including the Constitution did not define the phrase ‘*on such occasions*

⁴² Ani, n. 38 above.

⁴³ As set out in the Fifth Schedule to the CFRN, 1999 (as amended).

⁴⁴ Cap. C38, LFN, 2004.

⁴⁵ Cap. P3, LFN, 2004.

⁴⁶ Cap. C31, LFN, 2004.

⁴⁷ Cap. M18, LFN, 2004.

⁴⁸ Cap. E1, LFN, 2004.

⁴⁹ Ani, n. 13 above at 170.

⁵⁰ *Ibid.*

⁵¹ Principle 4.15 of the Bangalore Principles of Judicial Conduct foresees the possibility of the judge being influence by others outside his family wherein the Principles of Judicial Conduct provides that a judge shall not knowingly permit court staff or others subject to the judges influence, direction or authority to ask for or accept any gifts, bequest, loan or favour in relation to anything done or to be done or omitted to be done in connection with his or her duties or functions. See also Rule 10(1) of the Code of Conduct for Judicial Officers, 2016.

⁵² EO Onoja, and TS Shankyula, “The Prospect of Congruence in the Definition of Corruption: A Nigerian Perspective” [2012] (2) (2) *NIALS Journal of Law and Development*; 126.

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*as are recognized by custom.*⁵³ However, sections 17 – 20 of the Independent and Corrupt Practices Commission Act prohibit the giving and receiving of gifts and criminalized the act without any exception. To a very large extent, it is safe to say that the giving of gift to a public officer or the receipt of same by a public officer is criminalized. The ICPC Act ignored the exemption provided by paragraph 6(3) of the Fifth Schedule to the Constitution which is similar to Rule 13(5)(2) of the Conduct of Conduct for Judicial Officers. The provisions of the ICPC Act seem to suggest that any judicial officer who receives gifts or benefits from relatives or personal friends on the occasion of the burial of his parent or during his child's marriage or during festivities which would ordinarily qualify as occasion recognized by custom would have committed an offence under the Act. It is argued that paragraph 6(3) of the Fifth Schedule to the Constitution still constitute a valid defence to a judicial or public officer who receives any such gifts or benefits given on such occasions as are recognized by custom. It is the law that where any other law is inconsistent with the provisions of the Constitution, the provisions of the Constitution shall prevail and that other law shall to the extent of its inconsistency be null and void.⁵³ However, there is need for some measure of certainty as to what should constitute occasions as are recognized by custom because custom varies from one ethnic group to another. This is so because an evaluation of corruption reveals that it has a chameleon-like character and manifests differently in different cultures.⁵⁴ Where the definition or expression in the law is too broad, it may criminalize permissible conduct with serious consequences for business and human interaction.⁵⁵

Rules of Professional Conduct for Legal Practitioners in Nigeria

As at 1967, the legal practitioners have had rules of ethics regulating the conduct of lawyers in Nigeria. Presently, legal practitioners in Nigeria are regulated by the Legal Practitioners' Act⁵⁶ and the Rules of Professional Conduct for Legal Practitioners, 2023. Section 4(1)(c) of the LPA requires that a legal practitioner must be of a good character. The philosophy behind the LPA and the RPC is aimed at ensuring a very high standard of discipline, integrity and professionalism within the legal profession.⁵⁷ In spite of the lofty objective of the LPA and RPC including the professional training of the lawyers in Nigeria, there are lawyers who act as agents of bribe to judicial officers.

Rule 1 of the RPC enjoin a lawyer to uphold and observe the rule of law, promote and fosters the cause of justice, maintain a high standard of professional conduct and should not engage in any conduct which is unbecoming of a legal practitioner. This general responsibility of a lawyer places on every lawyer the duty to refrain from any act that detracts from his professional calling and any conduct that is likely to bring the legal profession into disrepute. As a matter of responsibility, every lawyer must shun every act of corruption.

⁵³ Section 1(3) CFRN, 1999 as amended.

⁵⁴ Onoja and Shankyula, n.52 above at 128.

⁵⁵ *Ibid.* at 129.

⁵⁶ Cap. L11, LFN, 2004.

⁵⁷ Ani, n. 13 above at 165.

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Rule 15(2) enjoins a lawyer to keep strictly within the bounds of law and should withdraw from the representation of his client if the client insists on him to do that which will constitute a breach of the law. He is expected as a lawyer to use his best endeavour to prevent his client from committing misconduct or breach of the law with respect to judicial officers, witnesses or litigants. He is not expected to give his client advice capable of leading to disloyalty, breach of the law, disrespect or judicial or official corruption.⁵⁸ A lawyer should use his best effort to restrain and to prevent his client from doing anything capable of bringing administration of justice into disrepute which are those things the lawyer ought not to do.⁵⁹

Rule 34 of the RPC provides that a lawyer should not do anything or conduct himself in a way as to give the impression or allow the impression to be created that his act or conduct is calculated to gain or has the appearance of gaining special personal consideration or favour from a judge. Lawyers are under duty to uphold the law. Therefore, a lawyer should not give service or advice to his clients which suggest disloyalty to the law or corruption of holders of any public office.⁶⁰ Improper advice in such circumstance in breach of the Rules of Professional Conduct is unethical and requires strong condemnation as unprofessional conduct that attracts stiff penalty or consequence. A lawyer should not act as agent of bribery. He should not contact the judge neither suggest to the client to contact the judge. A lawyer should earn this highest honour of fidelity to private trust and to public duty as an honest man, patriotic and loyal citizen.⁶¹

Where there is case of impropriety on the part of a judicial officer as to corruption or other serious allegation of misconduct, the action a lawyer should take is contained in Rule 31(2) of the RPC to the effect that such a lawyer should make his complaint to the appropriate authorities. Under this rule, the lawyer should have the courage to complain in writing to the appropriate authority. It is this Rule 31(2) of the RPC that formed the basis of the decision in *N.B.A. v. Odiri*⁶² where the court held:

It is the duty of every legal practitioner to respect and venerate the Bench and follow the process of law in ventilating the grievances and disagreement with the Bench because it is the duty of respect and veneration that gives the pride of place to the judiciary.

A fortiori, the accusation of judicial corruption or judicial misconduct against a judicial is a grave one. Therefore, the lawyer who is bound by the provisions of the Rules of Professional Conduct cannot afford to accuse a judicial officer falsely or on mere conjecture or speculation because it may end in professional misconduct.⁶³ Also, the lawyer who is a minister in the temple of justice and a stakeholder in the administration of justice must be sure of his facts

⁵⁸ Rule 15(2) and (3)(a), RPC, 2023.

⁵⁹ Ani, n. 13 above at 166.

⁶⁰ *Ibid.*

⁶¹ *Ibid.*

⁶² [2008] 12 NWLR (Pt. 1100) 332 at 376.

⁶³ Obiorah, n. 7 above at 11.

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before he can make such complaint against a judicial officer as he has a duty towards protecting the judiciary from any act that can erode public confidence in the judiciary.⁶⁴ He must not do anything, act or conduct himself in any matter that may delay or adversely affect the administration of justice as an officer of court.⁶⁵

The Role of the Disciplinary Bodies over Judges and Legal Practitioners in Curbing Judicial Corruption in Nigeria

The Constitution and the Legal Practitioners Act (LPA) establish bodies to exercise disciplinary control over judicial officers and legal practitioners in respect of corruption or corrupt practices and other misconduct that appear to be unprofessional and undignifying to the legal profession and esteemed office of a judge. Such bodies shall be examined hereunder.

i. Judicial Service Commission

The Judicial Service Commission (JSC) is a statutory body established pursuant to sections 153(1)(e) and 197(1)(c) of the Constitution. The composition and powers of the Judicial Service Commission are as set out in Part II of the Third Schedule to the Constitution. At the federal level, the commission is known as Federal Judicial Service Commission while at the State it is known as State Judicial Service Commission.⁶⁶ The Federal Judicial Service Commission is comprised of the Chief Justice of Nigeria as Chairman, the President of the Court of Appeal, the Attorney-General of the Federation, the Chief Judge of the Federal High Court, the President of the National Industrial Court, two legal practitioners who are at least 15 years post call recommended by the Nigerian Bar Association and two other persons who are not legal practitioners but in the opinion of the President are of unquestionable character.⁶⁷

The Federal Judicial Service Commission (FJSC) has powers to advise the National Judicial Council in nominating persons for appointment into the federal superior courts of record established under section 6 of the Constitution and Chairman and members of the Code of Conduct Tribunal. It also has power to recommend to the National Judicial Council the removal from office of the judicial officers in the federal superior courts of record established under section 6 of the Constitution and also the power to appoint, dismiss and exercise disciplinary control over the Chief Registrars and all members of staff of the federal judicial service.⁶⁸

In like manner, the State Judicial Service Commission is comprised of the Chief Judge of the State as Chairman, the Attorney-General of the State, the Grand Kadi of the Sharia Court of Appeal of the State, if any, the President of the Customary Court of Appeal of the State, if

⁶⁴ *Ibid.*

⁶⁵ Rule 30, RPC, 2023.

⁶⁶ Sections 153(1)(e) and 197(1)(c), CFRN, 1999 (as amended).

⁶⁷ Item E, Paragraph 12, Part II, Third Schedule to the CFRN, 1999 (as amended).

⁶⁸ *Ibid.* Paragraph 13.

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any, two legal practitioners of at least ten years post call and two other persons not being legal practitioners, who in the opinion of the Governor are of unquestionable integrity.⁶⁹ The State Judicial Service Commission has power to advise the National Judicial Council on suitable persons for nomination to the office of the Chief Judge, the Grand Kadi of the Sharia Court of Appeal of the State, if any, the President of the Customary Court of Appeal of the State, if any, Judges of the High Court of the State, Kadis of the Sharia Court of Appeal of the State, if any, and Judges of the Customary Court of Appeal of the State, if any. It also has power to recommend to the National Judicial Council the removal from office of the judicial officers mentioned above and also has the power to appoint, dismiss and exercise disciplinary control over the Chief Registrar and all members of staff of the State Judicial service.⁷⁰

From the above, the Federal Judicial Service Commission and the State Judicial Service Commission has similar powers within the areas of their respective jurisdiction. It is must be noted that there also is a body known as Judicial Service Committee of the Federal Capital Territory, Abuja with similar powers established for the Federal Capital Territory, Abuja.⁷¹

The Judicial Service Commission (JSC) is imbued with powers to recommend to the National Judicial Council the removal from office of the judicial officers specified in the Constitution. It therefore means that Judicial Service Commission has disciplinary control over judicial officers within its jurisdiction. The powers to recommend to the National Judicial Council any judicial officer for removal from office can only be actuated when there is a complaint of judicial misconduct or incompetence against a judicial officer and the commission has heard the complaint impartially. Thereafter, the commission will arrive at a conclusion or the decision to recommend such erring judicial officer to the National Judicial Council for removal from office. The Judicial Service Commission does not have the powers to dismiss or exercise other disciplinary control over judicial officers of superior courts. It can only exercise such powers over the Chief Registrar and other subordinate officers or staff of the judiciary.⁷²

The Judicial Service Commission (JSC) ought to be the immediate disciplinary or supervisory authority over judicial officers of superior court to check alleged cases of judicial corruption, misconduct and incompetence over judges as the commission is closer to the judges in the performance of their judicial functions and the public.⁷³ Since 1999, there has not been any known case in which a judicial officer has been removed from office upon the recommendation of the Judicial Service Commission to the National Judicial Council. Quite often, the Judicial Service Commission act as if its powers is limited to advising the National Judicial Council to appoint suitable persons to the office of a judge and as soon as the appointment is made, its powers come to an end with respect to judicial officers of superior

⁶⁹ *Ibid.* Item C, Paragraph 5, Part II, Third Schedule.

⁷⁰ *Ibid.* Paragraph 6.

⁷¹ *Ibid.* Paragraph 1, Part III, Third Schedule.

⁷² *Judicial Service Commission of Cross – River State and Another v. Young* (2013) LPELR – 20592 (SC) 1 at 47.

⁷³ Item E, Paragraph 13(b), Part I, Third Schedule to the CFRN, 1999 (as amended) and Item C, Paragraph 6(b), Part II, Third Schedule to the CFRN, 1999 (as amended).

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record. This notion is far from the constitutional powers given to the Judicial Service Commission in the Constitution. It is argued that the Commission ought to monitor the efficiency and conduct of judges in the performance of their judicial function and not to monitor only the lower bench and staff of the judiciary. The time has come for the Judicial Service Commission to have effective disciplinary control over judicial officers of the superior court of record. This is the only means by which it can deliver on its mandate to recommend any erring judicial officer to the National Judicial Council for removal from office. It is further argued that Judicial Service Commission has not lived to expectation hence members of the public will still forward their petitions directly to the National Judicial Council. The time has also come for the Judicial Service Commission to live to its constitutional expectation and powers and enlighten the public over its powers so that there could be a synergy of trust between it and the public. This will make members of the public to send their complaints directly to the Judicial Service Commission instead of the National Judicial Council which ought to be the last resort. It is, therefore, argued that the powers of the Judicial Service Commission under the Constitution should be expanded through a legislative amendment to the Constitution to investigate complaints against judicial officers and thereafter refer any judicial officer found culpable of judicial misconduct to the NJC for suspension from office. Meanwhile, the NJC can retain its power to recommend to the President or Governor to remove such judicial officer from office. In Delta State, for example, a judge was reported to have falsified his age. A member of the public wrote a petition against him to the National Judicial Council. Having had knowledge of the pending petition against him, the judicial officer wrote a letter of voluntary retirement to the National Judicial Council. The petition was established and his letter of voluntary retirement was rejected with effect from 1st October, 2018. The judge ought to have retired on 1st October, 2016. The National Judicial Council therefore backdated his retirement to 1st October, 2016 and ordered the Delta State Government to recover the salaries and allowances he collected for the two years from his gratuity and remit same to National Judicial Council's account which is responsible for the payment of salaries and allowances of judicial officers in Nigeria.⁷⁴ This is an issue the State Judicial Service Commission that is living to its constitutional responsibility and expectation can handle seamlessly with the National Judicial Council and the judicial officer concerned and as well achieved a better result without embarrassment to the judiciary. In the exercise of its powers, the Judicial Service Commission is independent and not subject to the control of any authority.⁷⁵ Apart from the case of the judicial officer referred to above, there might be other judges or justices who falsified their age that are still in service even in the Supreme Court. The Judicial Service Commission can simply get the ages of judges from the universities the judges attended or the Nigerian Law School at the time of the appointment process.

⁷⁴ K Ebiri. "NJC Recommends Sack of Justices over Alleged Misconduct" <<https://m.gaurdian.ng.>> features> amp> accessed 3 June, 2021.

⁷⁵ Sections 158(1) and 202, CFRN, 1999 (as amended).

ii. National Judicial Council

The National Judicial Council (NJC) is established pursuant to section 153(1)(i) of the Constitution while the composition and powers of the National Judicial Council is provided under Item 1, Part 1 of the Third Schedule to the Constitution. The Council is constitutionally vested with powers to exercise disciplinary control over judicial officers in the superior courts established pursuant to section 6 of the Constitution.

The National Judicial Council (NJC) is made up of 24 members with the Chief Justice of Nigeria as Chairman. Other members of the Council are the next most senior Justice of the Supreme Court as Deputy Chairman, the President of the Court of Appeal, five retired Justices selected by the Chief Justice of Nigeria from the Supreme Court or Court of Appeal, the Chief Judge of the Federal High Court, the President of the National Industrial Court, five Chief Judges of States appointed by the Chief Justice of Nigeria from among the Chief Judges of the States and of the High Court of the Federal Capital Territory Abuja in rotation to serve for two years; one Grand Kadi appointed by the Chief Justice of Nigeria from among Grand Kadis of the Sharia Courts of Appeal to serve in rotation for 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 to serve in rotation for two years; five members of the Nigerian Bar Association of at least fifteen years post call and one of whom must be a Senior Advocate of Nigeria appointed by the Chief Justice of Nigeria upon the recommendation of the National Executive Committee of the Nigerian Bar Association to serve for two years and subject to re-appointment and two persons not being legal practitioners, who in the opinion of the Chief Justice of Nigeria are of unquestionable integrity.⁷⁶ The five members from the Nigeria Bar Association only sit in the Council for the purpose of considering names for appointment of persons as judges to the superior courts of record.⁷⁷

The National Judicial Council (NJC) has powers to recommend to the President from among the list of persons submitted to it by the Federal Judicial Service Commission and the Judicial Service Committee of the Federal Capital Territory, Abuja, persons for appointment as judges of the Federal superior courts of record including the heads of such courts and also power to recommend to the President to remove such judicial officers from office and to exercise disciplinary control over such judicial officers.⁷⁸ Similarly, the Council also has powers to recommend to the Governors from among the list of persons submitted to it by the State Judicial Service Commissions persons for appointments as judges of the States superior courts including the heads of such courts and also power to recommend to the Governors to remove such judicial officers from office and to exercise disciplinary control over such judicial officers.⁷⁹ In addition, the Council also has the following powers:⁸⁰

⁷⁶ *Ibid.* Item I, Paragraph 20, Third Schedule.

⁷⁷ *Ibid.*

⁷⁸ *Ibid.* Paragraph 21(a) and (b).

⁷⁹ *Ibid.* Paragraph 21(c) and (d).

⁸⁰ *Ibid.* Paragraph 21(e) - (i).

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- i. to collect, control and disburse moneys meant for the capital and recurrent of the judiciary to the various heads of courts;
- ii. to advise the President and Governors on any matter relating to the judiciary as may be referred to the Council by the President or the Governors;
- iii. to appoint, dismiss and exercise disciplinary control over members and staff of the Council;
- iv. to control and disburse all money meant for the capital and recurrent expenditure of the Council; and
- v. to deal with all other matters pertaining to broad issues of policy and administration.

From the above, the power of the National Judicial Council (NJC) to exercise disciplinary control over judicial officers seems to extend to certain criminal conducts of judicial officers.⁸¹ By the Judicial Discipline Regulations, the definition of misconduct by judicial officers includes “*conduct prejudicial to the effective and expeditious administration of the business of the courts on any conduct described as misconduct in the Constitution and the Code of Conduct for Judicial Officers of Superior Courts.*”⁸² Conducts which are regarded as misconduct in the Constitution for public officers including judicial officers covers a range of malpractices ranging from breach of the oath of allegiance or oath of office, breach of the provisions of the Constitution to misconduct of such nature as amounts to bribery or corruption as well as false declaration of assets and liabilities.⁸³ It is argued that corruption induced through acceptance of gifts is also misconduct under the Code of Conduct for Judicial Officers.⁸⁴ While it is conceded that the National Judicial Council has power to deal with criminal conduct of judicial officers, this is done with the idea of dismissing the judicial officer concerned by the National Judicial Council and thereafter lodge a complaint against the judicial officer concerned and hand him over to the relevant law enforcement agencies for prosecution. What the Council usually does when it finds an erring judicial officer culpable is simply to recommend him for retirement or barring him from elevation to higher positions. These sanctions are merely pat on the back. It is only in rare occasion that the Council recommends handing over to the police for prosecution.⁸⁵

⁸¹ AS Awomolo, *Imperative of Judicial Reforms in Ensuring Good Governance and Accountability in Nigeria* (NIALS Press, 2016) 25.

⁸² Regulation 3 of the Judicial Discipline Regulations, 2014.

⁸³ Part 1, Paragraph 19, Fifth Schedule to the CFRN, 1999 (as amended).

⁸⁴ Rule 13(5)(1), Code of Conduct for Judicial Officers, 2016.

⁸⁵ S Tobi, “NJC Sacks Appellate Court Judge, Two Others for Corruption” <<https://www.thisdaylive.com/index.php/2016/10/01/njc-sacks-appellate-court-judge-others-for-corruption/>> accessed 22 September, 2018 where it was reported that at the 78th meeting of the NJC held in September, 2016, Justice Tsamiya of the Court of Appeal was recommended for compulsory retirement pursuant to the findings by the Council that Justice Tsamiya was involved in corruption, malice and vindictiveness and giving perverse and conflicting decisions on the same issues in similar matters. The Council also recommended the compulsory retirement of the Chief Judge of Enugu, Justice Umezulike consequent upon the findings of the Council on allegations of abuse of powers among others against him. While Justice Auta of Kano State High Court was dismissed from service and handed over to the Assistant Inspector-General of Police, Zone 1, Kano for prosecution.

The point must be made that in almost every circumstance where a judicial officer is dismissed or compulsory retired by the National Judicial Council, such act or acts involves corrupt practice which ordinarily should not just terminate with retirement or dismissal since commission of a crime is involved. The aspect which the Council usually investigates has to do with the unprofessional or unethical conduct of the judicial officer and not the alleged crime itself. As a result, where the National Judicial Council finds a judicial officer culpable it should also lay a complaint to the relevant law enforcement agencies and hand over the concerned judicial officer to such law enforcement agency for prosecution. For example, the allegation of falsification of age by a judge involves the offence of perjury or false statement and declaration⁸⁶ and abuse of office⁸⁷ for which he could be arraigned and tried in a criminal trial in order to instill public confidence in the society. Other judges such as Justices Okechukwu Opene and David Adeniji who were dismissed in 2005 over bribery in election matters⁸⁸ ought to be arraigned and tried for corrupt practices. The mere compulsory retirement or dismissal is not adequate sanction in the eyes of the law and public perception.

Frankly, a judicial officer who has soiled his robe with corrupt practice or infamous conduct should be tried in a court of law and appropriate punishment passed on him. It was in this regard that the Punch Editorial⁸⁹ has this to say:

For too long, the country has been immersed in the miasma of judicial corruption, leading only to the retirement of suspected judges without bringing any to book. Between 2009 and 2014, 64 judges were compulsorily retired by NJC. This is just a slap on the wrist. A judge who has soiled his robe should have no other place to retire but to jail, upon conviction.

In summary, the National Judicial Council needs to do more and ensure prosecution of corrupt judicial officers for their criminal responsibility after dismissal or removal from office to reinvigorate public confidence in the judiciary.

iii. Legal Practitioners Disciplinary Committee

Section 11 of the Legal Practitioners Act⁹⁰ establishes the Legal Practitioners Disciplinary Committee (LPDC). The LPDC is charged with the responsibility of considering and determining any complaint of unprofessional conduct against legal practitioners in their capacity as lawyers or while acting in their capacity as legal practitioners. By the provisions of section 12(1) of the Act, the LPDC has powers to try any member of the legal profession who is involved in infamous conduct in any professional respect or who is convicted of an offence which is incompatible with the status of a legal practitioner by any court in Nigeria

⁸⁶ Sections 119, 191 and 192 of the Criminal Code Act. Cap. C38, LFN, 2004.

⁸⁷ *Ibid.* Section 104.

⁸⁸ Punch Editorial, "Prosecute Corrupt Judges After Dismissal" <<https://www.punchng.com>> accessed 12 August, 2019.

⁸⁹ *Ibid.*

⁹⁰ Cap. L11, LFN, 2004.

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or where the lawyer was fraudulently enrolled. In such situation, the Committee may give any of the following direction:

- a. An order that the name of the such legal practitioner be struck off the roll by Registrar of the Supreme Court; or
- b. suspended from practice for a period of time; or
- c. giving admonition to the legal practitioner.

However, the decision of the Committee is not final. It is subject to appeal to the Supreme Court within twenty-eight days of the receipt of the direction by the legal practitioner affected wherein the Legal Practitioners Disciplinary Committee becomes the respondent to the appeal.⁹¹

The LPDC is composed of a Chairman who must not be the Chief Justice of Nigeria or a Justice of the Supreme Court, two Justices of the Court of Appeal, one of whom is the President of the Court of Appeal. Other members of the Committee are two Chief Judges, two Attorneys – General who shall be either the Attorney – General of the Federation and one Attorney – General of a State or two State Attorneys – General and four members of the Nigerian Bar Association who are not connected with either the investigation of a complaint or the decision by the Nigerian Bar Association to present a complaint against a legal practitioner for determination by the Disciplinary Committee.

The legal profession has, over the years, been regarded as a profession of highly qualified and noble people and therefore, desires at all time, to prove to the end users of their service that members of the profession are not only professionally sound but morally upright. As such, lawyers must adhere to set standards and practices that do not impair the rendering of professional services of the highest skill, ability and trust.⁹² Hence, the Legal Practitioners Disciplinary Committee has been taking complaints against lawyers very serious and some lawyers have had their names struck off the roll. Like the National Judicial Council, the Committee besides imposing the statutory sanctions provided by section 12 of the LPA, has not handed over disciplined lawyers to the law enforcement agencies for prosecution where such misconduct amounts to a crime. This is a concern that is likely affecting the public confidence in the legal profession. For instance, a lawyer who is found liable for conversion of client's money can be handed over to law enforcement agency to be prosecuted for stealing because section 383(2)(f) of the Criminal Code⁹³ provides that a person who takes or coverts anything capable of being stolen is deemed to do so fraudulently if he does so with any of the following intents –

⁹¹ *Ibid.* Section 12(7)

⁹² Y Ali, "The Future of Legal Practice in Nigeria: Regulation and Discipline in the Legal Profession" <<https://www.yusufali.net>> accessed 10 April, 2020.

⁹³ Cap. C38, LFN, 2004.

In the case of money, an intent to use it at the will of the person who takes or coverts it although he may intend afterwards to repay the amount to the owner.

In the same vein, a lawyer who is found liable of corrupting a judicial officer through bribery or other inducement can be prosecuted for corrupt practices or corruption related offences.⁹⁴ It is argued that the time has come for the committee to consider the idea of prosecuting legal practitioners found guilty of infamous conduct where such misconduct involves the commission of a crime besides the statutory punishment provided in section 12 of the LPA. This is essential because the disciplinary committee in exercise of its disciplinary powers merely deals with the unethical or unprofessional conduct of the legal practitioner and not the crime that might have been allegedly committed in the course of the unprofessional conduct.

On other hand, it is also argued that the LPDC also possesses the powers to exercise disciplinary action over any judicial officer who is adjudged to have been guilty of infamous conduct or convicted by any court in Nigeria. Any corrupt practice by a judicial officer is an infamous conduct. Without prevarication, all judicial officers are first and foremost lawyers called to the Nigerian Bar and their names are on the roll. Judicial officers are appointed from the Bar hence the legal profession consist of the Bar and Bench in Nigeria. For a person to be appointed a judicial officer in Nigeria, he must have been qualified to practice as a legal practitioner for a certain period of time not less than some number of years depending on the hierarchy of the court either in the inferior or the superior courts.⁹⁵ In essence, the names of judicial officers exist on the roll as legal practitioners even after their appointment as judicial officers. Therefore, where a judicial officer engages in infamous conduct or convicted by a court, the LPDC has the powers to deal with such judicial officer and gives appropriate sanction. Where the National Judicial Council has dealt with such culpable judicial officer, the exercise of the power of the LPDC over such judicial officer should be automatically actuated to have the name struck off the roll. Until the name is struck off the roll, the name will remain on the roll for all intent and purposes notwithstanding that such judicial officer must have been dismissed from office. The National Judicial Council does not have the power to strike out the names of erring judicial officers from the roll. However, a person who has held the office of a judge of a superior court cannot practice as a legal practitioner before any court or tribunal in Nigeria upon leaving office on any ground.⁹⁶

In the same vein, it is further argued that the powers of the LPDC to exercise disciplinary action over judicial officers of the inferior courts should also be automatic when any of them has found culpable of judicial corruption or misconduct by the Judicial Service Commission. The sanction should not end with dismissal of such judicial officers. This argument is

⁹⁴ *Ibid.* Section 112(2) and Section 9 and 10, I.C.P.C. Act, Cap. C31, LFN, 2004.

⁹⁵ See sections 231(3), 238(3), 250(3), 254(B0(3), 256(3), 261(3)(a), 266(3)(a), 271(3), 276(3)(a) and 281(3)(a), CFRN, 1999 (as amended) which provides at least fifteen years for Supreme Court judges, twelve years for Court of Appeal judges and ten years post call for other superior courts judges.

⁹⁶ *Ibid.* Section 292(2).

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predicated on the fact they are entitled to practice as legal practitioners when they leave the lower bench whether through retirement or dismissal. Upon the disciplinary action by the Judicial Service Commission, the matter should automatically be referred to the LPDC to determine whether such a judicial officer can still have his name retain on the roll, be suspended or reprimanded as the case may be.

CONCLUSION

In summary, there is no gainsaying the fact that judicial corruption has created lack of confidence in the judiciary in Nigeria. There is the need to curb corruption especially in the Nigerian judiciary and the legal profession. Every stakeholder in the administration of justice must show commitment to the fight against corruption in the legal profession which include the Bar and Bench in order to restore the traditional image of the legal profession.⁹⁷ Legal practitioners and judicial officers should report erring or corrupt members to appropriate body for discipline. The disciplinary bodies should be more efficient to restore the dignity and reputation of the legal profession.⁹⁸

While judicial officers should exercise their discretionary powers, they should in the interest of justice and the fight against corruption, resist any application that is capable of creating public impression that the judicial authority is being used to shield criminality or corruption. A judicial officer should not take bribe. Adediran⁹⁹ quoting Niki Tobi (JCA, as he then was) stated:

A judge who takes bribe is not only a criminal who should be prosecuted; he is also a sinner who is for eternal condemnation ... The Bench is not a place to make money. It is a place to make a name.

Similarly, Musdapher, CJN as he was then, stated that a corrupt judicial officer 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 and tamed. But the corrupt judicial officer deliberately destroys the moral foundation of society and causes incalculable distress to members of the society while he still bears the appellation of “honourable.”¹⁰⁰

In this vein, nobody is above the law. Whenever the National Judicial Council finds a judicial officer guilty of corrupt practices, apart from the punishment by the Council, he should be handed over to law enforcement agencies for criminal prosecution and appropriate sentence

⁹⁷ Ani, n. 13 at 180.

⁹⁸ Y Ali, “The Future of Legal Practice in Nigeria: Regulation and Discipline in the Legal Profession” <<https://www.yusuali.net>> accessed 10th April, 2025.

⁹⁹ S Adediran, “Judiciary, Corruption and Democracy”, *The Punch* (Lagos, 4 June, 2002) 15.

¹⁰⁰ D Musdapher, ‘The Nigerian Judiciary: Towards Reform of the Bastion of Constitutional Democracy’ being a Keynote Address at the Nigerian Institute of Advanced Legal Studies (NIALS) Conference held on 11 November, 2014.

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passed upon conviction.¹⁰¹ The same should be applicable to legal practitioners found
culpable by the Legal Practitioners Disciplinary Committee.

The Judicial Service Commission should realize its constitutional role in the discipline of judicial officers as enshrined in the Constitution. There should be a better synergy between the National Judicial Council and the Judicial Service Commission that apart from recommendation of persons for appointment as judges, the Commission has power to recommend for removal of judges from their office for judicial misconduct, abuse of office and corrupt practices. Therefore, the Judicial Service Commission has power to receive, hear and determine complaints against judicial officers upon which it can thereafter exercise the power to recommend the removal from office of the affected judicial officer to the National Judicial Council.

The National Judicial Council should realize that it is not an agency of the executive arm of government. It is an independent body for the efficiency of the judiciary and effective administration of justice in Nigeria. It is not a body that the executive gives orders or dictates instructions like a dummy. It is a high-powered independent body considering the caliber of men that make up its membership. By the pedigree of the members, the independence of the judiciary must begin from the independence of the National Judicial Council through which the judiciary is funded. It must insulate and extricate itself from the strings of the executive in order to reposition the Nigerian judiciary.

¹⁰¹ Ani, n. 13 above at 181.