

Compliance to the Administration of Criminal Justice Act, 2015 in Prosecuting High Profile Corruption Cases in Nigeria (2015 – 2017)

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Abstract

A lot has been written and said touching several defects in Nigeria's administration of criminal justice. These criticisms relate specifically to our procedural laws and its administration. A new law may readily be substituted for another so far as the substitution is built upon the right principles by which the people are governed and such reforms can only be effected by those who know the law and are ready to implement it. The first two years have now passed since the enactment of the Administration of the Criminal Justice Act(ACJA) and having regard to the buzz which it created it may be that a review of its working during this initial period would be of interest, hence the purpose of this paper. The change citizens had hoped with the enactment of the Act is rather disappointing. Cases filed post – ACJA are still lingering in various courts due to lack of implementation. This paper attempts to track the implementation of some of the reforms introduced by the ACJA by measuring compliance as it relates to speedy dispensation of justice, explore reasons these cases are hanging in court and proffer solutions.

Keywords: ACJA, Criminal Justice, Nigeria, Corruption, High Profile Corruption Case

1. Introduction

Administration of criminal justice refers to the performance of entire justice related actions such as arrest, bail, preventive justice, warrants, criminal trials, plea bargain, sentencing, restorative justice, e.t.c. Through the effective implementation of these actions, a justice system that is effectual to maintaining law and order is thereby achieved. As such, the fundamental objective of judicial punishment is to protect the victims of society and this may effectively be done by swift and certain punishment. The administration of the law, which secures this, is far more effectual to deter from crime than severity in punishment.

In Nigeria, before 2015, the two basic legislations dealing with criminal procedure were the Criminal Procedure Code and the Criminal Procedure Act, passed down to the country by the British Colonial Administration, which have become outdated. Clearly, the administration of criminal justice in Nigeria has and is still a major concern to citizens and other stakeholders as it relates to effective justice delivery system notably speedy dispensation of high profile corruption cases. Nigeria has a history of slow dispensation of justice; trials could remain in court for as long as ten years without making any progress with all sides exploiting the loopholes in the laws.

This system is characterized with incessant adjournments, interlocutory applications and parties not showing up at trial. Other key concerns range from poor case management, delays in the adjudicatory process, corruption, flagrant disrespect for human rights, lack of gender mainstreaming, “holding charge” syndrome, little or no engagement with victims of crime, weak coordination and lack of inter agency cooperation amongst criminal justice institutions. To address all these lapses and to make criminal justice delivery more progressive, the Administration of Criminal Justice Act (ACJA) was passed in 2015 to significantly alter the criminal justice process with a view to raising efficiency and effectiveness in the quality of justice delivery in Nigeria. The Act is a paradigm shift from the punitive approach to a restorative one taking into cognizance, the needs of the society, victims and vulnerable persons. However, despite the ACJA, the rapid progression citizens had hoped for is rather disappointing.

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Not only are cases still lingering in various courts of competent jurisdictions, implementation of some of the innovations that were introduced by the Act remain painfully slow. One would wonder that since there is a fundamental shift in the administration of justice with the enactment of the Act, there would also be a fundamental change in practice but this is not the case in reality.

The slow implementation amongst others can be alluded to the fact that the Act only apply to criminal trials for offences established by an Act of the National Assembly and other offences punishable in the Federal Capital Territory, Abuja²and what this means is that States will have to adopt the ACJA as law for it to be applicable to the state besides most of the criminal trials are prosecuted at the state level.³At the time of writing this paper, only eight states have adopted the ACJA and two states with draft bills.⁴Another factor associated with the slow implementation of the ACJA is that the judiciary is yet to adhere strictly to the provisions of the Act, if they did, there will be rapid improvement in timely justice delivery. This is a challenge that must be jointly tackled by Judges, prosecutors, investigators and lawyers for the desired change to be realized.

The aim of this paper is to identify some major problems involved in prosecuting high profile corruption cases as it affects speedy dispensation of justice; determine compliance to the ACJA in prosecuting these cases; and factors to consider when prosecuting this category of cases. The first section introduces the thesis statement. Here, the paper identifies the problem and discusses some of the root causes. The second section gives an overview of the ACJA but focuses on its innovative sections. For the sake of comparative analysis, the section goes further to highlight some scenarios before the enactment of the ACJA. The third section shows a compliance evaluation of the ACJA by tracking some post ACJA high profile corruption cases. The fourth section proposes some recommendations for the prosecution of high profile corruption cases and the last section is prescriptive, positing that for any country to experience economic growth it must have a functional judicial system.

2. An Overview of the Acja: A Focus on its Innovative Sections

As already stated, before the enactment of the ACJA, Nigerian Criminal Procedure was governed by two principal legislations, Criminal Procedure Act (CPA)⁵and Criminal Procedure Code (CPC)⁶The CPA was adopted by the southern states while the CPC was adopted by the northern states and the Federal Capital Territory applied both laws. These laws have been in force since 1945 and 1960 respectively without significant improvement as such, these obvious challenges of the criminal justice system led to the enactment of the ACJA in 2015. The enactment of this act is an important landmark in Nigeria's criminal justice reform process. It is an outcome of the fusion of the CPC and the CPA and subsequently repealing the CPA (Cap. C41 LFN 2004), Criminal Procedure (Northern States) Act Cap. C42 LFN 2004 and the Administration of Justice Commission Act (Cap. A3 LFN 2004.⁷ACJA provides for the administration of criminal justice system, which promotes efficient management of criminal justice institutions, Speedy dispensation of justice, protection of the society from crimes and protection of the rights and interest of the suspect, the defendant and victims in Nigeria.⁸ Some of the key reform areas that the Act introduced relate to the time limit it sets for carrying out investigations, arraignment, and prosecutions of crime suspects. The law further mandates the police to maintain a central criminal record, which is an essential tool for effective crime management in the country. Police commissioners at the Federal and State levels will be required under the law to submit to the Attorneys- General of the States or Federation as the case may be, quarterly reports of persons arrested, released on bail or refused bail, the bail conditions, as well as those charged to court for prosecution.

² See Part 1, Section 2, ACJA 2015.

³ Section 4(2) of the 1999 Nigerian Constitution (as amended) gives the National Assembly powers to make laws for the peace, order and good government of the federation or any part thereof with respect to any matter included in the Exclusive Legislative list set out in Part 1 of the second schedule of the Constitution.

⁴ Lagos State (2007, amended in 2011), Anambra State (2012), Ekiti State (2013), Ondo State (2016), Oyo State (2016), River State (2016), Enugu State (2016), Kaduna State (2017), Jigawa and Delta, (Draft Bills).

⁵ The Act came into being as ordinance No. 42 of 1945 was re-enacted as ordinances No. 43 of 1948 and was at various times "amended". It was subsequently incorporated as Cap. 80 Laws of the Federation of Nigeria (LFN 1990 and later as Cap. C41 LFN 2004. The Criminal Procedure Act is the principal enactment governing criminal procedure in the Southern States of Nigeria.

⁶ The Criminal Procedure Code was enacted by the Northern of Nigeria in 1960 and applied only to the Northern Region and later when states were created, to all the Northern States of Nigeria.

⁷ Section 493, ACJA 2015

⁸ Explanatory Memorandum, ACJA 2015.

In addition, the Act provides for alternative sentences other than prison custody, such as community service, parole, and suspended sentence, as a way of reducing prison congestion. While substantially preserving the existing criminal procedures, the ACJA introduces new innovative provisions that will enhance the efficiency and management of the justice system as follows -

1. **Unlawful Arrests:** The ACJA deleted section 10(1) of the CPA where the police could indiscriminately arrest without a warrant, any person who had no perceived means of sustenance and could not give a satisfactory account of themselves. This provision was a major shortcoming in the application of justice because it was used and abused by the police to arbitrarily arrest people.⁹ Fortunately, the ACJA has now clearly addressed it by completely deleting the entire section.
2. **Arrest in lieu:** Section 7 of the ACJA specifically prohibits arrest in lieu. This was a practice where the police arrested relations or friends or close associate of a crime suspect in order to compel the suspect to give himself up even though that person was not linked in any way to the crime alleged against the suspect. This practice was in complete disregard of fundamental human rights.
3. **Notification of cause of arrest:** The ACJA compliments sections 5 of the CPA and 38 of the CPC which provided that a police officer or a person making an arrest is to inform the arrested person of the reason for the arrest, except where he is being arrested in the course of the commission of the offence or is pursued immediately after the commission of the offence or escaped from lawful custody. The ACJA retains this provision in section 6 but expands it by introducing a human rights angle in a proviso, which mandates the police officer or any other person to inform the suspect of his right to: remain silent or avoid answering any question until after consultation with a legal practitioner or any other person of his own choice; consult a legal practitioner of his choice before
4. making, endorsing or writing any statement or answering any question put to him after arrest; free legal representation by the Legal Aid Council of Nigeria¹⁰ where applicable.¹¹
5. **Humane treatment of an arrested person:** The ACJA reiterates the constitutional provision of the right to dignity of person. Section 8(1) of the Act provides that: a suspect shall be accorded humane treatment, having regard to his right to the dignity of his person and not be subjected to any form of torture, cruel, inhuman or degrading treatment.
6. **Prohibition of arrest in civil cases:** Section 8 (2) of the ACJA provides that a suspect shall not be arrested merely on a civil wrong or breach of contract. In the past, police were used for recovery of debt, which is a civil matter. People used that police power to taunt or witch hunt others.
7. **Mandatory inventory of property:** Section 10 of the ACJA states that a police officer making an arrest or to whom a private person hands over a suspect, shall take an inventory of all items or properties recovered from the suspect. The inventory must be duly signed by the police officer and the suspect.
This provision further provides that where any property has been taken from a suspect under section 10 of the Act and the suspect is not charged before a court but is released on the ground that there is no sufficient reason to

⁹ In authorizing the police to arrest without warrant, Section 24 of the Police Act also provides that: “In addition to the powers of arrest without warrant conferred upon a police officer by section 10 of the Criminal Procedure Act, it shall be lawful for any police officer and any person whom he may call to his assistance, to arrest without warrant in the following cases- (a) any person whom he finds committing any felony, misdemeanor or simple offence, or whom he reasonably suspects of having committed or of being about to commit any felony, misdemeanor or breach of peace; (b) any person whom any other person charges with having committed a felony or misdemeanor; (c) any person whom any other person- (i) suspects of having committed a felony or misdemeanor; or (ii) charges with having committed a simple offence, if such other person is willing to accompany the police officer to the police station and to enter into a recognizance to prosecute such charge. The section further states that the aforementioned provisions shall not apply to any other offence where the law has provided that it shall not be arrested without a warrant.

¹⁰ The Police recently launched the amended Force Order 20, known as the Police Duty Solicitors’ Scheme (PDSS) aimed at ensuring detainees in police stations across the country gain access to legal services. Force order 20 addresses “free legal services for arrested and/or detained persons in police formations” and institutes the PDSS as a country-wide mechanism for its delivery. It expands the provision of legal services in police stations by ensuring prompt access to duty solicitors for suspects. It implements the constitutional promise of access to counsel in police stations in Nigeria.[Online] Available: <https://opinion.premiumtimesng.com/2017/09/21/the-police-duty-solicitor-scheme-looking-back-looking-forward-by-chidi-anselm-odinkalu/> (September 21, 2017).

¹¹ This provision re-affirms section 35(2) of the Constitution of the Federal Republic of Nigeria, which provides that any person who is arrested or detained shall have the right to remain silent or answering any question until after consultation with a legal practitioner or any other person of his choice.

believe that he has committed an offence, the property taken from the suspect shall be returned to him, provided the property is neither connected to nor a proceed of crime.

8. **Recording of Arrest:** Section 15 of the ACJA provides for mandatory record of personal data of an arrested Person. Such personal data shall include: the alleged offence(s); the date and circumstances of the arrest; name, occupation and residential address of the suspect; and the suspect's identification which include his height, photograph, fingerprint impressions, or such other means of identification. Subsection 2 of the section further provides that the process of recording shall be concluded within a reasonable time, not exceeding forty-eight hours. This is projected to curb prolong pre-trial detention in the guise of recording the personal data of the arrested person. This provision provides effective management of cases.
9. **Establishment of a Police Central Criminal Records Registry (CCRR):** Section 16 of the ACJA provides for the establishment, within the Nigeria Police, a Central Criminal Record Registry (CCRR) and a Criminal Record Registry will also be established at every state police command, that will keep and transmit all records to the Central Criminal Records Registry.¹²This Central Criminal Record Registry will ensure that all arrests and judgments are well documented. A properly controlled Central Criminal Registry will lead to transparency of Court operation; improve the legitimacy and the authority of Courts and the justice Systems.¹³
10. **Recording of statement of suspect:**Section 17 of the of the ACJA stipulates that where a person is arrested on allegation of having committed an offence, his statement shall be taken in the presence of a legal practitioner of his choice, or where he has no legal practitioner of his choice, in the presence of an officer of the Legal Aid Council, official of a Civil Society Organization, a Justice of the Peace¹⁴or any other credible person of his choice.
11. **Monthly report by Police to supervising magistrate:** Section 29 of the ACJA provides that an officer in charge of a police station or an official in charge of an agency authorized to make an arrest shall on the last working day of every month report to the nearest magistrate the cases of all suspects arrested with or without warrant within the limit of their respective stations or agency whether the suspect has been admitted to bail or not. Such report is to contain the particulars of the persons as prescribed in section 15 of the Act. Upon receipt, the magistrate is to forward the report to the Administration of Criminal Justice Monitoring Committee. The Committee shall analyze the report and advice the Attorney General of the Federation as to the trends of arrests, bail and related matters.
12. **Magistrate monthly inspection:** Section 34 of the ACJA provides that the Chief Magistrate or where there is no Chief Magistrate within the police division, any magistrate designated by the Chief Judge for that purpose, shall conduct monthly, an inspection of police stations and other places of detention within his territorial jurisdiction. During the visit, the magistrate may: call for and inspect the record of arrests; direct the arraignment of the suspect and where bail has been refused, grant bail to any suspect where appropriate.
13. **Quarterly Report of arrests to the Attorney-General of the Federation:** Section 29 of the ACJA provides that the Inspector General Police and heads of every agency authorized by law to make arrest shall remit quarterly to the Attorney-General of the Federation a record of all arrests made in relation to federal offences or arrests within Nigeria. The section also mandates the Commissioner of Police of a State to remit to the office of the Attorney General of that State a record of all arrests.
Such record is to contain the full particulars of the person arrested as prescribed in Section 15 of the Act. Section 29(5) empowers the Attorney General of the Federation to establish an electronic and manual database of all records of arrested persons at the Federal and State level.

12 Section 16 further mandates the Chief Registrar of the courts to transmit the decisions of the court in all criminal trials to the Central Criminal Records Registry within 30 days after delivery of judgment. Where there is default by the Chief Registrar to transmit records within 30days after judgment, he shall be liable to disciplinary measures by the Federal Judicial Service Commission for misconduct.

13 Contini, F (2010). Legal Informatics and the Technological Landscape of Justice System. In U. Eri, (ed), Proceedings of 2007 All Nigerian Judges Conference, Abuja. National Judicial Institute (pp. 361).

14 Justice of the Peace is a high-ranking office that confers on the holder the power to adjudicate on minor cases and the resolution of minor disputes in their immediate communities. They are therefore conferred with quasi-judicial powers to hear and determine minor issue and small claims. A justice of peace may be appointed by publication in the state Gazette by the Attorney-General of the state. No qualification is legally required for appointment, but in practice a person to be appointed must reside in the area to which he is to be appointed and be worthy. The justices of the peace, are mostly Chiefs, retired top administrative officers and police officers considered capable enough to be entrusted with some of the judicial powers of a magistrate.

14. **Women sureties:** By virtue of section 167 (3) of the ACJA no person shall be denied, prevented or restricted from entering into any recognizance or standing as surety for any defendant or applicant on the ground only that the person is a woman. Under the CPA and CPC, women could not stand as sureties. This section is gender sensitive and expressly abolishes discrimination hitherto experienced by women who desire to act as sureties.
15. **Abolition of lay prosecutors:** Section 106 of the ACJA stipulates that prosecution of all offences in any court shall be undertaken by: the Attorney-General of the Federation or a Law Officer in his Ministry or Department; legal practitioner authorized by the Attorney- General of the Federation; and a legal practitioner authorized to prosecute by law. Under the CPA, lay prosecutors were allowed to prosecute criminal trials in Magistrates courts, which ordinarily ought to be courts of summary jurisdiction. Their ability to prosecute, contributed to the delay in the justice process.
16. **Professional bondsperson:** Section 187 of the ACJA makes provisions for professional Bondspersons. It provides for the registration and use of Bondspersons and gives the chief Judge the powers to make regulations in developing details of the best practices in the use of Bondsperson. The Bondspersons may undertake recognizance, act as surety, or guarantee the deposit of money as required by the bail condition of any person granted bail by the court within the jurisdiction in which the bondsperson is registered.
17. **Remand proceedings:** Remand Proceeding refers to a process where a suspect who is yet to be charged with an offence is ordered by a court, to be kept in prison custody, pending his bail, trial or release popularly known as holding charge. Section 295 of the ACJA permits the court in considering an application for remand, to grant bail to the suspect, taking into consideration the provisions of Sections 158 to 188 of the Act relating to bail. This section will end the practice of remanding a suspect in police custody for years without trial.
18. **Time frame for remand orders:**The ACJA introduces a time frame for remand orders. Under section 296, an order of remand made by a court shall not exceed a period of 14 days in the first instance. The court may make an order for further remand of the suspect for a period not exceeding 14 days, on application in writing, showing good cause why there should be an extension of the remand period. After the expiration of the 14 days extension, the court shall order the release of the person remanded unless good cause is shown why there should be further remand order for a period not exceeding 14 days, making it a total of 42 days .
19. **Plea Bargaining:** Plea bargain refers to a situation where a defendant pleads guilty to a charge or a lesser charge in exchange for a lighter sentence. The ACJA explicitly provided for plea-bargaining by virtue of Section 270 of the ACJA. The prosecutor has the power to consider and accept a plea bargain from a person charged with any offence where the prosecutor is of the view that the acceptance of such plea bargain is in the interest of justice, the public interest, public policy and the need to prevent abuse of legal process.
20. **Day to day trial of criminal cases and adjournments:** Section 396 of the ACJA, makes provision for day-to-day trial of criminal cases. This is to ensure that criminal cases are expeditiously dealt with in line with the provision of the Constitution. Where day-to-day trial is impracticable after arraignment, parties shall only be entitled to five adjournments each. The interval between each adjournment shall not exceed 14 days. This section also provides that where it is impracticable to conclude a criminal proceeding after the parties have exhausted their five adjournments each, the interval between one adjournment to another shall not exceed seven days. The court may award costs in order to discourage frivolous adjournments.

The section also provides that after the plea has been taken, the defendant may raise any objection at any time before judgment and such objection shall only be considered along with the substantive issues and a ruling made at the time of delivery of judgment. The provision has succeeded in dealing with the incessant delays caused by the raising of all sorts of preliminary objections unlike the old practice where ruling on a preliminary objection will be delivered immediately, or soon after argument before the consideration of the main issues.

The section further states that a Judge of the High Court who has been elevated to the Court of Appeal shall have dispensation to continue to sit as a High Court Judge only for the purpose of concluding any part-heard criminal matter pending before him at the time of his elevation. This is to avoid the situation of the case being reassigned and starting de novo as practiced in the past.

21. **Stay of proceedings:** By virtue of section 306 of the ACJA, an application for stay of proceedings in respect of a criminal matter before the Court shall not be entertained. Stay of proceedings is used as a delay tactic.

22. Witness Protection for vulnerable persons during trial: Section 232 of the ACJA, permits witnesses to some offences to give evidence in camera.¹⁵ The section states that the name and identity of the victims of such offences or witnesses shall not be disclosed in any record or report of the proceedings and it shall be sufficient to designate the names of the victims or witnesses with a combination of alphabets. It further provides measures the court can take in protecting the identity of the victim or a witness.¹⁶
23. Compensation to victims of crime: Section 319 of the ACJA states that a court may within the proceedings or when passing judgment, order the convict to pay compensation to any person injured by the offence, irrespective of any other fine or other punishment that may be imposed or that is imposed on the defendant, where substantial compensation is in the opinion of the court recoverable by civil suit. It further states that the court may order the defendant to pay a sum of money to defray expenses incurred in the prosecution, order the convict to pay compensation to an innocent purchaser of any property in respect of which the offence has been committed who has been compelled to give it up and order the convicted person to pay some money in defraying expenses incurred in medical treatment of any person injured by the convict in connection with the offence.
24. Non-Custodial sentences: Sections 453, 460 and 468 of the ACJA, attempted to address the problem of excessive use of imprisonment by introducing some alternatives to imprisonment. These include the introduction of suspended sentence, community service, parole and probation. By virtue of 467, courts may sentence and order a convict to serve the sentence at a Rehabilitation and Correctional Centre established by the Federal Government in lieu of imprisonment. Non-custodial sentencing measure has already been successfully implemented in Lagos State with 2,700 convicts of traffic and non-violent crimes by having them carry out community service.¹⁷
25. Status of trials: Section 110(4) of the ACJA, provides that where a charge is preferred at the magistrate court and the trial does not commence within 30 days, or trial has commenced but has not been completed after 180 days of arraignment on that charge, the Court shall forward to the Chief Judge the particulars of the charge and reasons for failure to commence the trial or to complete the trial.

Section 110(5) of the Act further mandates the Courts to make quarterly returns of the particulars of all cases, including charges, remand and other proceedings commenced and dealt with in a Court to the Chief Judge. In reviewing the returns, the Chief Judge shall have regard to the need to ensure that: criminal matters are speedily dealt with; congestion of cases in courts is drastically reduced; congestion of prisons is reduced to the barest minimum; and persons awaiting trial are, as far as possible, not detained in prison custody for a length of time beyond the prescribed period.¹⁸

26. Establishment of Monitoring Committee: Section 469 of the ACJA established a body to be known as the Administration of Criminal Justice Monitoring Committee. The Committee is to ensure that- criminal matters are speedily dealt with; congestion of criminal cases in courts is drastically reduced; congestion in prisons is reduced to the barest minimum; persons awaiting trial are, as far as possible, not detained in prison custody; the relationship between the organs charged with the responsibility for all aspects of the administration of justice is cordial and there exists maximum co-operation amongst the organs in the administration of justice in Nigeria; collate, analyze and publish information in relation to the administration of criminal justice sector in Nigeria; and submit report quarterly to the Chief Justice of Nigeria to keep the Chief Justice abreast of developments towards improved criminal justice delivery and for necessary action; and carry out such other activities as are necessary for the effective and efficient administration of criminal justice.

15 These include: sexual related offences, terrorism offences, offences relating to Economic and Financial Crimes, trafficking in Persons and related offences, and any other offence in respect of which an Act of the National Assembly which permit the use of such protective measures.

16 The court may take any or all of the following measures: receive evidence by video link; permit the witness to be screened or masked; receive written deposition of expert evidence; and any other measure that the court considers appropriate in the circumstance. The Act also stipulates that anyone who contravenes the provisions of section 232 shall be sentenced to a minimum term of one-year imprisonment.

17 Available: John Chuks Azu <https://www.dailytrust.com.ng/news/law/stakeholders-agree-ways-to-adopt-acja-in-states/186110.html> (February 21, 2017)

18 The Act further provides that the Administration of Criminal Justice Monitoring Committee shall have power to consider all returns made to the Chief Judge for the purpose of ensuring expeditious disposal of cases. The National Human Rights Commission shall also have access to the said return upon request to the Chief Judge.

In a nutshell, the role of this Monitoring Committee is to ensure that the provisions of the Act are effectively complied with by all stakeholders of the criminal justice system, which includes judges, prison staff, police officers, social workers, the victims and defendants.

27. Electronic Record of Proceedings

Section 364 provides that court proceedings to be recorded electronically. It states that in certain exceptional circumstances, where the evidence of a technical, professional or expert witness would not ordinarily be contentious as to require cross-examination, the court may grant leave for the evidence to be taken in writing or by electronic recording device. Similarly, section 362 states that where it appears to the court that a person who is seriously ill or hurt may not recover, but is able and willing to give material evidence relating to an offence and it is not practicable to take the evidence during trial, the Judge or Magistrate shall take in writing the statement on oath or affirmation of the person. Clearly, the ACJA has introduced some very impressive and progressive provisions, even though a large part of the CPA and CPC have been retained, the ACJA has built upon them by adding clarity as well as emphasis to them.

3. Compliance Evaluation of the Administration of Criminal Justice Act 2015

The need to be able to evaluate compliance generated by a particular reform is acute even after just two years of implementation. Having measurable outcomes would be useful in understanding how change can occur in the justice sector. An overview of the ACJA shows that indeed some key reforms in the act promotes efficient management of criminal justice institutions and speedy dispensation of justice. Ordinarily, one would expect rapid progression of high profile cases after two years of implementation. Disappointingly this is not the case, so evidently the problem is not with the law but with its implementation. Below is a table of some high profile corruption cases the author has personally been tracking to measure compliance. The methodology for the data collation included, online research, newspaper research and interviews with some parties to the cases. Since these cases are ongoing it was not possible to gain access to the case files.

S/N	NAME	CASH/ASSET INVOLVED	COURT/ CASE/CHARGE NO/ YEAR/ JUDGE	STATUS	PROSECUTING BODY	ADJOURNMENTS
1	IkediOhakim, Former Governor of Imo State	N270m	Federal High court in Abuja. FHC/ ABJ/CR/292/15,	Ongoing	EFCC	<ol style="list-style-type: none"> 1. Adjourned till January 27, 2016 for continuation of trial. 2. Adjourned till October 10 and 13, 2016 for defense opening. 3. Arraignment deferred to October 5, 2017 following an application for his re-arraignment. The case was returned to the Chief Judge of the Federal High Court for reassignment This is because the trial judge, Justice AdeniyiAdemola, who has been handling the case will be proceeding on statutory retirement
2	SuleLamido, Former Governor of Jigawa State	N124,649,915	Federal High Court, Abuja. Justice AdeniyiAdemola	Ongoing	EFCC	<p>Re arraigned on September 15, 2015</p> <ol style="list-style-type: none"> 1. Adjourned till October 21 and 22 2015 for trial. 2. Adjourned till March 9,10,11, 2016. 3. The case was returned to the Chief Judge of the Federal High Court for reassignment This is because the trial judge, Justice AdeniyiAdemola, who has been

S/ N	NAME	CASH/ASSET INVOLVED	COURT/ CASE/CHARGE NO/ YEAR/ JUDGE	STATUS	PROS ECU TING BOD Y	ADJOURMENTS
						handling the case will be proceeding on statutory retirement. 4. Case reassigned to Justice Quadri following the arraignment of Justice Ademola 4. Matter adjourned till May 3, 2017 for hearing.
3	Steve Oronsanya, Former Head of Service	N 190 Million	FCT High Court FHC/ABJ/CR/297/2015 Justice OlasunboGoodluck	Defendant Discharged	EFCC	Rearraigned on May 18 2016 1. Adjourned till 1 September 29 2016 for continuation. 2. Case adjourned till November 15, 2016. 3. Defendant was discharged on a no case submission on May 9, 2017.
4	Col. Dasuki, Former National Security Adviser	\$2Billion	FCT High Court Justice Hussein Baba Yusuf	Facing three charges - FHC/ABJ/CR/319/2015 (money laundering and illegal possession of firearms). Trial yet to commence. FCT/HC/CR/43/2015 (allegedly stealing about N28 billion from the office of the NSA) Col SamboDasuki& 5 others Adjourned till October 19, 2017 for trial – Court dismissed application by former governor of Sokoto state, AttahiruBafarawa and his sons seeking to be tried separately for Col Dasuki. FCT/HC/CR/42/2015. N13.5bn (diverting public funds running into billions of naira) Col SamboDasuki& 2 others 1.Adjourned till October 19, 2017 for trial – PW disclosed that N1.4bn security vote from ONSA was diverted for national prayer. 11Adjourned till December 13, 2017 for further trial	EFCC	Arraigned December 14 2015 1. September 1 st 2015 bail granted to defendant on self recognizance by FHC Abuja. 2. November 3 rd 2015 leave granted to travel abroad for medical treatment by FHC Abuja. 3. December 18 th 2015, bail granted to defendant with a surety by FCT High court. 4. December 21 st 2015, bail granted to defendant with a surety by FCT High court. 5. October 4 th 2016, ECOWAS ordered release of defendant and imposed N15M fine on FGN. 6. January 17 th , 2017, court orders FGN to release defendant. 7. Adjourned till January 25, 2017 8. Adjourned till March 2, 2017 for hearing of Mr. Dasuki's motion. 9. April 6 th , 2017, FHC Abuja affirms bail granted to defendant in 2015. 10. Supreme Court adjourns appeal till January 25, 2018.
5	Justice Sylvester Ngwuta, Justice of the Supreme Court	N35, 358, 000.00 \$319,596.00 (GBP) 25, 915	FHC/ABJ/CR/232/2016 Justice John Tsoho	Ongoing	FMOJ	1. Adjourned till March 16 – 17, 2017 at the instance of the prosecution 2. Adjourned till May 25 and 26 for continuation of hearing. 3. Adjourned till July 3, 2017 for further hearing. 4. Adjourned till October 6, 2017 continuation of trial.

S/ N	NAME	CASH/ASSET INVOLVED	COURT/ CASE/CHARGE NO/ YEAR/ JUDGE	STATUS	PROS ECU TING BOD Y	ADJOURMENTS
						5. Adjourned till October 20, 2017 for further trial.
6	OlisaMetuh, spokesperson of the Peoples Democratic Party,	N400 million	FHC/ABJ/CR/05/2016 Justice OkonAbang	Ongoing	EFCC	Arraigned in January 2016. 1. April 8 th 2016 court ruled that defendant must commence defense, after dismissing five applications preventing the commencement of the trial. 2. Adjourned to May 23 2016 due to defendant's ill-health. 3. Prosecuting counsel, closed case on Oct. 10, 2016. 4. Adjourned to Nov. 22 2016 for the defense to open its case. 5. Adjourned to Jan. 24 2017. 6. Adjourned to March 2, 2017 7. Adjourned to May 3 2017. 8. Adjourned till June 19 for ruling on the application filed by defendant over the adjournment of his trial. 9. Adjourned to June 22, 2017 for the defense to open its case. 10. Adjourned to June 23, 2017 for continuation of trial. 11. Adjourned to October 23 2017.
7	i. Femi FaniKayode, former Minister of Aviation ii. NenadiUsman, Former Finance Minister	N46 Billion	Federal High Court, Lagos Justice Muslim Hassan. Case was later transferred to a new judge Justice RilwanAikawa, Federal High Court, Lagos	Ongoing	EFCC	Arraigned on June 28, 2016. 1. Adjourned till October 19, 20, and 21, 2016 for trial. 2. Adjourned till March 14 2017 3. Trial judge withdrew from case on March 16, 2017, following an application by defendant citing likely bias by the judge 4. Re-arraigned on May 15, 2017 before Justice RilwanAikawa. on the same charges. 5. Adjourned till June 21, 2017. On June 21, defense counsel, prayed the court to transfer the case to its Abuja division, arguing that the court lacked jurisdiction to adjudicate on the matter. 6. Adjourned till September 26, 2017 following application by defendant to transfer case. 7. Adjourned till September 27, 2017 for cross examination and continuation of trial. 8. FHC Lagos ruled on September 26, 2017 that the case will be heard in Lagos. Following the request of the defendant for the case to be transferred to the Abuja Division of the Court.
8	Orji UzorKaluu, Former Governor Abia State	N3.2billion.	Federal High Court, Abuja. FHC/ABJ/CR/56/07 Justice AnwuriChikere 2016	Ongoing	EFCC	Initially docked in 2007 and re-arraigned on May 16 2016. 1. Adjourned for hearing till 30th of June 2016. 2. Case adjourned till December 6, 2016. 3. Trial to commence, March 6,

S/ N	NAME	CASH/ASSET INVOLVED	COURT/ CASE/CHARGE NO/ YEAR/ JUDGE	STATUS	PROS ECU TING BOD Y	ADJOURMENTS
						2017. 4. Adjourned till October 3 rd 2017 for further trial.
9	RashidiLadoja, former governor of Oyo state	N4.7 Billion	Federal High Court Lagos Justice Ramat Mohammed	Ongoing	EFCC	Re-arraigned on November 18 th 2016. 1. Adjourned till March 2, 2017 for hearing.
10	i. OlusolaOyewole, Vice Chancellor Federal University Agriculture ii. AdeseyeOgunlewe, Pro Chacellor, Federal University Agriculture	N800 Million	High Court 6, Abeokuta Hon. Justice O.O. Majekodunmi	Ongoing	EFCC	Arraigned on November 24, 2016. 1. Adjourned till January 27 2017. 2. Adjourned till Feb 9, 2017.
11	Justice Rita Ofili - Ajumogobia	\$793,800	Ikeja High Court Lagos Suit No: LD/367/C/16, Justice Hakeem Oshodi November 28 th 2016	Ongoing	EFCC	Arraigned November 28 th 2016 1. Adjourned till April 28 th 2017 for hearing of the application challenging the jurisdiction of the court. 2. Adjourned till October 27, 2017 for further trial.
12	i. Rickey Tarfa, SAN ii. Joseph Nwobike, SAN	Bribery and offering gratification to a public official N2Million N750,000	Lagos High Court Justice RaliatuAdebiyi	Ongoing	EFCC	Arraigned on March 10, 2016 1. Adjourned till May 16, 17, 18 for continuation of trial. 2. Adjourned till July 3, 2017 for continuation of trial. 3. Adjourned till September 12, 2017 for continuation of trial.
13	Patrick ZiadekeAkpobolokemi, Former Director- General of the Nigeria Maritime Administration and Safety Agency, (NIMASA)	N.1.6 Billion Before the FHC Lagos N754.7 Million Before the Igbosere High Court Lagos	Igbosere High Court Lagos Justice R. I B. Adebiyi, January 25 th 2016. Federal High Court, Lagos. Justice I. N. Buba	Ongoing	EFCC	<i>High Court Igbosere, Lagos</i> 1. April 14 and 20, 2016 for trial. 2. Adjourned till March 29, 2017 for adoption of addresses in the trial within a trial. <i>Federal High Court Lagos</i> 1. Adjourned till May 23, 24, 25 and 26 2016 for hearing.
14	BolanleBabalakin	Money Laundering	High Court of Lagos ID/1432/2015	Trial Yet to commence	EFCC	
15	Alex Badeh, former Defence Chief.	N3.9 billion	Federal High Court, Abuja. Justice OkonAbang March 3, 2016	Ongoing	EFCC	Arraigned in 2016 1. Adjourned till July 4, 2017. 2. Adjourned till July 26, 2017. 3. Adjourned till October 23, 2017 for continuation of trial.
16	i. Dele Belgore ii. Prof. AbubakarSulaiman	Money Laundering	Federal High Court Ikoyi, Lagos Justice R.M. Aikawa	Ongoing	EFCC	1. Adjourned till March 14, 2017. 2. Adjourned till March 23, 2017. 3. Adjourned till May 5, 2017 for continuation of trial. 4. Adjourned till July 7, 2017 for ruling on an application by, Mr. Belgore, seeking to quash charge against him. 5. Adjourned till October 4, 2017.
17	Sani Ahmed Yerima&Anor	NI Billion fraudulentvirement, making a false statement, and	High Court of Zamfara State, Gusau, 2015	Further hearing	ICPC	Arraignment on January 20 th 2016. 1. Adjourned till February 29 th

S/ N	NAME	CASH/ASSET INVOLVED	COURT/ CASE/CHARGE NO/ YEAR/ JUDGE	STATUS	PROSECUTING BODY	ADJOURNMENTS
		abuse of office.				and March 1st for hearing. 2. Adjourned till April 6 th – 7 th 2017
18	Mr. Yemi-ArisOlaniran, former employee of Skye Bank	Defrauding the FGN of N78.52 million.	Federal High Court 7, Maitama-Abuja. Justice AdeniyiAdemola,	1. Case transferred to another trial judge due to the criminal charges preferred against Ademola by the FGN. 2. Further Hearing	ICPC	Arraignment on March 13 th 2017 Adjourned till April 11, 2017 for hearing.
19	JumokeAkinjide, former Minister of State for the Federal Capital Territory (FCT), and 2 others	Money Laundering N650m	Federal High Court, Oyo State Suit No. FHC/IB/26C/2017 Justice J.O Abdul-Malik	Ongoing	EFCC	Arraigned on 22 nd June, 2017 1. Adjourned till September 12 2017 for hearing on the substantive matter and to July 6, for ruling on the bail application.
20	Mu'azuBabangidaAliyu, former governor of Niger State & 2 others.	Money Laundering of N1.46 bn (Before Federal High Court Abuja) N3bn misappropriation of public funds, and "diversion of proceeds of the sale (Before Niger State High Court, Minna)	Niger State High Court, Minna Justice Maiyaki Justice NnamdiDimgba of the Federal High Court, Abuja.	Ongoing	EFCC	<i>Justice NnamdiDimgba</i> Arraignment 16 th May, 2017. 1. Adjourned till July 6 th and 7 th , 2017, for commencement of trial. 3. Adjourned till October 5 th , 2017. <i>Justice Maiyaki</i> Arraignment April 25, 2017. 1. Adjourned till October 30 th 2017 for trial.
21	Ibrahim ShehuShema, former governor of Katsina State & 3 others	N11bn	Katsina State High Court Justice MaikaitaBako	Court of Appeal Kaduna State, dismissed application by defendant challenging the jurisdiction of Katsina State High Court and the State government to give fiat to EFCC to try them.	EFCC	1. Adjourned till January 10, 2017 2. Adjourned till February 7, 2017 for hearing of the motions. 3. Adjourned till February 21 to rule on the matter of jurisdiction. 4. Adjourned till June 6th 2017 for hearing. 5. Adjourned till November 24 th 2017 for trial.

From the above table, it is evident that the reason high profile corruption cases are dragging in court is largely due to lack of implementation by those who are saddled with its implementation because the ACJA has provided the necessary reforms to curb any form of delay during trial. Take for instance –

1. Col. Dasuki, Former National Security Adviser was arraigned in 2015 and his case is yet to commence two years later and the accused has been remanded in custody since his arrest despite several successful bail applications. The ACJA has clearly provided a time for remand orders under section 296, that an order of remand made by a court shall not exceed a period of 14 days in the first instance. Thereafter, the court may make an order for further remand of the suspect for a period not exceeding 14 days and after the expiration of the extension, the court shall order the release of the person remanded unless good cause is shown why there should be further remand order for a period not exceeding 14 days. In this case, the courts have repeatedly affirmed the bail granted to the accused, which means that no good cause was shown why there should be any further remand.¹⁹ Even the Court of the Economic Community of West African States, ECOWAS, has declared the arrest and detention of former National Security Adviser, SamboDasuki, as unlawful and arbitrary and demanded for his release but despite all these, the Department of State Security has blatantly refused to release the accused.

19 Again, Court orders release of ex-NSA Dasuki [Online] Available: <https://www.premiumtimesng.com/news/headlines/221407-court-orders-release-ex-nsa-dasuki.html>(January 24, 2017)

2. Section 396 of the ACJA makes provision for day-to-day trial of criminal cases and where this is impracticable after arraignment, parties shall only be entitled to five adjournments each. The interval between each adjournment shall not exceed 14 days, where it is impracticable to conclude a criminal proceeding after the parties have exhausted their five adjournments each, the interval between one adjournment to another shall not exceed seven days and the court is also allowed to award costs in order to discourage frivolous adjournments.

The implication of the provisions of section 396(3)²⁰&(4)²¹ of ACJA on the duration of a criminal trial is that, on the average, proceedings in a criminal trial, upon arraignment of the defendant, should be within ten months, inclusive of the constitutional 90 days allowed for delivery of judgment, after final addresses, under section 294(1)²² of the Constitution of the Federal Republic of Nigeria, 1999, as amended. This is because, under ACJA, about 70 working days (five adjournments multiplied by 14 days allowed interval are permitted for the maximum number of adjournments, each, for the Prosecution and the defendant. This means a total of 140 working days or seven months) for both the Prosecution and the Defendant.

Now, from the above table, it is clear that the judges did not adhere to this section. The intervals between adjournments are over 14 days and some of the cases have already exhausted the initial five adjournments. In the case of Mr. Steve Oronsanya, Former Head of Service, his trial commenced in 2015 and defendant was discharged on a no case submission on May 9, 2017. The trial took almost two years to close.

1. Section 306, abolishes stay of proceedings as it is used as a delay tactic.²³ The implication of this is that the appellate courts no longer have the power to order stay of proceedings at the trial court, pending the hearing of the interlocutory appeal.
2. In essence, the trial court can continue with its proceedings notwithstanding the appeal at the appellate court. Despite this provision though, in the case of the Senate President, Dr. Bukola Saraki,²⁴ a stay of proceeding was granted. First of, the Code of Conduct Tribunal (CCT) ought to have followed the provisions of the Act and not in any circumstance entertain the application by the accused to appeal to the appellate court. Secondly, the Supreme Court should not have granted a stay of proceedings at the CCT pending the hearing of the appeal where the Senate President challenged the jurisdiction of the CCT. The decision by the Supreme Court in granting stay of proceedings in this case undoubtedly had no basis under the ACJA.
2. The ACJA has solidified the legal pedigree of plea-bargaining in Nigeria. Plea-bargaining is the process whereby the defendant himself or through his counsel and the prosecutor in a criminal case enters negotiations to agree a mutually acceptable way of disposing a case and the ACJA explicitly provides for plea-bargaining by virtue of section 270. The practice of plea-bargaining in Nigeria, particularly in economic crimes cases, has created some kind of division.²⁵ It has been suggested that plea-bargaining in Nigeria favors one class over the other.²⁶

20 Upon arraignment, the trial of the defendant shall proceed from day-to-day until the conclusion of the trial.

21 Where day-to-day trial is impracticable after arraignment, no party shall be entitled to more than five adjournments from arraignment to final judgment provided that the interval between each adjournment shall not exceed 14 working days.

22 Every court established under the Constitution shall deliver its decision in writing not later than ninety days after the conclusion of evidence and final addresses and furnish all parties to the cause or matter determined with duly authenticated copies of the decision within seven days of the delivery thereof.

23 It can take years for the Supreme Court to rule on interlocutory appeals. For instance, the Federal Government charged Mohammed, son of the late Head of State, Gen. Sani Abacha, at the Federal Capital Territory (FCT) High Court for receiving money stolen from the government's coffers by his late father between 1995 and 1998. The defendant sought to quash the charge on the ground that the immunity that his father enjoyed in office covered the acts, which constituted the offence for which he (the son) was charged. It took over 10 years for the Supreme Court to rule on the interlocutory appeal, numbered SC.40/2006.

24 Was tried for alleged false assets declaration by the Code of Conduct Tribunal, accused was arraigned in September 2015 and case was dismissed on June 14, 2017.

25 K. Kekefe, Plea Bargaining: One Legal System, Two Classes of Citizens. [Online] Available: www.article.com.ng/new/plea-bargaining-one-legal-system-two-classes-of-citizens/

26 Cases involving Politically Exposed Persons (PEPs) that were determined through plea bargaining corroborates public unease with the application of plea bargaining. Cases usually cited in this regard includes *FRN v Tafa Adebayo Balogun & 8 Ors* (where the former Inspector General of Police was convicted); *COP v Salisu Buhari* (the convict was the former Speaker of the House of Representatives); *FRN v Bulama* (former CEO of a leading bank in Nigeria) *FRN v Lucky N. Igbinedion* (former Governor of Edo State, Nigeria).

However, whatever may be the demerits of plea bargaining, its' main advantage is that it promotes speedy conclusion of proceedings, lowers cost, and can ensure punishment of those that might otherwise escape justice. In the United States, plea-bargaining continues to succeed in over ninety five percent of Federal cases²⁷ and this has not hindered sentences based upon the culpability of the offender and the circumstances of the commission of the offence. Plea- bargaining remains an option to reclaim government's stolen funds and property, save time and state resources, as long as it is not used as an engine to shield offenders from deserved punishment. It should therefore be embraced by our legal system especially in high profile corruption cases.

4. Way Forward

The reason the ACJA was enacted in the first place was to reform the criminal justice system and literally change the way things are done in the administration of criminal justice but as it is, there is still a very long way to go in its implementation. To enhance the success rate in the prosecution of high profile corruption cases, the following is thereby recommended-

1. Prosecutors

- a. Apply immediately to reinstate any case struck out for want of prosecution.
- b. In cases requiring appeal, apply for leave to appeal out of time.
- c. Evidence and legal arguments should be prepared thoroughly.²⁸
- d. Section 306 of the ACJA provides that an application for stay of proceedings in respect of a criminal matter before the Court shall not be entertained. Section 396 also provides conditions as to raising certain objections, day-to-day trials, adjournments and conclusion of ongoing trials. As such, Prosecutors should insist on the full applications of these sections by Judges as a matter of right.²⁹
- e. Charges should be prepared based on available evidence and not by appearance of the weight of crime committed.³⁰
- f. A credible legal team should be set up and this is where the National Prosecution Coordination Committee (NPCC) comes in. The NPCC, inaugurated on May 27, 2016 by the FGN is charged with "the responsibility to exercise prosecutorial power independently and without any direction except of course from the Attorney General of the Federation (AGF) who is the constitutional and prosecutorial authority in the country.
- g. Media trials should be avoided. When dealing with the media, prosecutors must be aware of how journalists work and think; everything prosecutors may say publicly tends to have some degree of resonance.
- h. Prosecutors' own professional and personal behavior must be exemplary. Also, prosecutors should avoid striving for professional advancement while a major inquiry is in process. Being seen as overly personally ambitious is bound ultimately to work against a prosecutor's case.
- i. The prosecutorial competence of the prosecuting counsels should be enhanced through rigorous capacity building trainings and re-trainings.

2. Counsel

- a. Counsels, particularly, Senior Advocates of Nigeria, that are seen obstructing and frustrating proceedings should be heavily fined and denied right of appearance on that particular case.³¹

27 L. E. Dervan, (Fall 2007). Plea Bargaining's Survival: Financial Crimes Plea Bargaining, Continued Triumph in a Post-Enron World. 60 (3) Oklahoma Law Review, 451-489 at 452. See also C. McCoy, (2005) Plea Bargaining as Coercion: The Trial Penalty and Plea Bargaining Reform" 50 Criminal Law Quarterly, 1-41 at p. 8, where stated that: "Today, the guilty plea rate in the United States is about 96%, with bench trials accounting for 3% and jury trials 2% of all convictions".

28 See Code of Conduct & Prosecutorial Guidelines For Federal Prosecutors, 2013.

29 See also Order Seven, Nine and Eleven of the Practice Direction on the Implementation of ACJA 2015 in the Courts of the Federal Capital Territory issued by the Chief Judge of Federal Capital Territory, Hon. Justice Ishaq Usman Bello, 2017.

30 SUPRA Note 29.

31 Id at Order Fourteen (1) – Judges and Magistrates shall have a firm control of the daily business of the Court. They shall ensure that counsel conducts the business of the court with professional decorum and avoid any act, which is either an abuse of the justice system or is aimed at causing delay or truncating the course of justice.

3. Judiciary

- a. Heads of the various courts should have regular trainings and sensitization about very critical nature of the fight against corruption in Nigeria.³²
- b. Priority for hearing in court should be given to cases prosecuted by the States rather than order of seniority.
- c. Pending the establishment of the Special Crimes Court, It is laudable that the Chief Justice of Nigeria, Justice Walter Onnoghen, has directed heads of courts to create special courts for corruption cases in order to ensure speedy determination of such cases.³³To this end, Judges of integrity and discipline should be designated to handle High Profile Corruption Cases (HPCC). However, in spite of these special courts, prosecutors must be thorough in their investigations before subjecting suspects to trials.
- d. Suspected proceeds of crime should be held under temporary forfeiture during the trial of a high profile person and resort to Non Conviction where proof beyond reasonable doubt is difficult to achieve due to technicalities.³⁴
- e. The Chief Judge of the Federal High Court should be encouraged to adopt similar Practice Directions recently adopted by the FCT High Court and the Code of Conduct Tribunal.³⁵The Practice Direction on the Implementation of ACJA will be used to clarify the application of grey areas in the ACJA and to reduce delays and this will unify the approach in the use of the ACJA and assist the progress of cases.³⁶
- f. Improve and insist on case management in line with ACJA and based on effective and efficient investigations.
- g. There are new possibilities in modern management technology for integration and automation of court procedures and practices. The management infrastructure of the judiciary needs to be upgraded with a move from manual to digital and from paper to electronic forms.

4. Attorney General of the Federation

- a. As the Chief Law Officer of the Country,³⁷the Attorney General of the Federation should lead teams of legal counsel in high profile corruption cases so as to demonstrate the resolve of the government to enshrine the rule of law.
- b. The Administration of Criminal Justice Monitoring Committee and relevant Civil Society Organizations should be deployed to monitor all high profile corruption cases and report any non-compliance by Judges to the National Judicial Council (NJC).
- c. The Attorney General of the Federation, should as a rule conduct the critical liaison that is required with the Judiciary and Legislature to ease the work of the Anti corruption Agencies (ACAs).
- d. ACAs should periodically report to the Attorney General of the Federation challenges faced in prosecuting high profile corruption cases. These reports will aid him in resolving complaints clandestinely.
- e. The Attorney General of the Federation, should personally call monthly or quarterly meetings of ACAs to receive formal written summary reports on high profile corruption cases with indications of progress, challenges, likelihood of success etc.
- f. There should be strong litigation strategy for every case filed.

5. Anti Corruption Agencies (ACAs)

- a. Mandates of ACAs such as Economic and Financial Crimes Commission (EFCC), Independent Corrupt and Other Related Practices Commission (ICPC), Federal Ministry of Justice (FMOJ), should be delineated based on their various establishment laws.

32 Platforms like the International Conference of the “Role of Judges in the Fight Against Corruption” organized by PACAC in 2016, are very critical.

33 On September 18th 2017, the Chief Justice of Nigeria, Justice Walter Onnoghen, directed heads of various courts in the country to create special courts for corruption cases in order to ensure speedy determination of such cases. This he said at the special court session held at the Supreme Court in Abuja to mark the commencement of the new 2017/2018 legal year. In order for the National Judicial Commission to monitor and effectively enforce the foregoing policy, an Anti – Corruption Cases Trial Monitoring Committee has also been constituted headed by retired Justice Salami.

34 See PACAC’s Guidance Notes on Non-Conviction And Conviction Based Forfeiture and Management of the Res in Conviction Based Forfeiture in Nigeria, 2017.

35 See Code of Conduct Tribunal Practice Direction, 2017, issued by Honourable Danladi Yakubu Umar Chairman, Code of Conduct Tribunal.

36 SUPRA, Note 30.

37 See the Law Officers Act.

- b. EFCC should be allowed and supported to focus on money laundering, economic and financial crimes while ICPC should be allowed and fully supported to focus on public corruption. All cases with EFCC that ought to be filed as official corruption or gratification or which fall under section 22 of the ICPC Act³⁸ but are currently being bundled into money laundering or financial crimes, should without any tussle be transferred to ICPC.
- c. Inter agency cooperation needs to be strengthened and sustained and unnecessary rivalry should be discouraged.³⁹This can be done by strengthening and providing a robust framework for the Inter Agency Task Team (IATT), which was set up in 2009.⁴⁰ IATT already has mechanisms for inter agency cooperation in specific areas; prevention, investigation & prosecution, media and communication, asset recovery and research and publication. Each working group is chaired by an agency.
- d. Litigation strategy should be strengthened and there should be a strong coordinated approach.
- e. Staff strength and capacity of EFCC and ICPC needs to be enhanced so that cases can be efficiently handled.⁴¹
- 6. Federal Government of Nigeria
 - a. There should be a thorough review of all pending high profile corruption cases. A number of them are going on in jurisdictions where ACJA 2015 applies notably in Federal High Court, and FCT High Court. However, a number of cases are also on going at the State level by ICPC where ACJA does not apply. In this case, cases should be reviewed to extract the money laundering and financial crimes component and same should be re-filed at the Federal High Court under the EFCC Act.
 - b. ACAs and Law Enforcement Agencies should be strengthened to response adequately to corruption. Strengthening includes building the capacity of prosecutors and adequate funding for the institutions.
 - c. Corruption very often has a transnational character. The Federal Government of Nigeria should work with international partners to reduce the impact of international bribery and corruption.
 - d. Should explore reversing the burden of proves in high profile corruption cases. Under Nigerian law, he who asserts must prove meaning, given the presumption of innocence; the onus is on the prosecution to prove, for instance, that an unexplained large sum of money found with a public officer is as a result of corruption. With such evidential difficulty, it is difficult to prove corruption and that is why some countries have reversed the burden of proof in corruption cases.⁴²

5. Conclusion

The quality of our criminal justice system is a reflection of the integrity, of not just those saddled with adjudicating over trials, but also of the entire structure put in place for the proper administration of justice. For any country to experience economic growth, it must first have a functional judicial system that would not only encourage local and foreign investors but also guarantee conducive environment for such businesses to thrive. Incessant delays reduce the chances of ever concluding cases in a satisfactory manner and in the process, witnesses lose interest, parties to the process die, judges retire, the public lose faith in the judiciary and investors keep off. Delay in the delivery of justice is as a result of a compromised system, either in the interest of the prosecution or the defendants. Where delay is as a result of the prosecution or the court itself, the implication is that the fight against corruption is being conducted in violation of the constitutional and statutory guarantees the populace will always judge the justice system by its results.

38 “Any person who, without lawful authority or reasonable excuse, offers an advantage a public servant as an inducement to or reward for or otherwise on account of such public servant’s giving assistance or using influence in, or having given assistance or used in...”

39 On some occasions, the State Security Service has refused to produce accused persons in court without any reason whatsoever. The development has led to the unnecessary delay in the prosecution of very serious corruption cases. Successful approaches to the prevention of corruption thus require cooperation between agencies, in order to exchange experience on the effectiveness of corruption prevention measures, exchange information on emerging corruption problems and trends, as well as on specific cases; reach agreement on concerted action against corruption, and share skills and resources.

40 Members are drawn from all the existing anti corruption agencies, law enforcement agencies and regulatory bodies.

41 In a major set back in the anti corruption fight, the cases of Mike Ozekhome SAN, Joe Agi SAN, Justice Ademola Adeniyi, Justice of the Federal High Court and his wife, Olubowale, were all dismissed within days. In most of the cases, the judges cited lack of convincing prosecution.

42 Singapore, Hong Kong and Indonesia are examples of developing countries that have reversed the burden of proof in corruption cases.

Hence, if they see that only one crime in three is punished, that rich criminals are able to either escape punishment or defer the day of reckoning for years and then go free, if they see a system of extreme technicality administered, they will inevitably conclude that the system is a bad one, and that those who created the system, in one way or another, are responsible for its defects. It is hoped that with the introduction of corruption courts, designated judges will comply strictly with the ACJA. Finally, machineries must be put in place to checkmate the excesses of private practitioners who are bent on causing unnecessary delays like insisting on calling tons of witnesses and requesting for frivolous adjournments. If the system succeeds in addressing these concerns then it would have succeeded in achieving its objectives. A law is not an end to itself, it must be implemented.

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