

ECONOMIC CRIME AND THE RULE OF LAW

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Introduction

I have been asked to speak on the topic, “Combating Economic Crime from the ambits of the Rule of Law – the Challenge for Nigeria”. It is a theme that is both fascinating and topical. It raises a number of interrelated questions: What is economic crime? Is economic crime the same as corruption? Why does combating economic crime raise issues about the rule of law? And what is this rule of law business anyway, and why do we have to uphold it? Are there any issues that fighting economic crime in contemporary Nigeria raise in relation to the rule of law?

My lecture will be in four parts: first, I will explain the concept of the rule of law; secondly, I will define what we mean by economic crime; thirdly, I will examine the nature and causes of economic crime and corruption in Nigeria; and lastly, I will look at impact and consequences. I will then offer some concluding reflections on the way forward.

I am an economist and political philosopher. I am a non-lawyer. But I must confess that, at the risk of sounding immodest, I have been a student of jurisprudence of legal from Hugo Grotius and Emmerich Vattel to H. L. A. Hart and Ronald Dworkin. This background equips me to better understand the dilemmas of economic crime, corruption, the rule of law and economic development.

My perspective derives from the rights-based approach to development. This approach sees development as ultimately about how to expand the possibility frontiers of human liberty and empowerment. Human security is vital in that context. Grand corruption and other forms of economic crime defeat not only the objective of human development; they constitute a danger to both liberty and social justice.

1. The Rule of Law or the Rule of the Strong?

The rule of law is a subject that is as old as Plato and Aristotle. As every schoolboy or girl knows, Socrates was compelled to drink hemlock and die over the absurd accusation of having corrupted the minds of the youths of the ancient Greek city-state of Athens. As recorded by his faithful student Plato, Socrates contested the accusations to the very end. But he agreed to take the hemlock that led to his

death. To the very end, he preferred to uphold the laws of Athens rather than hold its institutions in ridicule or undermine the integrity of the state. Socrates chose to uphold the rule of law even if it meant his own death.

The philosopher Aristotle famously remarked that in a state governed by law, "God and reason alone rule". By contrast, "passion perverts the minds of rulers, even if they are the best of men". In the Age of Absolutism, Louis XIV of France could boldly declare that, "l'état c'est moi!" in the absolutist state, government and the law were embodied in the person of the monarch. He was the spring and fountain of law. He could do no wrong. The courts and the system of laws were operated by judges that were beholden to him. Justice by definition was what the monarch declared it to be.

The solemn declaration embodied in Magna Carta 1215 enshrined the principle of government based on the rule of laws rather than the rule of arbitrary power in English constitutional government. Magna Carta determined once and for all that no subject of Her Majesty could be imprisoned on the basis of illegality and that everyone is entitled to access to justice in a fair and predictable manner. These principles became codified in the English Bill of Rights 1689. Then as now, it is well understood that, in order to prevent arbitrariness, government must be subordinate to the rule of law. Lord Denning, perhaps the greatest English judge of the last 100 years, declared Magna Carta to be "the greatest constitutional document of all times – the foundation of the freedom of the individual against the arbitrary authority of the despot"

In the political revolutions that swept through eighteenth century Europe, the principle was established that the state could no longer be synonymous with the person of the leader or his functionaries. The English jurist A. V. Dicey defined the rule of law in terms of three universal principles: "(1) the absolute supremacy or predominance of regular law as opposed to the influence of arbitrary power; (2) equality before the law or the equal subjection of all classes to the ordinary law of the land administered by the ordinary courts; and (3) the law of the constitution is a consequence of the rights of individuals as defined and enforced by the courts."

The rule of law has to do with just and impartial application of the rules that govern society in a manner that ensures justice and fairness to all. The rule of law is about both the 'ends' and the 'means' of justice. The ends or objectives relate to the existence of a government that is bound by law in all the conduct of its functionaries and institutions. The second end or objective is the principle of equality before the law. The third is the guarantee of law and order. And the fourth has to do with respect for human rights and liberties.

The rule of law embraces several precepts as enunciated by the late Harvard political philosopher John Rawls. First, there can be no offence without a law (Nullum crimen sine lege). Law must be known and expressly promulgated and its rules clearly defined. Second, law must be of universal application – it cannot be applied to some and not to others. Thirdly, the law must be in conformity with the precepts of natural justice. Fourth, they must be addressed to rational minds and be in accord with rational reason. Fifth, the courts must be able to apply them impartially as well as effectively. Sixth, law cannot be inconsistent with other laws and must aim to serve the common good. And lastly, law must

ultimately aim to promote and protect the liberties of the individual. Even when a law restricts liberties, it should be for the ultimate purpose of further enhancing human liberties. In his words, “liberty can be restricted only for the sake of liberty itself”.

Three vital institutions are also central to the rule of law. These are: the existence of a comprehensive and clear body of laws; secondly, existence of a system of well-functioning and independent judiciary; and thirdly, existence of effective law enforcement agencies.

If one might echo the homilies pronounced by President Barrack Obama during his first African safari, the rule of law is always and everywhere to be preferred to the rule of men, no matter how strong.

Its ultimate objective is that institution of civil government must at all times be bound by law in spirit and in practice. Even in extreme situation where civil liberties may justifiably be restricted, they must be approached as a matter of temporary necessity. The struggle against economic crime and corruption amounts to a war. It is a war we are determined to win. It said that all is fair in war and love. As a non-lawyer I would insist that violent extremists who aim to overturn the constitutional have a lesser claim to fairness under the law than genuine dissenters who remain faithful to the spirit of our laws. Whilst I abhor torture and condemn what the Americans did at places such as Guantanamo Bay, I would insist that criminals who threaten the very survival of our polis should have no entitlement to mercy.

The International Commission of Jurists, in their 1955 Declaration at Athens, reaffirmed, that, inter alia: (1) The State is subject to the law; (2) Governments should respect the rights of the individual under the Rule of Law and provide effective means for their enforcement; (3) Judges should be guided by Rule of Law, protect and enforce it without fear or favour and resist any encroachments by governments or political parties on their independence as judges; (4) Lawyers of the world should preserve the independence of their profession, assert the rights of the individual under the Rule of Law and insist that every accused is accorded a fair trial; and (5) They called upon all judges and lawyers to observe the principles and Request the International Commission of Jurists to dedicate itself to the universal acceptance of these principles and expose and denounce all violations of the Rule of Law.

2. On the Conceptualisation of Economic crime

In researching and preparing for this lecture, I was surprised to know that the concept of ‘economic crime is really not well developed in common law jurisprudence. Of course, we have the criminal law in all its majestic tapestry. But then there appears to be some confusion when the topic of ‘economic crime’ crops up. Are we to understand it as a separate form of crime as generally known to the mainstream criminal law or indeed one with it?

According to one legal definition, economic crimes “refer to illegal acts committed by an individual or a group of individuals to obtain a financial or professional advantage. In such crimes, the offender’s principal motive is economic gain”.

As generally understood, an economic crime is a set of offences ranging from financial crimes such as bank frauds to tax evasion and money laundering to cybercrime and underhanded financial transactions by public officials such as bribery, embezzlement and peddling of influence for private enrichment. Notable economic crimes involve such offences as fraud, tax evasion, identity theft, human trafficking, drugs trafficking, insurance fraud, credit card, cybercrime, advance fee, trade offences, customs fraud, smuggling, exchange control violations, money laundering and currency counterfeiting. Economic crime thrives in an eco-system in which institutional state capture by powerful groups encourages a politico-economic alliance between the state and the private sector in a manner that robs both government and society.

There are also tends to be some confusion between economic crime on the one hand, and corruption, on the other. Corruption has been popularly defined as 'the use of public office for private gain'. It has to do with questions of the structural impunity inherent in governmental processes that encourage public officials to use their official positions for private enrichment. Corruption includes such misdemeanours as oiling, manipulation, exploitation and abuse that do not necessarily fall within the corpus of economic criminality. But it is generally acknowledged that both corruption and economic crime are Siamese Twins, although not all forms of corruption constitute economic crime. But both have the same corrosive effect on society in terms of moral degeneration, collective impoverishment, deepening poverty and worsening societal inequities.

Traditional socio-psychological theories of criminal behaviour go as far back as Thomas Hobbes, John Locke and Jean-Jacques Rousseau. These theories argue that while people can be good; sometimes they can behave in devious ways. Character, education and natural inclinations condition some people to behave in criminal ways. Jeremy Bentham proposed the utilitarian theory of morals in which he argued that people become good when it is in their interest and choose to be bad when they have something to gain in being so.

Public choice theory in contemporary neoclassical economics has broadened our horizons in understanding the nature and roots of criminal behaviour. Scholars such as Nobel laureate Gary Becker have applied public choice approaches to analysing criminal behaviour. Becker argues that crime must be viewed in the same way as any other economic transaction in the marketplace. In this line of reasoning economic crime is a choice that individuals make when they calculate that the gain to be made from criminal behaviour exceeds the risks and costs of being caught and prosecuted. People as rational actors are presumed to apply cost-benefit analysis in weighing options to commit or not commit a crime for economic gain. Like all individuals in the marketplace, they seek all information about a given product and its price and then calculate the risks and benefits of a given course of action. Decision to commit crime is also influenced by a person's tolerance or enjoyment of taking risks. Those who commit crimes would therefore tend to be people who are less risk-averse than others. The conclusion from this line of reasoning is that the best way to prevent crime is to convince people of the prohibitive costs of offending and to make it clear that the risks will far outweigh the benefits.

Some criminologists make a distinction between predatory economic crimes that are committed randomly as opportunities arise and those that are strictly market-based offences. Predatory,

opportunistic economic crimes do not require the existence of a supportive infrastructure while market-based offences require a long-term organisation together with a viable market for their illicit trade. Economic crimes such as drugs and human trafficking, gun running thrive on a ready market and a well-organised system for their success.

Section 46 of the Economic and Financial Crimes Act 2004 defines an economic crime as, “the non-violent criminal and illicit activity committed with the objectives of earning wealth illegally either individually, or in a group... thereby violating existing legislation governing the economic activities of government and its administration”. Some of the offences listed include fraud, narcotic drugs trafficking, illegal arms dealing, illegal oil bunkering, tax evasion, theft of intellectual property, open market abuse, dumping of toxic wastes and prohibited goods, forex malpractices, currency counterfeiting, money laundering, embezzlement, bribery, looting and any form of corrupt malpractices.

The problem we have is not insufficiency of the law. The problem is primarily that of implementation. Apart from the criminal and penal code, there are at least eight major pieces of legislation against economic crime. I am sure these are quite familiar to you eminent lawyers and judges here assembled:

- 1) Banks and Other Financial Institutions Act 1991
- 2) Failed Banks (Recovery of Debt and Financial Malpractices in Banks) Act 1994
- 3) Advance Fee Fraud Act 1995
- 4) Code of Conduct Contained in the Fifth Schedule to the 1999 Constitution of the Federal Republic of Nigeria
- 5) The Corrupt Practices and Other Related Offences Act 2000
- 6) Money Laundering Act 2003
- 7) Economic and Financial Crimes Commission (Establishment) Act 2004

Nigeria is also a signatory to several international treaties and conventions relating to prohibition of economic crime. These include the UN Convention Against Transnational Organised Crime; the UN Convention Against Corruption; the Financial Action Task Force Convention (FATF); UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others; and the Stolen Asset Recovery Initiative of the World Bank.

Although some authorities would want to maintain a strict distinction between economic crime and corruption, I would prefer to use them interchangeably. To borrow the language of Venn diagram set theory in mathematics, corruption should be viewed as a subset of economic crime. The word itself derives

from the Latin word *corruptus* or *corrumpere*, which means to spoil or break into pieces. Surprisingly, there is no universally accepted definition of corruption. As generally understood, it refers to behaviour involving the use of a public or privileged position for private gain.

As far as Nigerian law is concerned, in the case of *Biobaku v Police*, Bairamian, J. defined corruption as “the receiving or offering of some benefit as a reward or inducement to sway or deflect the receiver from honest and impartial discharge of his duties”. This is a rather limiting definition. Corruption is much more than bribery. It involves influence peddling and various stratagems that defeat the goals of public policy. I therefore prefer the more comprehensive approach adopted by Transparency International, the global NGO at the forefront of the war against corruption. It is simply defined as, “the misuse of entrusted power for private gain... (in a manner that) that hurts everyone who depends on the integrity of people in a position of authority”.

3. Understanding the Genealogy of Corruption

Where does corruption come from? How did we Nigerians acquire this incredible notoriety as one of the most corrupt countries in the world?

Corruption is as old as humanity itself. It has been with us since human beings first began to live together within the political community. The British political philosopher, Isaiah Berlin, spoke about “the crooked timber of humanity”. Human beings in their Adamic nature are susceptible to corruption; an existential part of the human condition as we have always known it. Men can sometimes behave in accordance with the better angels of our nature; but they are also capable of cupidity. What restrains them is the prevalence of norms, institutions, laws and mores that encourage good behaviour and discourage the bad.

There is no universal factor accounting for corruption. It is a complex phenomenon rooted in a country’s political and bureaucratic traditions, its history, political economy and national trajectory. It is generally agreed that corruption thrives best where public institutions and societal norms have disintegrated and legal-regulatory controls are weak.

A recent study by the British Institute for Economic Affairs applied regression analysis to test 14 independent variables for statistical significance as possible causes of corruption. The research showed that the most significant determinants of corruption are: the prevalence of informal markets; lack of respect for property rights; amount of regulation, in which the more the regulations the more the corruption levels; press freedom, in which the less the existence of press freedom, the more corruption would tend to thrive; absence of the culture of personal honesty; and religiosity, a counterintuitive situation whereby the more the prevalence of church attendance the more the level of corruption. He also noted an inverse correlation between the levels of per capita income and the prevalence of corruption. This is to say, that the higher the level of incomes, the less people are inclined to be corrupt.

Globalisation and internationalisation have made corruption to thrive more than before. In a time of rapid internationalisation of culture, communications finance and technology, money has become the god of the age. In democracies as well as in tyrannies, what the Canadian political philosopher Crawford Macpherson describes as the ethic of 'possessive individualism' has become the defining ethos of our era. Money has become everything. It defines the so-called "American Dream". The love of money is not only the root of evil; it is

Linked to the preceding is the collapse of our age-old traditional values. When I was a child I lived with my grandparents. At their feet I drank deep from the wisdom of the venerable ancestors. Theirs was a well-ordered society with puritanical values. It was not, by any means a perfect society, but most people knew how to behave and how to respect tradition and values of the community. I still look upon those growing up years as the happiest of all my life. Although I do not subscribe to ancestor worship, I have to confess that throughout my adult years I have never taken a major decision without asking myself if God and my grandparents would have approved of it.

Contrast that disappearing world with what we have today; a world where our youths do not even know who they are, not to talk of where they are coming from. Societal values have broken down. Add to this the crisis in the family as an institution – a world of broken homes, single mothers and absent and sometimes unknown, fathers. Many of our young people have no one to turn to and no one to learn from. Consequently, they derive their moral compass from Google and Facebook, from Nollywood and from the dregs of Western culture.

The eminent sociologist Peter Ekeh wrote a famous essay on what he termed "the two publics" propounding the theory that we Africans live in two conflicting worlds; one deriving from colonially inspired modernity and the other from African traditional kinship values. The emergence of the post-colonial state in independent Africa never totally won the allegiance of ordinary people. They continue to view the state with a high level of scepticism. For many of our people, it is not considered immoral if you defrauded the state to help your people. Anyone who steals from government and uses the spoils to help his people is considered a hero and not a villain. And given our convoluted values, if you held a high position and never used it to amass stupendous wealth, your people own people will be the first to condemn you for robbing the tribe.

In divided societies such as ours, corruption thrives because there is no shared sense of community and no commonly shared moral purpose. The American social scientist Robert Putnam has done work of original importance on the role of social capital in economic development. He understands social capital as the residual trust and shared interests and values that glue diverse peoples together.

In our leadership traditions, nation building has hardly ever featured. As a consequence, there has been an erosion trust among our people. And it goes without saying that divided house cannot stand. This is why we have not been able to gather the momentum and moral capital to defeat the cankerworm of corruption.

The paradigm of public choice theory in neoclassical economics provides yet another explanation for corruption. When a government official decides to engage in corrupt behaviour, it can be presumed to

be predicated on the basis of rational calculations. He would have calculated that the returns from corrupt behaviour outweigh both the chances of being caught and costs of punishment if they were every caught. The only credible solution that will dissuade such rent-seeking behaviour is to maximise the possibilities and costs of being caught while inflicting higher levels of punishment, including, some would say, capital punishment for grand corruption.

There is also 'the broken glass window' associated with American political scientist James Q. Wilson. Wilson noted that even in the wealthiest residential neighbourhoods, if one broken window is neglected, chances are that a second one will be broken, and then a third and ad infinitum. Lawless people are always looking out for broken windows. It gives them a clue that there is no law in the area and that nobody cares. From broken windows, criminals, drug addicts and prostitutes begin to crowd the area. Before you know it, it has become a den of iniquity and lawlessness. James Wilson believes that normative breakdown occurs when authorities ignore the smallest cracks in normative behaviour. When authorities ignore little acts of corruption those acts will sooner or later mushroom into bigger ones and before you know it, chaos is unleashed upon the whole community.

The metaphor of the broken glass window illustrates the increasing incapacity of leaderships in democracies old and new to govern with effectiveness. Weak institutions, poor leadership and inadequate statecraft provide not only a breeding ground for corruption; they open the floodgates of a multiplicity of pathologies in the body politic. As a consequence, any young man bold enough can go across the border and bring armaments with which to visit havoc upon his hapless neighbours. When a society treats with levity men and women who take up arms against the state we are sending signals to the rest of society that all is permissible. And before you know it, the entire society is held under ransom by criminal bandits.

I am also persuaded that poor wages in the public sector have played their part in making corruption attractive. If we are transparently honest with ourselves, we would reach the sobering conclusion that the current official minimum wage of N18, 000 is not really a living wage in today's Nigeria. In many of our states, some of the State Governors are still complaining that they cannot afford to pay even that abysmal the minimum wage. What we are practising amounts to wage slavery. It is definitely unsustainable. As a result, public sector workers feel no sense of obligation or commitment to their duties. Many civil servants ply other trades during office hours to make ends meet. There is enough evidence in economics to show that an adequate minimum wage is actually good for the economy. This is true of the United States as it is true of Britain, Germany and New Zealand.

In the nation of Singapore, they went a step further. They have ensured that the wages of higher civil servants compare favourably with those of the private sector. The rationale is that they are recruiting from the same reservoir of limited talent and it would be foolhardy to underpay them. Those civil servants are also men and women of the highest talent. Recruitment and promotion are strictly based on merit. Incidences of corruption, when they do arise, are swiftly dwelt with. As a consequence, Singapore operates one of the most efficient bureaucracies in the world. And they have gone ahead to deliver the best for their country.

Corruption thrives where there is an absence of institutional controls. Failure to prosecute and sentence often means that corrupt behaviour is treated with not so much as a rap on the knuckles. In China grand corruption attracts capital punishment. It is treated as a violation of national security. In Nigeria, by contrast, no member of the elite has ever spent 10 years behind bar for corruption or abuse of power. Nobody has ever truly suffered disgrace for defrauding the state. And no one has ever been banned from holding public office because of bribery, fraud, corruption or other high crimes of state. The lawyers and the judges will quickly rally around to get the criminals off the hook, so long as they get their cut. President was right when he said that the judiciary has become an obstacle in the war against corruption. The simple truth is that failure to punish has been the highest incentive for the perpetuation of impunity in our country today.

In our own context, I would say that the political economy of the rentier state has an inherent propensity to generate a market for corruption. Our oil dependent political economy has been based on collecting rent from multinational oil companies which is then shared out on a monthly basis between the three tiers of government according to an agreed formula. Much of the wealth from oil gave us the illusion of wealth which was not based on productivity or disciplined application. In addition, the Dutch disease syndrome was rampant.

Oil exporting economies tend to have an in-built tendency to keep exchange rates artificially high. This discourages exports while stifling agriculture and manufacturing. The whole economy is geared towards importation and consumption rather than innovation and production. Government often imposes ineffectual controls and distortions which only serve to provide additional avenues for rent-seeking behaviour on the part of public officials. Ruling elites feel no obligation to be accountable to anyone. Whatever remains of the semblance of a Lockean social contract disappears. Systemic corruption becomes the norm since there is a widespread feeling that no one owes anything to anyone.

The economist Daron Acemoglu and political scientist James Robinson have co-authored a fascinating book, *Why Nations Fail: The Origins of Power, Prosperity and Poverty*. They make a distinction between 'extractive societies' and 'inclusive societies'. Extractive societies are anchored on raw materials exploitation. The elites tend to be highly authoritarian in the exercise of power. While extractive societies may get lucky in experience a surge in wealth, much of it is fortuitous and unsustainable over time. Corruption and tyranny would tend to sap the energy of the people. Inclusive societies, on the other hand, are anchored on the creation of democratic institutions based on trust, accountability and the rule of law. Such societies discourage corruption incentivising hard work, discipline and a long-term view. Such an environment fosters growth and innovation, unlike the former.

Lastly, there is the reality of 'path dependence'. Once a society is set on a given course, the collective mindset, culture, institutions and the orientation of dominant elites would tend to follow that trajectory, gathering a momentum of its own. This would seem to conform to Sir Isaac Newton's first law of motion in physics which states: "In an initial reference frame, an object either remains at rest or continues to move at a constant velocity, unless acted upon by a net force."

Nobel laureate Douglass North has noted that path dependence is one of the most enduring features of economic history, in which the historical matrix of an economy and its institutional architecture constrain future choices while limiting the possibility for altering the existing trajectory. The same could be said of corruption. Once corruption becomes endemic in a society, it will soon become well-nigh impossible to stop its continuation.

4. Impact and Consequences

I think everybody agrees that corruption is evil. But there are some economists that have argued that corruption, in small doses, need not be harmful. In fact, they believe it could be seen as the oil that greases the creaking machinery of bureaucratic behemoths. From the experience of countries such as ours, such a claim would be dangerous. Corruption must be seen as being everywhere and at all times an ill wind that does no one any good at all.

Over the years, the international community has evolved a body of principles and norms dealing with corruption. They tend to all agree on the key elements involved in a corrupt transaction. These are: bribery, extortion, facilitation payment, collusion, fraud, obstruction of justice, embezzlement, misappropriation or other diversions of property by a public official, trading influence, abuse of office, kleptocracy (stealing and privatising public funds), abuse of power (intimidation and torture), electoral malpractice, illegal campaign financing, clientelism and patronage, rent-seeking, illicit enrichment and money laundering.

Corruption is a phenomenon involving a demand as well as supply side. The demand side involves those who are in position to actively solicit for corrupt gain while the supply side relates to those who are prepared to bribe or fund those who are in a position to bend the rules in their favour. In our day and age, corruption permeates the whole of society. It is a global malady infecting high and low, rich and poor and all facets of economy, culture and society.

Much of the discourse on corruption has tended to focus on the public sector. The reality is that corruption pervades the private sector as well. There is often a strong operational nexus between public-sector corruption and private-sector corruption. They are inextricably interlinked. In our increasingly integrated global economy, corruption transcends national borders. In an age where capital travels at the speed of light, illegal funds can easily be laundered using electronic networks for international fund transfers. Terrorists, gangsters and narcotic drug lords have devised increasingly sophisticated means of laundering illegal funds through various transmission vehicles, electronic as well as human.

In the existing literature, a distinction is often made between petty corruption and grand corruption. Petty, or everyday corruption, is corrupt behaviour involving small amounts, such as the policeman by the road block who extorts fifty naira from motorists or the civil service clerk who demands small payments for finding the 'missing' files of contractors. Others involve customs men extorting money from smugglers in border towns in order to facilitate the safe passage of contraband goods.

Grand corruption, on the other hand, involves substantial funds running into millions and even billions. Multi-billion dollar projects such as Ajaokuta Steel and the various power projects were largely undermined by grand corruption involving theft of billions of dollars. Theft of crude oil, kickbacks from foreign investors and other fraudulent behaviour cost the treasury billions of dollars.

But there is a caveat. Moral theologians will tell us that there is no spiritual distinction between small sins and big ones. The same could be said of about corruption. Petty and grand corruption both have the same corrosive effects on the collective psyche and moral fibre of society.

Let us consider some statistics. According to the World Bank, corruption, fraud and bribery cost more than US\$1.26 trillion annually for developing countries alone. According to the High Level Panel on Illicit Financial Flows set up by the African Union and chaired by former South African President Thabo Mbeki, over the last 50 years, Africa has lost in excess of US\$1 trillion from illicit outward financial flows. My former colleagues at the African Development Bank have estimated that an average of US\$100 billion of capital flight leaves our continent every year; a figure far in excess of what Africa actually receives by way of foreign investment, remittances from our Diaspora and Official Development Assistance (ODA). According to some sources, Africans hold total assets of between US\$700 – US\$800 billion stashed away in foreign bank vaults. It is suspected that about US\$200 billion of those funds belong to Nigerians.

The whole thing falls into perspective when we realise that the capital shortfalls for filling the investment gap in the African infrastructure sector is estimated at between US\$30 – US\$50 billion annually. The simple truth is that if corruption were brought under control, Africa would have all the capital needed to finance her own development. Our leaders would not need to go about with begging bowls in the gilded palaces of London, Berlin, Washington, Paris and Beijing.

The picture is even more unsettling for Nigeria. It is estimated that since the 1970s, we earned a staggering US\$1 trillion from oil exports. However, due to corruption, over US\$400 billion has been frittered away. The 1994 Okigbo panel on the Reorganisation and Reform of the Central Bank of Nigeria (CBN) revealed that a whopping US\$12 billion could not be properly accounted for by the erstwhile military administration of General Ibrahim Babangida. I can tell you that US\$12 billion was a lot of money then. It is a lot of money now.

And according to the London-based Royal Institute of International Affairs -- Chatham House - Nigerians, in collusion with foreign shadowy characters, have engaged in the plundering of our oil resources at a monthly average of US\$1 billion during the years 2007-2014. It is no surprise why Nigerians today are poorer than they were in 1970; when the country was emerging from a tragic civil war.

Corruption and poverty are Siamese twins. Corruption is a curse and blight to any nation. Corruption has given Nigerians a bad name all the world. It has given the enemies of our people the right to malign us as the most renegade people on earth. It has robbed us of all honour and all dignity in the councils of the family of nations. Outside this country every Nigerian is held suspect. It does not matter if that Nigerian is a neurosurgeon or a doctor of divinity.

I am persuaded that marshalling the courage to tackle this evil of corruption will not only restore our dented international image; it will give our country the socio-economic turnaround and moral regeneration that we so badly need.

Corruption has become deeply entrenched in the Nigerian society. Indeed, Vice-President Yemi Osinbajo recently lamented that the whole institutions of government are enmeshed in corruption. It is not just political appointees at all the three tiers of government; it also involves legislators, civil servants and the judiciary. Sadly, it is not just the formal institutions of government and their personnel; the whole of society is suffering from the sickness.

Former World Bank President Paul Wolfensohn famously likened it to a cancer that literally consumes the soul of nations: "Corruption is the largest impediment to investment. And it is not just a theoretical concept...It becomes clear when people die from being given bad drugs, because good drugs have been sold under the table. It becomes clear when farmers are robbed of their livelihoods."

It is well-known that economic crime retards human development. When public officials steal funds targeted at social programmes such as education and health, they rob ordinary people of the opportunity to improve their life-chances. Where there is corruption there you will also find poverty, income inequality, illiteracy and poor health. And where corruption is at a minimum, there you will find improved livelihoods, knowledge, better health and improved well-being.

According to the World Economic Forum, there is an inverse correlation between corruption and national competitiveness. By national competitiveness we are referring to the set of institutions, policies and factors that determine a country's level of productivity. It seems clear that national competitiveness and corruption do not make easy bedfellows. One has to give way for the other.

There is empirical evidence that corruption undermines the efficiency of the free market economy. In an ideal world, markets working with undistorted price signals enable individuals to choose the products and services that best satisfy their needs. This is the working of Adam Smith's 'invisible hand'. Corruption is a disease that cripples the free workings of the invisible hand. Those who believe that corruption is to be accepted in developing countries if it oils an otherwise creaking system will have to think again.

Economic crime and corruption also undermine democracy, distort markets, increase risk in commercial dealings, scare investors and erode societal trust while undermining equity and fairness. Like cancer, they from organ to organ, eventually infecting every institution of government. Corruption distorts the equitable allocation of wealth in society in a situation where public policies are made not in view of the public good but for the advancement of the narrow selfish interests of ruling elites; affecting everything from services delivery to law and order, environmental degradation and the sanctity of age-old societal norms.

Grand corruption can also threaten long-term economic stability. It slows growth, weakens institutional capacity, distorts budget allocation and erodes the legitimacy of government. A government without legitimacy will soon lack the moral right to be obeyed. Once the social contract that binds government

to the governed is undermined, the society is likely to become unstable economically as well as politically.

Apart from the economic and social consequences that we have mentioned, corruption corrodes the very soul of society while undermining its moral virtues; sapping the energy of the people and discouraging integrity and honest effort. When young people see that only thieves and robbers are making it, they will be discouraged from honest work and will seek to make it by hook or by crook. We would then have become a land of scoundrels where, according to the Greek historian Thucydides, the “powerful take what they can while the weak grant what they must”.

Concluding Observations

It goes without saying that an endemically corrupt society can never generate long-term sustainable prosperity. I am therefore persuaded that tackling this monster while accelerating growth and transformation is the key to our sustainable future. Tackling corruption requires the highest qualities of leadership: courage, boldness, vision, moral force and conviction. Indeed, there comes a time when a statesman must rule with tough love. An ancient African adage counsels the king to “talk softly but carry a big stick”. It is indeed a counsel of wisdom. It

What the Buhari administration has launched is a call to moral revolution in our country. And as you all know, a revolution is not a dinner party. As Niccolo Machiavelli warned long ago:

“And let it be noted that there is no more delicate matter to take in hand, nor more dangerous to conduct, nor more doubtful in its success, than to set up as the leader in the introduction of changes. For he who innovates will have for his enemies all those who are well off under the existing order of things, and only lukewarm supporters in those who might be better off under the new.”

Some of the methods used by the current administration in their anticorruption drive may look rather clumsy. Some amount to a violation of human rights and the rule of law. But what matters, as far as I am concerned, is that they achieve results. Some of the actions have borne positive fruit. Trillions of naira have been recovered from corrupt officials back into the national treasury. The Treasury Single Account (TSA) promises to reduce fraudulent behaviour that has often taken place with the collusion of bankers. Public expenditure can be better monitored and controlled. What is important is that, in everything, we must respect the constitutional rights of the accused, including respect for the rule of law and for due process.

Going forward, it must be made clear that fighting corruption is necessary, but it is not in itself an economic policy. It can only compliment a coherent development strategy to re-boot growth and ensure long-term sustainable development.

I also think that the fire-fighting approach is not quite sustainable. Tackling endemic corruption requires much more than dawn raids by intelligence service officers. It requires that the anticorruption agencies map out a strategy and roadmap for their efforts. It requires research, painstaking analysis and high

level intelligence information gathering skills. What we need is a comprehensive approach aimed principally at prevention. This requires strengthening our institutions and ensuring governmental effectiveness at all levels; putting in place mechanisms to ensure more accountability in the public sector; enforcement of existing anti-corruption laws; full implementation of the provisions of the Public Procurement Act; greater transparency in the oil and gas sector which remains the main engine of the economy; and empowerment of the Office of the Auditor-General of the Federation.

Our government must expressly commit to using anticorruption as a vehicle for promoting development effectiveness. The UNDP's Global Anti-corruption Initiative (GAIN) has rolled out a programme based on that framework for the international development community covering the years 2014-2017. It is anchored on strengthening systems, institutions and civic engagement to better manage and deliver public resources and services to the poor. The strategy is anchored on: (1) expanding the political and normative agenda on anti-corruption to development plans by integrating anti-corruption in service delivery and other sectors such as environment, climate change and the extractive industry; (2) enhancing government institutional capacity to prevent and combat corruption; (3) promotion of civic engagement and social accountability through youth and women's empowerment and participation of civil society and the media in governance; and (4) strengthening results-based management and institutional effectiveness in the management of anti-corruption initiatives and monitoring impact and results.

In addition, I believe that the proposed anticorruption court needs to be set up as soon as possible. It may well require integrating the EFCC with ICPC into a super-organisation headed by an anticorruption Tsar. The new organisation should be given judicial powers to arrest, prosecute and sentence.

A few countries in Africa and the emerging world have made considerable progress in anticorruption. We can learn a lot from such countries as Ethiopia, Botswana, Namibia, Uganda and Rwanda. These countries have created strong national supreme audit institutions that have served as a bulwark against corrupt behaviour. In addition, they have put in place instruments for monitoring and evaluation of government programmes in a manner that ensures accountability for results and impact. Some of these countries have also enshrined the principles of judicial review in their administrative laws that ensure that all actions of public officials can be subject to judicial scrutiny. We need to imbibe those lessons in redesigning a more comprehensive and more strategic approach to fighting corruption.

The task falls on our generation to re-imagine Nigeria as a land of peace, a land of justice, a land of progress, -- a land based on the precepts of democracy, rule of law, enlightenment and civilisation.

Social order and harmony constitute the fundamental bedrock of economic progress. I am inclined to believe with the Nobel laureate Amartya Sen, that development is about freedom and about extending the frontiers of human capabilities and empowerment. Democracy and development must therefore be

seen as two sides of the same coin. Without welfare, human dignity is imperilled; but without freedom and justice, prosperity is meaningless.

In concluding my reflections, let me reemphasise the point that without peace and harmony, nothing good will come. But without justice, there can be no peace to speak of. The atrocities being committed by faceless militias in the southern part of Kaduna State and throughout the Middle Belt must be stopped by all means necessary. It amounts to genocide and a Crime Against Humanity. Those who aid and abet these murderers will have to answer before God and the Bar of History.

I need not emphasise how important the role of lawyers and judges is. I daresay that a society where the judiciary collude with criminals to pervert the course of justice has no future. Government must not persecute judges for no just cause. But those who have engaged in brazen acts of corruption must face the legal consequences of their acts. At the same time, it is incumbent on government to empower the judiciary through better funding and improved living conditions.

I would like to conclude with the words of the legal philosopher Ronald Dworkin: "We are subjects of law's empire, liegemen to its methods and ideals, bound in spirit while we debate what we must therefore do. Playing God is indeed playing with fire. But that is what we mortals have done since Prometheus, the patron saint of dangerous discoveries. We play with fire and take the consequences..."
