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Corporate Criminal Liability as a Catalyst for Effective Anti-corruption War in Nigeria.

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Abstract. One of the focal point of campaign in the build up to the presidential elections in 2015 was the promise of anti-corruption fight. This is because corruption has been one of the challenges of Nigeria's development as the country has been persistently listed as being among corrupt countries in the world. According to former President Olusegun Obasanjo, corruption is a cankerworm that has eaten deep into the fabric of the Nigerian society. Usually, in cases of corruption which has to do with bribery especially when large capital is involved, corporations are usually involved either as offeror of bribe, facilitator of bribe or are used to syphon funds illegally acquired through corrupt activities. A cursory look at the anti-corruption fight of the present administration and of past administrations in Nigeria will show that the focus has been on individuals who are involved in corruption to the exclusion of the corporations involved. Yet, as stated earlier, it is almost impossible where large amount of money is involved for corrupt acts like bribery to be done without involving companies. However, most times the companies are not prosecuted or at best prosecuted for other offences. Thus, the question is whether there are limitations or defects in Nigeria's anti-corruption legislation or whether the lack of or inadequate prosecution of companies for charges of corruption is as a result of some other factors. Therefore, this paper examines the Nigerian legal framework on corruption with a view to identifying limitations if any to an effective anti-corruption fight. The paper argues that there is the need for reforms of the Nigerian anti-corruption legislation in order for the country's anti –corruption war to be effective.

1. Introduction

There have been incidences of bribery and corruption in Nigeria involving corporations. Yet, there is a dearth of cases involving the criminal prosecution of corporations for corruption. For example, international oil and gas company Halliburton admitted to have bribed certain top government officials in Nigeria through its subsidiary KBR in order to secure contract for the construction of the liquefied natural gas plant in Bonny Island, South of Nigeria. Halliburton has since been convicted in the United States after it admitted the bribe. However, Nigerian companies indicted in the Halliburton saga have not been prosecuted. Similarly, the criminal charges against construction company Julius Berger Nigeria P.L.C. which served as a conduit through which the bribe was paid were dropped and it entered into a plea bargain agreement with the government and gave up about twenty six million dollars to the coffers of the government. The resort to plea bargaining is probably because of the limitations inherent in the existing legal framework with respect to prosecuting corporations.

More than seventy five companies were indicted in the House of Representatives Adhoc Committee Report on fuel subsidy fraud in 2012. The report showed high level of

corruption between public officials and corporations mainly limited companies in Nigeria. The Economic and Financial Crimes Commission which is the main anti-corruption regulator in Nigeria commenced the prosecution of companies and individuals indicted in the fuel subsidy fraud and curiously got its first conviction after five years in January, 2017. Thus, *Ontario Oil & Gas* was convicted together with its chairman and managing director in a #1.9 billion oil subsidy fraud case. However, the prosecution and conviction was for offences of *conspiracy, theft e.t.c* which are lower offences compared to corruption; this is likely because of the limitations in the existing anti-corruption legislation for prosecuting corporations.

2. The Limited Liability Company/Corporation

The origin of the idea of a corporation dates back to medieval times in Europe. It started with the Greeks and later extended to the Romans. Under the Roman Empire, trade, religious and charitable entities were allowed to own properties and were recognised as having an identity separate from that of the individual members. It has been suggested that one of the reasons for creating the artificial person is in order to confer legal immortality thereby ensuring perpetual succession. Another reason is to facilitate the holding of property. In medieval England, one purpose was the holding of property for the church and local government boroughs. Thus, the limited liability company was created to take care of the organised group. The medieval English law felt there was a need for certain groups to have a legal existence that could survive the individuals. Boroughs and colleges were the first set to be treated as corporations aggregate and this could only be created with the consent of the monarch expressed through a royal charter. Trading guilds and some commercial groups were then granted the royal charter and this assisted the traders in monopolising their trade or business. This practice laid the foundation of modern corporations and incorporation.

This practise has since evolved and given statutory recognition in Nigeria by virtue of section 37 of the Companies and Allied Matters Act 2004 which provides:

"As from the date of incorporation mentioned in the certificate of incorporation, the subscriber of the memorandum together with such other persons as may from time to time become members of the company, shall be a body corporate by the name contained in the memorandum capable forthwith of exercising all the powers and functions of an incorporated company including the power to hold land and having perpetual succession and a common seal, but with such liability on the part of the members to contribute to the assets of the company in case of its being wound up"

Furthermore, CAMA in section 38 (1), equates the company to the status of a natural person as it provides that a company shall have all the powers of a natural person in furtherance of its authorised objectives. Thus, an incorporated company/corporation is treated as a distinct person in the eyes of the law, separate from its owners. These statutory provisions have been given judicial recognition in a long line of cases.

3. Can a corporation be criminally liable?

The idea of the criminal liability of a corporation determines the extent to which a corporation as a legal person can be liable for acts and omissions constituting violations of the criminal law; but which in reality are the acts and omissions of the natural persons it employs. Although, the very idea of corporate crime and criminality might seem contradictory because of the fact that a corporation can only be formed for lawful purposes; therefore, it might be argued that the idea of a corporate crime will be *ultra vires* the powers of a corporation. However, corporate criminality is not only confined to a corporation incorporated to achieve an illegal purpose. The idea of corporate criminality revolves around a corporation which is incorporated for a valid and legal purpose but which in the course of its legitimate activity commits acts or omissions which are violations of the criminal law. Further, the fact of recognition of the legal personality of a corporation itself is a justification for the recognition of corporate crime. By recognising

the legal personality of a corporation, it means the corporation is a *rights and duties* bearing entity; so its acts and omission to perform some duties might constitute responsibility for a crime.

The idea of corporate crime and criminality has also been questioned when it relates to the traditional notion of crime as mainly street crime; this might also make the idea seem strange. In fact, the word corporate crime was probably influenced by Sutherland's White' Collar Crime, which he described as a crime committed by a person of respectability and high social status in the course of his occupation. However, corporate crime differs from white collar crime because the focus of corporate crime is organisational as opposed to individual liability of white collar crime. Another difference is the use of corporate resources and the beneficiary from the crime. The direct beneficiaries of corporate crimes are not usually the employees or agents who commit the crime; rather it is the shareholders whose investments are affected by corporate decisions. In white collar crimes, the direct beneficiaries are usually the perpetrator of the crime. Yet, a particular crime can satisfy both the definition of white collar crime and that of corporate crime. For example, some criminal acts can both help to achieve organisational goals and at the same time benefit an individual member of the company, nevertheless; as stated earlier the motivation for corporate crime is organizational and not personal. A corporation upon incorporation becomes a part of the society and thus a party to the social contract existing in the society. Therefore, the corporation should behave in ways that conform to the accepted norms and standards of the society. The fact of incorporation means that the corporation assumes the individualistic nature of responsibility and thus should be criminally responsible when they commit acts which are criminal in nature. According to Mr. Justice Turner in the preliminary ruling on the Herald of Free Enterprise case:

"Since the nineteenth century there has been a huge increase in the numbers and activities of corporations whether nationalised, municipal or commercial whose activities enter the private lives of all or most of 'men and subjects' in a diversity of ways. A clear case can be made for imputing to such corporations social duties including the duty not to offend all relevant parts of the criminal law."

4. The Basic Ingredients of a Crime:

Generally, the basic ingredients of crime are the *actus reus* and the *mens rea* and this applies to corporations as well. Therefore, before a corporation can be said to have committed a crime, the twin ingredients of *actus reus* and *mens rea* must be present.

Actus reus simply means the act or omission that constitutes the crime or the forbidden act. It is the external element of a crime. The *actus reus* of every crime is different, that is why, in some crimes, it is the physical act or conduct that will constitute the *actus reus*. While in some others, it is the omission to do an act. With respect to the physical act, the action must be voluntary because without the voluntariness, the act itself is defective. Thus, in order for a corporation to be guilty of a crime, these ingredients must be present. It is relatively easy to accept that a corporation has the *actus reus* of an offence, especially if the offence is one that requires an omission to perform a duty. In fact, the recognition of a corporation as a legal person presupposes that it can do certain acts. After all, legal personality is recognition of an entity as capable of bearing rights and liabilities.

Mens rea simply means the guilty mind or the mental element of an offence. It is the intention that precedes the commission of a crime. Words like recklessness, negligence and intention have been described as constituting *men srea* Blame and responsibility are used to explain the *mens rea.* That is why children and the insane are usually said to lack the *mensrea* to commit an offence. It has however proved to be the main challenge to corporate criminal liability; after all, a corporation actually has no physical body. It seems difficult therefore to attach the mental element necessary for criminal responsibility to it.

5. Corruption

Corruption has been described as conducts violating established norms in order for selfish gain at the expense of the public. It therefore includes acts of embezzlement, conversion of public funds and bribery.

Bribery as an indication of corruption has been of global concern with international initiatives to curb its menace. An example is the Organisation for Economic Cooperation and Development (O.E.C.D) Convention on Combating Bribery of Foreign Public Officials in International Trade Practices which is intended to criminalise bribe in international business dealings. The O.E.C.D Convention was signed in 1997 to enhance the global fight against corruption in international business irrespective of where the offence is committed. It however introduced the principle of "functional equivalence" which urged member states to adopt whatever measures that will be effective in the light of the different criminal justice system. As stated, in cases involving bribery and corruption especially when large amount of capital is involved, corporations are usually involved either as offeror of bribe, the facilitator of bribe or are used to syphon funds illegally acquired through corrupt activities.

Also, there is the joint OECD/AFDB initiative to support African countries in their fight against bribery of public officials in business transaction and to improve corporate integrity and accountability. There is also the African Union Convention on Preventing and Combating Corruption 2003 which seeks to address corruption in both the private and public sectors across the continent.

6. **The Nigerian Anti-Corruption Legal Framework**.

The Corrupt Practices and other Related Offences Act

The main anti- corruption legislation in Nigeria is the Corrupt Practices and Other Related Offences Act (ICPC Act). It establishes the Independent Corrupt Practices and Other Related Offences Commission which is the body charged with the investigation and prosecution of corruption and other related offences stated with the Act.

Although the ICPC Act is the main anti-corruption legislation in Nigeria, it in fact recognises the existence of other legislations on corruption. Thus, Section 61(1) provides that prosecution for an offence under the ICPC Act *or under any other law* prohibiting bribery and corruption will be deemed to be done with the Attorney General's consent. Therefore, the ICPC Act gives prosecutors an alternative and a wider platform to prosecute bribery and corruption. It creates offences involving both the giving and receiving of bribe.

Section 8 creates the offence of official corruption and provides that it is an offence to corruptly ask for, obtain or receive or agree to obtain or receive any form of benefit for oneself or for another person in relation to the discharge of official duty of a public official. Section 9 also makes it an offence of official corruption for a person to give or attempt or promise to give any benefit to a public officer in order for a favour or disfavour to be done by that public officer. It is immaterial whether such benefit was given or promised to be given through an agent or not. In addition, section 10 also provides that, it shall be an offence to ask for or receive or agree to receive any benefit of any kind whether for oneself or for another person in relation to anything to be done or omitted to be done by a public official. This provision of section 10 is different from the provisions of sections 8 and 9 because section 10 creates a strict liability offence while sections 8 and 9 require a mental element.

Apart from official corruption created in sections 8, 9 and 10 above, The ICPC Act also creates a general offence of bribery which also captures both the giving and receiving of bribe. Section 17(1) A provides that any person who corruptly accepts or agrees or attempts to accept any consideration or gift for himself or for another person as a reward or inducement for doing anything is guilty of an offence. Section 17(1)B provides further that any person who corruptly gives or agrees or attempts to give any consideration or gift to an agent as a reward or inducement shall be guilty of an offence. Also, section 23(1),(2) and (3) places a duty on any person from whom bribe or gratification has

been requested, or to whom bribe has been given to report to the commission or a police officer.

Thus, the ICPC Act creates various types of bribery offences which include official corruption and bribe in relation to private business dealings. However, there are no provisions in the ICPC Act on offences by a corporate body. It must be noted however that section 2 defines the word "person" to include natural persons and anybody of persons both corporate and incorporate. It can thus be argued that the ICPC Act is applicable to both natural and corporate persons. Also, some of its provisions are appropriate to corporations. For example, the provision of section 9 which makes it an offence to give or promise or attempt to give benefit to a public official in return for a favour is appropriate for a corporation. This is because section 9(2) a, and b provides further instances of such favour or disfavour that is likely to be given by the public officer in return. It includes when the giver is seeking a contract, license, employment, permit or any business transaction with the government. It is not surprising therefore the admission by international firm *Halliburton* that it gave two million, four hundred thousand dollars in bribe through some companies to some public officials in Nigeria.

In addition, the provisions of section 13 which makes it an offence to receive the proceeds of a felony or misdemeanour outside Nigeria can apply to instances when banks are used as conduit through which bribe is transferred outside the country. However, the challenge is that the provisions of sections 8 and 9 require a mental element for criminal liability. Yet, the Act is silent on how to determine the mental element of a corporate body in respect of a crime. Therefore, it becomes impossible to prosecute a corporation for the offences in sections 8 and 9.

Another limitation of the ICPC Act is in respect of sanctions. The sanctions are inadequate as corporate sanctions. This is because imprisonment and fine are the only sanction recognised under the Act. Clearly, a corporate body cannot be imprisoned. Although, both the Criminal Procedure Code and the Criminal Procedure Act provide that a fine can be imposed in lieu of imprisonment. Nevertheless, there is the need for other sanctions beyond fine and imprisonment.

Criminal Code

The Criminal Code (CC) is the main criminal law legislation applicable in the southern part of Nigeria. It provides for the offence of official corruption in section 98. Section 98 creates the offence of official corruption as when a public official corruptly asks for, receives or attempts to receive a benefit or property for himself or for another person in exchange for a favour. Section 98A provides further that it is an offence for a person to corruptly give or promise to give a public official any benefit or property in exchange for a favour by the public official. Thus, sections 98 and 98A apply only to when a public official asks for or is given bribe.

In addition, section 98B provides that it is an offence for any person to corruptly receive or ask for any benefit for himself or for another person in respect of any favour to be done by a public official. So, section 98B applies to when a person who not being a public official receives or asks for bribe in order to influence the decision of a public official.

Generally, the application of the provisions of sections 98, 98A and 98B to corporations is inadequate because of the following reasons. First, sections 98, 98A and 98B do not create specific offences by a corporation. Although, it can be applicable to a corporation because the definition of a person in section 1 of the Code includes all kind of corporations; nevertheless, there should have been more definite provisions on official corruption by corporation because of its peculiarity as an artificial entity. Also, the word *corruptly* as used in sections 98, 98A and 98B requires a mental element. However, there is no provision in it on how to determine the mental element of a corporation being an artificial body.

In addition, it seems that a corporation was not in contemplation when the Criminal Code was being enacted. This is because the only sanction for violating the provisions of sections 98, 98A,

and 98B is a term of imprisonment without an option of fine. Clearly, a corporation cannot be imprisoned. Although, section 382 of the Criminal Procedure Act provides that a fine can be imposed in lieu of imprisonment. An option of fine would have been included as a sanction in sections 98, 98A and 98B if a corporation was in contemplation of the Criminal Code.

Another limitation is that the offence as provided in sections 98, 98A and 98B is limited to official corruption and does not apply to bribe given or accepted in respect of private transactions. This is inadequate for prosecuting corporations because corporations can engage in corrupt activities in private transactions and not necessarily in official corruption alone.
Finally, the application of the Criminal Code is limited to the southern part of Nigeria. Thus, the Criminal Code is not adequate for prosecuting corporations because corporate activities and criminality can be international in nature.

Penal Code

The Penal Code is the main criminal law legislation applicable in the northern part of Nigeria. It creates different offences of bribery and corruption in sections 115 to 122. Section 115 provides that it is an offence for a public officer to accept or attempt or agree to accept any gratification for himself or for another person as a reward or motive for doing an official act. Also, section 116 provides that it is an offence for any person who is not a public officer to accept or attempt or agree to collect gratification as a motive or reward for inducing a public officer to perform an official act. In addition, section 117 provides that it is an offence for a public officer to aid or abet a person to accept gratification under section 116. Section 118 provides that it is an offence for a person to give gratification in the circumstances mentioned in sections 116 and 117 above.
Apart from the bribery offences stated above, section 119 creates the offence of official corruption. It provides that it is an offence for a public officer to accept any valuable without adequate consideration from any person which he knows is involved in a transaction by a public officer. Similarly, section 120 provides that it is an offence to offer a public officer any valuable without adequate consideration when the giver is involved in a transaction before the public officer. Also, section 122 provides that it is an offence for a public officer to dishonestly receive unauthorised money or any property in his capacity as a public officer.

However, unlike the Criminal Code, the Penal Code also extends liability to a person who is not a public officer and who is not the giver of bribe to a public officer. Section 121 provides that it is an offence for a person who is knowingly a beneficiary of a corrupt transaction notwithstanding that the person did not take active part in the transaction. Thus, the Penal Code creates wider offences than the Criminal Code. It in fact extends liability to a beneficiary of a corrupt transaction who did not take part in the transaction.

Nevertheless, its application to corporations is inadequate. This is because it does not create a specific offence by a corporation/corporate body. Although, it can be applicable to a corporation because the definition of a person in section 5(1) of the Penal Code includes all kind of corporations, nevertheless, there should have been more definite provisions on corporations because of its peculiarity as an artificial entity.

In addition, the offences in sections 115, 116, 118, 119, 120, 121 and 122 require the proof of a mental element. Yet, there is no method of determining the corporate *mens rea* under the Penal Code. Also, it provisions on sanctions are inadequate. Fine and imprisonment are the only sanctions provided in respect of the above offences. Clearly, a corporation cannot be imprisoned. Although a fine can be imposed in lieu of imprisonment, however, a fine can only be effective as a corporate sanction if it is in the nature of equity fine. Thus, although the provisions of the Penal Code on bribery and corruption are wider than that of the Criminal Code, it is inadequate for holding corporations criminally liable for corruption.

The Money Laundering Act

The Money Laundering Act (MLA) is also one of the legislations enacted to tackle the menace of corruption in Nigeria. As earlier noted, the

ICPC Act is mainly focused on the offence of bribery and related offences. Therefore, the Money Laundering Act focuses on the prevention and punishment of laundering funds gotten through illegal trade in narcotics which is also a form of corrupt act. It also has the mandate to empower the National Drug Law Enforcement Agency to place surveillance on bank accounts since most proceeds of money laundering and other corrupt practices pass through banks as financial institutions.

Thus, the main offence created in the Act is the offence of money laundering. Section 14 defines money laundering as when a person transfers or converts, aids or collaborates with another person to transfer or converts resources or property derived from illegal trafficking in psychotropic substance and narcotic drugs with the intent to conceal or disguise the origin. The MLA does not provide for specific offences by corporations. Also, money laundering is defined loosely to apply to both natural and corporate persons. The Act however provides in section 17 that when a corporate body commits an offence under the Act, such corporate body and any of its official who instigated the commission of the offence shall both be liable. However, a challenge in applying the MLA to a corporate body is that the offence created in section 14 requires the proof of a mental element. Yet, there are no provisions on how to determine the mental element of a corporation in respect of crime in the MLA. Thus, like under the ICPC Act, it is practically impossible to prosecute a corporation for violation of the provisions of section 14 of the MLA. However, it is more definite with respect to sanctions as section 17 (2) provides that a corporate body guilty of an offence under the Act shall be wound up and have its assets forfeited to the Federal Government of Nigeria.

Another limitation in the MLA is its ambiguity with respect to its territorial application. The provisions of the Act are unclear in this aspect. There are some inconsistencies in the Act. First, the offence of money laundering is defined loosely in section 14 (1) and does not specify whether the word "person" as used in the Act is limited to a citizen or resident of Nigeria or a corporation incorporated in Nigeria. Secondly, section 14 (2) provides further that a "person" shall be liable under the Act not withstanding that the various acts constituting the offence was committed in different countries.

The implication of the above provisions of section 14 (1) and (2) is that any person including a corporation of whatever nationality that commits the offence anywhere in the world is liable under the MLA. For example, it means that a German citizen or corporation who launders money in America can be liable under the MLA. Clearly, this cannot be the intention of the parliament. In contrast, section 2 places a duty on banks or financial institutions to report transfer of funds or securities more than 10,000 dollars to or from Nigeria to the Central Bank of Nigeria with the particulars of the parties involved in the transaction. Section 6 also places a duty on a bank or other financial institutions to place surveillance on any suspicious transaction of a corporation involving more than 2 million naira or its equivalent especially where there appears to be no lawful justification for it. Therefore, based on the provision of sections 2 and 6, any transfer of funds between any two countries outside Nigeria is not governed by the MLA even if such transfer is done by Nigerian citizen or resident. Thus, the correct interpretation will be that the territorial jurisdiction of the MLA is limited to when any part of the transaction took place in Nigeria. However, there is need to clear the ambiguity created in section 14(1)

Advanced Fee Fraud and Other Fraud Related Offences Act

The Advanced Fee Fraud and Other Fraud Related Act create offences pertaining to advance fee fraud and related offences. It also creates the offence of laundering funds through illegal activity. Section 7 provides that it is unlawful to conduct or attempt to conduct a financial transaction with funds which is a proceed of an illegal activity with intent to conceal the source and ownership of the fund or with intent to avoid a lawful transaction. Thus, the definition is wider than that given by the Money Laundering Act. It covers the transfer of funds gotten through an illegal activity.

Therefore, transaction involving funds which are proceeds of bribery comes under the AFF Act.
There are no specific corporate offences in the AFF Act; however, there are provisions in the AFFA Act which refer to a corporation/ corporate body. For example, section 10 provides that when an offence under the Act is committed by a corporate body and it is proved that the offence was committed with the connivance of an officer of such corporate body, both the corporate body and the officer will be liable. Also, section 7 (3) creates a specific offence by a financial institution who fails to discharge its duties with due diligence. However, a challenge in applying the AFF Act to a corporate body is that the offence of money laundering as defined in section 7 requires the proof of a mental element. Yet, the Nigerian criminal laws have not developed the means of determining the mental element of a corporate body. Therefore, the AFF Act is inadequate for prosecuting corporations.

With respect to sanctions, the AFFA has more sanctions that are suitable for the corporate offender. Fine, winding up and restitution are sanctions recognised under the Act. For example, section 7 (2) A provides that a corporate body which launders funds shall be liable upon conviction to a fine in the sum of 1million naira or forfeiture of its assets worth 1million naira. Also, section 11 provides that in addition to any other sanction imposed, restitution order may be made against a person convicted. Similarly, section 10 states that the court may order that a corporate body convicted under the Act be wound up and its assets forfeited to the Government.

7. Conclusion and Recommendations

Generally, Nigeria has a robust legal framework for corruption. However, the legal framework is inadequate for holding corporations criminally liable because of the following reasons.
Firstly, there are four legislations on bribery and corruption in Nigeria as discussed but none of the legislation is comprehensive and adequate for prosecuting corporations for corruption. The provisions of both the Criminal Code and the Penal Code are inadequate for prosecuting a corporation for corruption because the offences under both the Criminal and Penal Code requires the proof of a mental element. Yet, both legislations are silent on how to determine the mental element of a corporate body. Also, imprisonment without an option of fine is the only sanction provided in the Criminal Code. In addition, the corruption offences created under both legislations are inadequate and applies only to official corruption. It does not apply to bribery and corruption in private business transactions.

However, the ICPC Act which is the main anti-corruption legislation in Nigeria constitutes an improvement on both the Criminal and Penal codes; this is because the bribery offences under the ICPC Act are wider than that of the Criminal and Penal codes. The ICPC Act meant to be a holistic anti-corruption legislation creates various types of bribery offences applicable to both natural and corporate persons. In addition, it is of wider territorial application and applies to international corruption when either party to the act is a citizen or resident of Nigeria.

Yet, the ICPC Act has its limitations and is inadequate for prosecuting corporations. Offences of giving and receiving bribe in sections 9 and 8 require the proof of a mental element and there is no way yet to determine the mental element of a corporation under the Act or any criminal legislation in Nigeria. Although, section 10 creates a strict liability offence without the need for a mental element, however, even if a corporation is convicted under section 10, the corporation may not be adequately sanctioned. This is because the provisions on sanctioning are inadequate as only imprisonment and fine are the sanctions recognised under the ICPC Act.

In the same vein, both the Money Laundering Act and Advanced Fee Fraud Act are inadequate for prosecuting corporations. This is mainly because of the challenge of determining the mental element of a corporation as the offences require the proof of a mental element. In addition, it is submitted that the Money Laundering Act is unnecessary and only represents a duplication of law as the Advanced

Free Fraud and Other Related Offences Act gives a wide definition of money laundering offence to mean transfer of funds gotten through illegal activity. Thus, the offence of money laundering created under the Money Laundering Act as transfer of funds gotten through trade in narcotic drugs is superfluous. Trade in narcotic drugs can be accommodated under the Advanced Fee Fraud and Other Related Offences Act.

As stated, another limitation inherent in all the legislation is that of inadequate corporate sanctions. All the legislations discussed above do not have adequate and suitable corporate sanctions that can achieve the goals of sanction. Fine is the major sanction common to all the legislations but fine can be most effective as a corporate sanction if it is in the nature of equity fine and this is still alien to the Nigerian criminal jurisprudence. Apart from fine, other corporate sanctions like community service, corporate probation and adverse publicity should be introduced. Although section 10 of the Advanced Fee Fraud Act provides for winding up as a sanction, it is however submitted that winding up should be rarely used as a corporate sanction. This is because the ultimate goal is not to stifle corporate growth but rather to ensure that corporations behave in acceptable ways.

Thus, there is a need for the reform of the Nigerian legal framework for anti-corruption for an effective anti-corruption fight. Specifically, the reforms should target developing a model for determining the mental element of a corporation/corporate body and developing suitable corporate sanctions that will achieve the ultimate goals of sanctions. It is also recommended that the Money Laundering Act should be abolished as it is unnecessary and merely constitutes a duplication of the law.

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