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## **Fighting Corruption in Nigeria today: The Imperative of a “Presidential Truth and Restitution Commission”<sup>1</sup>**

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### **Introduction**

I feel honoured to be selected and asked by the Social Science Academy of Nigeria (SSAN) to deliver our 1<sup>st</sup> annual fellows lecture at this 4<sup>th</sup> investiture ceremony. The privilege is appreciated and cherished, more so that I was allowed the “license” of the choice topic.

Fortunately, two related issues in which I am fairly knowledgeable and versed are both contemporaneous and urgent: the need to achieve an optimum level of security in the country; and the need of reduce corruption to the minimum in all dimensions of our economic, political, and social existence.

I opted for the latter for three reasons. Firstly, our current problem of insecurity may be considered a temporary and or passing phase that is better left, for now, with the numerous emergent “security experts” and our apparently re-energized security instrumentalities. Secondly, the problem of corruption, itself a security-issue, is most pernicious and therefore most deserving of fundamental attack today.

Thirdly, the subject of corruption has been an enduring intellectual and public-policy concern for me from the very early nineteen-eighties to date: academic publications (e.g. Odekunle 1983; 2008; 2012<sup>a</sup>; 2012<sup>b</sup>; 2015; Lame and Odekunle, 2001 etc.).

The coverage of those efforts includes conceptual theoretical and methodological considerations in the study of corruption; volume, systemic pervasiveness and seriousness of corruption; adverse effects of corruption on socio-economic development and its linkage with our under-development; assessment of the efficacy of provisions of anti-graft legislations, the performance of the concerned agencies and the offering of suggestions for enhancing their effectiveness; the sabotaging role of corruption in our security, electoral/political, and educational system; etc.

However, the occasion of this lecture is neither the place nor the time to re-render all those dimensions of the problem: it must be assumed that they are already “common” knowledge; and the chosen-topic is specifically-delimited to the offering of an effective panacea.

My relatively-brief presentation here today is not “academic” in terms of “theorizing” and “citations” of this or that “authority” for an “inaugural lecture” or publication in an academic journal. Rather, it is more of a straight-forward policy-and-strategy position for practical application or implementation. And here, I must enter a clear disclaimer: the position presented is completely mine and in no way represents that of PACAC<sup>2</sup>. With these clarification and disclaimer, Section II provides a brief situation-analysis of the problem of corruption in the country as background to Section III which offers the rationale and details the components of the “truth and restitution” policy/strategy being recommended in the context of a social-scientific approach, along with the expected outcomes. Section IV concludes with a reiteration of the imperative to avoid history repeating itself.

### **II. Situation-analysis of Corruption and the Fight against Corruption to date**

Summarily:

- a. Corruption remains endemic, pervasive, and systemic in virtually all areas of our public and corporate life;
- b. Consequences of corruption for the nation continue to be devastating to the extent that it is “killing” the polity economically, politically, socio-culturally - resulting in unjustifiable under-development all around, a situation of “poverty of citizens in a rich economy”;
- c. The anti-corruption agencies and the criminal justice system are largely ineffective against corruption and their personnel often appear corrupt and compromised in their operations and decisions thereby compounding the problems;
- d. The dominant elite-professions are inherent and actual “collaborators” in the perpetration of corruption and its recalcitrance to control e.g. the legal (bar and bench), accounting/auditing, banking professions);
- e. The two major draw-backs in the fight against corruption have been the patent absence of sincerity on the part of the political and related-leadership of the country and, on the contrary, their obvious accommodation and tolerance of corrupt practices in both the public and private sectors of the economy; and the “correlative” prevalence and un-restrained dominance of the “ethos” of individual over collective “interest” in the society.

It is against the foregoing background that the leadership of President Buhari emerged with a widely-acknowledged distinctive leadership character, integrity, and zero-tolerance for corruption, along with an observable disposition towards an ethos of putting the interests of the “collective” over and above that of the “individual”.

Already, within the short-span of four months and “new” laws or agencies against corruption, his “body-language” alone has produced certain enviable results as follows:

- the revelations about stupendous amounts of public-fund stolen via incredible and un-precedented corruption in just a few MDAs (still only a tip of iceberg );
- the “sudden” increase in our erstwhile dwindling-foreign reserves; the improvement in fuel and electricity supply;
- the “new” energy of anti-graft agencies; and,
- the anxiety and cautionary posture of the top echelons of the public service; etc.

All should be well with the fight with the emergence of this kind of desirable leadership, against corruption, – all things being equal. However, all things are not and cannot be equal because as of today, Buhari appears an oasis of integrity in a desert of corrupt “elite-collective”.

The point here is that though political will out of leadership-character may be a necessary condition in the fight against corruption, it is not a sufficient condition, especially for the long run: the leadership ethos and character must also be “institutionalized” among the dominant elites whether in the cabinet, political-party hierarchy, civil/public service, industry, the professions, and among the academic/traditional/religious institutions. Moreover, certain untoward or directly-corrupt “alleged” demands of democratic politics must not be allowed or seen to compromise the leadership’s espoused anti-corruption principles or stance. Thirdly, the reality that all things are not equal as highlighted creates a “problematic” – one that justifies the topic of this Lecture on an “out-of-the-box” policy and strategy alternative or complement to fight corruption effectively.

### **III. Imperative of a Presidential “Truth and Restitution Commission”: Rationale, Outline, and Expected Outcome**

#### ***Rationale***

Up to date, and even as of now, our dominant prevention and control policy/strategy against corruption has been the “legalistic/technical” approach, preferred by and beneficial to lawyers and perpetrators of corruption alike: a circumscribed legalistic definition of corruption and related judicial procedures which inappropriately insist that “one is innocent until proven guilty”, that “one who asserts must prove”, and do so “beyond reasonable doubt”, etc, etc.

The guiding precepts of this strategy, along with others such as “due process” and “fair-hearing”, originated in historically different socio-political and economic circumstances and against different pattern and kinds of crime. Thus, while the strategy

may do for “common” crimes such as theft, burglary, assault or murder, it is inappropriate for the crime of corruption for four reasons: the consensual nature of the crime; the usual conspiratorial circumstances of its perpetration; the socio-economic/political status, means, and interconnectedness of its perpetrators; and the diffuseness of the victimization/absence of direct of identifiable victims.

This strategy, along with related “social-order” factors, largely explains our substantial failure in fighting corruption, in spite of our “robust” anti-corruption legislations, superfluous anti-graft agencies, the hypocritical “inputs” of so-called development partners/donor-agencies and their “local” workshop-executing civil society outfits and consultants. Hear the Technical Unit on Governance and Anti-Corruption Reforms of the Presidency: “Nigeria, despite all efforts, continues to fall short of the standards and requirements of an anti-corruption regime... ” (Tugar, 2015:5).

The continuing malaise of corruption in terms of pervasiveness and seriousness, the number of stagnated corruption-cases in our courts, the apparent lethargy or inability of our anti-graft bodies, the success of the British in “handing” corruption-cases already cleared/aborted in Nigeria, the “silence” of Nigeria about Nigerians who have been found complicit in corruption-cases for which their American co-criminals have been convicted and sanctioned – these are all proof-positive of our substantial failure in denting the problem to date.

Evidence abound that the legalistic/technical approach, in our developmental context, is implicated in the observed failure (e.g. Raphael, 1995; Power and Tailor, 2011; Tugar, 2015; and Shehu, 2015). And a reasonable prognosis is that it will continue to fail in terms of desired/desirable outcomes, if un-moderated. For, even with the productive “body-language” of our current leadership, raising awareness and expectation without measurable/visible/observable enforcement and sanctions against offenders will only lead to renewed cynicism among the population and possibly even increase the incidence of corruption in the land.

Thus, for a considerably-improved outcome in our fight against corruption, it is imperative to adopt a strategic approach that complementarily tilts more towards the “social-scientific” than the “legalistic”, an approach that takes into account important variables such as the nature of the crime, the subtlety of its perpetration, the usual status of its perpetrations, its society-damaging consequences over time, and the inherent “deficits” of the currently-dominant legalistic/technical approach. Hence, the suggestion for the constitution of a Presidential Truth and Restitution Commission for the structured emplacement of such an approach as a foundation for a paradigm-shift in combating corruption.

**Outline**

Summarily, the Commission would be non-judicial and non legalistic and would be aided by a compensation-earning whistle-blowing arrangement, in solicitation/receipt of voluntary return of "stolen" public funds, in cash or kind, along with a rational "formula" for the random but systematic identification of "un-cooperative" culpable for handling-over to the anti-graft agencies for further "processing".

The mandate of the Commission would cover medium-to-large-scale corruption by both public and private sector officials from January 1986 to date.

- a. The work and decisions of the Commission would be fact-based and non-judicial.
- b. Membership of the Commission would be made up of Nigerians of proven-integrity who have never been found wanting before, and which membership would include representatives of youth/women/occupational/civil-society organizations.
- c. The Commission would publicly advertise and enlighten "all and sundry" in the country about its mandate and invite any and all past public and private sector office-holders since 1986 who had engaged in medium-to-large-scale corruption to voluntarily appear before the Commission to confess and retribute with forfeiture of a minimum of 75% of the current value of the money/assets stolen – within a window-period of three (3) months of the advertisement/invitation, without any further sanctioning/punishment thereafter.
- d. Simultaneously, the Commission would publicly advertise to encourage and invite "whistle-blowing" with promise of protection of identify and a 10% reward from any actually-recovered stolen funds arising there-form.
- e. Meanwhile, the Commission would recruit hundreds of "fresh" NYSC graduates from various relevant disciplines for "indoctrination" against corruption, followed by appropriate intensive training at home ad abroad with provision of "incentivizing" salary and conditions of service and subsequent deployment to service the Commission, and to replace many of the current "operations" staff of the anti-graft agencies – an exercise that should amount to virtual "blood-transfusion" for the agencies – as well as to other critical MDAs as "staff".
- f. At expiration of the three-month-grace of "voluntary" confession/restitution, the Commission would embark on a random but continuous "sampling" of both past and current public/private-sector officials – with the aid of whistle-blower information already available to it and the following assets-investigation formula: CG+CS+VA-LI=PC

Where	CG	=	Consumed Goods
	CS	=	Consumed Service
	VA	=	Verified Assets
	LI	=	Legitimate Income
	PC	=	Presumed Corruption (for investigation)

*All instance of those found "wanting" would be transferred/handed-over to the appropriate anti-graft agencies, along with the "files" on them for "processing" towards full assets forfeiture and imprisonment without the fine-option.*

- g. Subsequently, the Commission would "routinely" apply the formula to currently serving office-holders in both the public and private sectors, especially with "inputs" from whistle blowers.
- h. The "life" of the Commission would be for five (5) years to enable it cover as much of the required ground as possible and lay a solid foundation against rampant corruption in our public/corporate life.

**Expected Outcome**

- a. There will be more credible and observable effectiveness of the fight against corruption as well as relative minimization of the "wrecking" legislative and judicial shenanigans that currently obtain and sustain the prevailing untoward "corruption-environment" which says that corruption pays if you have the "enabling" political/economic status and/or the associated financial means to hire high-flying lawyers or to compromise investigation by anti-graft agencies.
- b. There will be a coordinated and focused structure against corruption under the Presidency without the problem and the various concerned agencies distracting the President from his other onerous important responsibilities.
- c. Bringing past corrupt officials to account will help in sabotaging the mindset of impunity among both the public and private sector elites as well as convince the population-at-large that the government is actually sincere about fighting corruption, with consequential widespread integrity dividend.
- d. There will be recovery of a considerable proportion of the stolen funds "lost" to the country in the last three decades or so, without a "revolution", funds that will be channeled to further people-oriented development.

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<sup>9</sup> Guest Speaker at the 1<sup>st</sup> Annual Fellows Lecture and 4<sup>th</sup> Investiture Ceremony, October 13, 2015

- e. Expectedly, it will “force”, as it were, the “institutionalization” of the current leadership’s ethos and disposition among our “elite-collective” and thereby the reduction of their proclivity to corruption.
- f. Finally, overall, there will be an enhancement of the “sanitization” of our public and corporate life towards transparency, accountability, and integrity for the present and foreseeable future.

#### **IV. Summary and Concluding Remarks**

In this brief Lecture, I have provided as background a situation-analysis of our problem of corruption and our substantial failure to date in combating it; highlighted the “culpability” of the legalistic/technical approach in the observable failure; and justified the imperative of a complementary “out-of-the-box” approach with a social-scientific bent, through the constitution of a Presidential Truth and Restitution Commission, along with the expected “benefits”. It is now left for me to make a few concluding remarks.

The thrust and arguments of my presentation notwithstanding, I am not unaware of certain inherent advantages of the legalistic strategy of handling corrupting nor of its very occasional “successes”; rather, it is just that the strategy and its operators on the whole, and in our particular development-setting, make the medicine more sickening and counter-productive than the ailment it is prescribed to heal. Hence, my advocacy for a complementary social-scientific approach.

Again, I am not unaware of on-going emergent or even possible reforms/adjustments of our dominant anti-corruption regime. And in actual fact, I have recently re-offered some of my own long-held “offerings” in that direction: perception of corruption as a security-issue; conception/definition of corruption beyond the financial; Presidential “motivational” dialogue to leaderships with corruption-collaborating professions and pungent anti-corruption performance “directives” to Chief Executive of critical MDAS; “naming and shaming” of corrupt elites to become a public-policy as well as withdrawal of National Honour from corrupt individuals; census of landed-property in Abuja, Lagos, Kaduna and other state capitals to determine ownership and source of funding; and social mobilization of the generality of the citizenry against corruption etc (Odekunle, 2015).

While such reforms/adjustments can be helpful, they are likely to take time, be bogged-down in implementation-bureaucracy, or be incremental in value-adding at best. Yet, the problem is serious, the attention needed is urgent, and the current leadership’s needs to seize the opportunity now. This may explain why the latest and fairly-exhaustive academic-policy book on the problem manifests some frustration in its closing pages:

*“Reflecting on the problem of corruption in Nigeria, it may seem that only revolution of a sort will solve the problem..... when I am contemplating a revolution, I am not advocating the kind of drastic change that brought the Bolshevik Russia or Communist China, Strong, meaningful and courageous reforms can be undertaken which may be akin to a revolution..... The opportunity is now or never” (Shehu, 2015: 417-418)*

Hence, my suggestion of a Presidential Truth and Restitution Commission for relatively-immediate impact. For, again as Shehu asserts, “most importantly, the strategic approach to the prevention and control of corruption must be impact-oriented” (Shehu, 2015:381). The impact of the work of the Commission as outlined would reverse the corruption-engendering progressive destruction of our erstwhile enviable leadership/societal ethos from mid-1980s to date. And for those who can remember previous attempts at “sanitization” of the polity (Murtala in 1976; Buhari in 1984; and Obasanjo’s “no sacred cow” in 1999). The imperative of the central-suggestion of this Lecture needs no underscoring. Our history of failed-attempts on the matter should not be allowed to repeat itself.

I must now bring this Lecture to a close by once again, thanking my colleagues in the Academy for honouring me with the rare privilege of delivering our 1<sup>st</sup> Annual Fellows’ Lecture, and by congratulating our colleagues who will soon be honoured and being adorned with the Fellowship of our esteemed Academy.

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<sup>10</sup> .PACAC is Presidential Advisory Committee Against Corruption of which the speaker is a Member



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