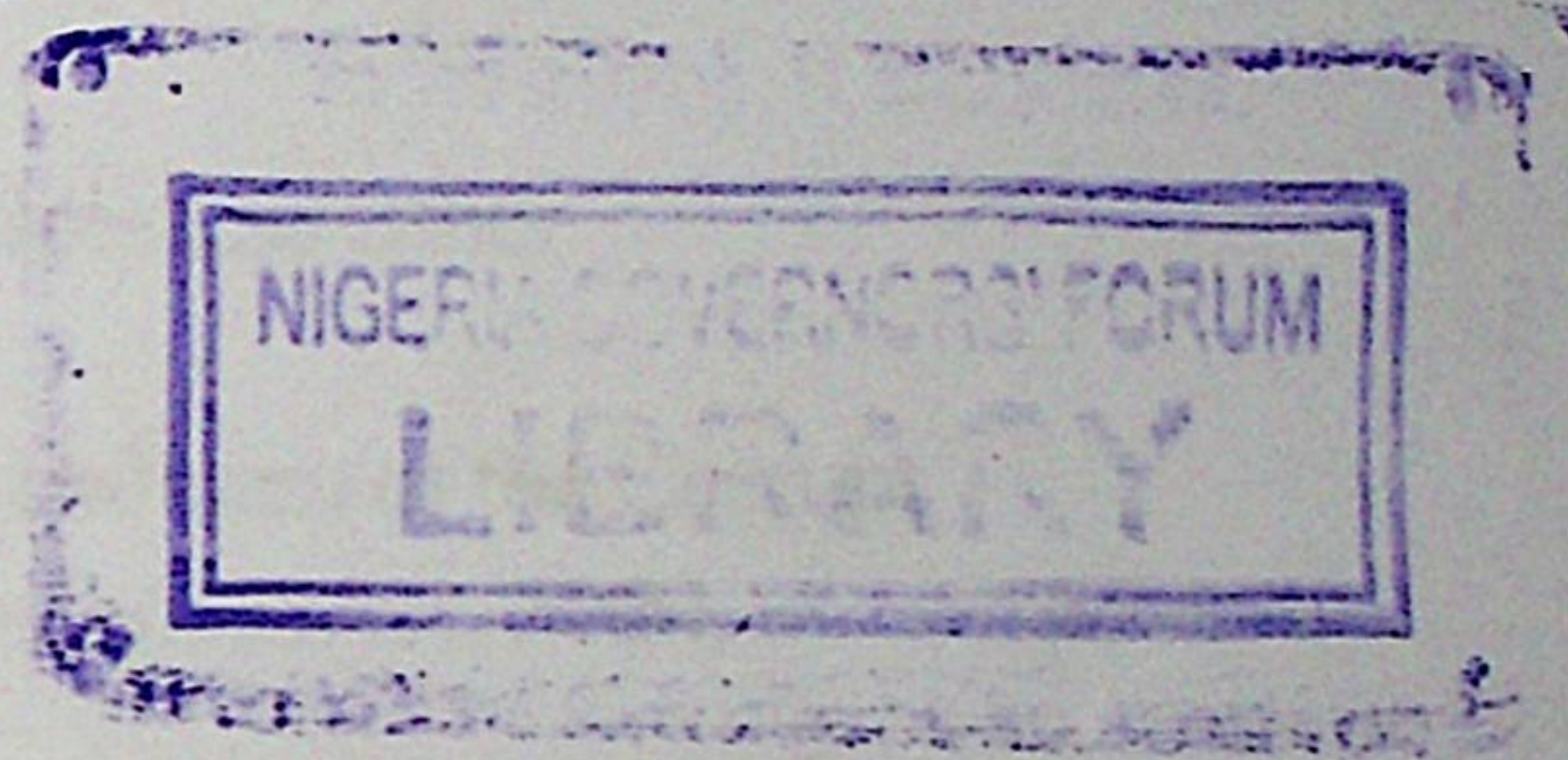




NIGERIAN LAW REFORM COMMISSION



REPORT ON REFORM OF THE CORRUPT PRACTICES AND OTHER RELATED OFFENCES (I.C.P.C.) ACT, 2000

NIGERIAN LAW REFORM COMMISSION

FEDERAL SECRETARIAT COMPLEX,
PHASE 3, 4TH AND 5TH FLOORS,
SHEHU SHAGARI WAY,
P.M.B 359, GARKI,
ABUJA
2014

The Honourable Attorney-General
of the Federation and Minister of Justice
Federal Ministry of Justice
Maitama
Abuja

**REPORT ON THE REFORM OF THE CORRUPT PRACTICES
AND OTHER RELATED OFFENCES ACT, 2000**

In compliance with section 5 of the Nigerian Law Reform Commission Act, Cap. N118, Laws of the Federation of Nigeria, 2004, we have the honour to submit to you our Report on the Reform of the Corrupt Practices and Other Related Offences Act, 2000, including our Recommendations and Draft (Amendment) Bill.

2 The Report consists of seven parts, namely:

Part A – Introduction

Part B – The Workshop

Part C – Overview of the Corrupt Practices and Other
Related Offences Act, 2000.

Part D – Recommendations for the Amendment of the Corrupt
Practices and Other Related Offences Act, 2000.

Part E – Conclusion

Part F – Proposed Draft Corrupt Practices and Other Related
Offences Act (Amendment) Bill, 20—

Part G – Appendices

3. This report is a product of a well researched Working Paper which contains the Commission's recommendations and the reasons for the recommendations, the views of experts expressed in commissioned papers and of participants at the workshop.

4. Under Part D, recommendations for amendments to the Act are made and these include a re-definition of some words used in the Act in order to reflect advancements in technology; a reduction in the number of members of the Commission for ease of operations and to reduce the financial burden on the

government; introduction of some level of educational qualifications to be possessed by some of the members to reflect the seriousness of the task of the Commission; a re-arrangement of section 4 of the Act on appointment of officers of the Commission, e.t.c. for clarity of interpretation and the deletion of section 26(3) of the Act which requires a court to conclude judgment within ninety days from the commencement of proceedings in the prosecution of corruption cases since the subsection has been declared unconstitutional, null and void by the Supreme Court in the case of **Attorney-General of Ondo State V Attorney-General of the Federation and 36 ors, (2002) 9NWLR, Pt. 772.** The Commission has also proposed among other recommendations, the upward review of some fines and penalties stipulated in the Act in order to adequately punish offenders and deter potential offenders.

5. We shall be glad for an early consideration and action on the Report, Sir.

Yours sincerely,

Senator (Prof.) O. A. Osunbor

Chairman

K. M. Magaji, Esq.

Commissioner

P. C. Okorie, Esq.

Commissioner

Prof. J.A.M. Audi

Commissioner

NIGERIAN LAW REFORM COMMISSION

Senator (Prof.) O. A. Osunbor – Chairman

K. M. Magaji, Esq. – Commissioner

P. C. Okorie, Esq. – Commissioner

Prof. J.A.M. Audi - Commissioner

Mrs. A. F. Ogunye – Secretary to the Commission

IV

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PREFACE

The Nigerian Law Reform Commission, pursuant to its mandate under section 5 of the Nigerian Law Reform Commission Act, Cap. N118, Laws of the Federation of Nigeria, 2004 and in line with the good governance/anti-corruption measures of the Federal Government's Transformation Agenda, embarked on the reform of the Corrupt Practices and Other Related Offences Act, 2000(I.C.P.C. Act). This is with a view to making proposals for amendment of those provisions of the Act identified as defective or inadequate to tackle corruption and enhance public accountability, transparency and efficiency in the public service.

2. "Corruption" which is defined in section 2 of the Act to include bribery, fraud and other related offences, is one of the debilitating issues facing Nigeria today. The aim of the Act is to criminalize and punish actions that are detrimental to integrity in public office. Having been in existence for more than thirteen years, the Commission considered it necessary to review and update some of the provisions of the Act in order to enhance its deterrent effect and strengthen the capacity of the I.C.P.C. to effectively fight corruption.

3. The Commission has made proposals for the amendment of some provisions of the Act which it considers detrimental to the effective performance of the ICPC in the fight against corruption. The proposed amendments relate to provisions of the Act on interpretation of some words used therein; composition of the Commission; appointment of officers of the Commission; deliberate frustration of investigation by the Commission; attempts, preparations to commit an offence; conclusion of trial and delivery of judgment within ninety working days from the date of commencement of prosecution of corruption cases; forceful entry of premises for investigation and seizure of articles; fines and penalties, e.t.c.

4. In the course of carrying out this project, the Commission called for memoranda from some major stakeholders, undertook an in-depth research on the subject and prepared a Working Paper which was circulated to some stakeholders for their study and discussion at the workshop. Legal experts from the academia and the Bar, as well as the ICPC were also commissioned to write on specific areas of the subject matter.
5. The Workshop was held at Reiz Continental Hotel, Abuja on 13th November, 2013 and had in attendance major stakeholders and resource persons who made very useful contributions. The inputs received before and during the workshop were particularly useful in the preparation of this Report.
6. The Commission profoundly appreciates the support of the Hon. Attorney-General of the Federation and Minister of Justice, Mr. Mohammed Bello Adoke, SAN, CFR, for his commitment to the work of the Commission.
7. We also appreciate the Commitments of the resource persons who made their expertise available to us and of all participants at the Workshop for their invaluable contributions.
8. Finally, our gratitude goes to the members of the Commission, the Secretary to the Commission and other staff who worked hard to ensure the successful completion of this project.

SENATOR (PROF.) O.A. OSUNBOR
CHAIRMAN
NIGERIAN LAW REFORM COMMISSION
2014

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INTRODUCTION

1. Corruption is defined in the Oxford Advanced Learners Dictionary¹ as "dishonest or illegal behaviour, especially of people in authority: allegations of bribery and corruption." It has also been defined in the Corrupt Practices and Other Related Offences Act, 2000 (hereinafter referred to as the I.C.P.C. Act)² to include bribery, fraud and other related offences. Corruption could also mean "dishonest or illegal behaviour especially by people with power, violation or perversion of established moral principles for the sake of private gain or profit; efforts to secure wealth or power through illegal means; private gain at public expense, misuse of public power for private benefit; or anti-social behaviour conferring improper benefits contrary to legal and moral norms and which undermine the authorities to improve the living conditions of the people."³

PART

'A'

2. Corruption inhibits development and progress. It is a fact that corruption is not limited to Nigeria. It is also true that like poverty, hunger and disease, it cannot be totally eradicated. While we acknowledge that it might not be possible to eradicate corruption in its totality overnight, the Federal Government of Nigeria has made some commendable efforts in this regard, by laying down the foundations of a crusade against corruption. Such initiatives include the enactment of the Dishonoured Cheques (Offences) Act,⁴ the Recovery of Public Property (Special Provisions) Act,⁵ the Code of Conduct Bureau and Tribunal Act,⁶ the Advance Fee Fraud and other Fraud Related Offences Act,⁷ the Corrupt Practices and Other Related Offences Act,⁸ the

INTRODUCTION

¹ 7th edition, p. 329

² 2000, section 2

³ See Chuka Nwara, *Corruption in Nigeria Exposed* (2011) at p. 3

⁴ 1977, CAP. D11, Laws of the Federation of Nigeria (LFN) 2004

⁵ 1983, CAP. R4 LFN, 2004

⁶ 1989, CAP. C13 LFN, 2004

⁷ 1995 as amended in 2005 & 2007, CAP. A6 LFN, 2004

⁸ 2000

INTRODUCTION

1. Corruption is defined in the Oxford Advanced Learners Dictionary¹ as “dishonest or illegal behaviour, especially of people in authority: allegations of bribery and corruption.” It has also been defined in the Corrupt Practices and Other Related Offences Act, 2000 (hereinafter referred to as the I.C.P.C. Act)² to include bribery, fraud and other related offences. Corruption could also mean “dishonest or immoral behaviour especially by people with power; violation or perversion of established rules for personal gain or profit; efforts to secure wealth or power through illegal means; private gain at public expense; misuse of public power for private benefit; or anti-social behaviour conferring improper benefits contrary to legal and moral norms and which undermine the authorities to improve the living conditions of the people.”³
2. Corruption inhibits development and progress. It is a fact that corruption is not limited to Nigeria. It is also true that like poverty, hunger and disease, it cannot be totally eradicated. While we acknowledge that it might not be possible to eradicate corruption in its totality overnight, the Federal Government of Nigeria has made some commendable efforts in this regard, by laying down the foundations of a crusade against corruption. Such foundations include the enactment of the Dishonoured Cheques (Offences) Act,⁴ the Recovery of Public Property (Special Provisions) Act,⁵ the Code of Conduct Bureau and Tribunal Act,⁶ the Advance Fee Fraud and other Fraud Related Offences Act,⁷ the Corrupt Practices and Other Related Offences Act,⁸ the Economic

¹ 7th edition, p.329

² 2000, section 2

³ See Chuks Nwaze, **Corruption in Nigeria Exposed (2012)** at p.2

⁴ 1977, CAP. D11, Laws of the Federation of Nigeria (LFN), 2004

⁵ 1983, CAP. R4 LFN, 2004

⁶ 1989, CAP. C15 LFN, 2004

⁷ 1995 as amended in 2005 & 2007, CAP. A6 LFN, 2004.

⁸ 2000

and Financial Crimes Commission (Establishment, etc.) Act⁹ and the Money Laundering (Prohibition) Act.¹⁰ This paper however focuses on the Corrupt Practices and Other Related Offences Act,¹¹ which is the subject of this reform exercise.

3. The Corrupt Practices and Other Related Offences Act came into being on 13th June, 2000 to prohibit and prescribe punishment for corrupt practices and other related offences and to establish a Commission to implement the Act. On the occasion of the formal signing of the Bill into an Act, former President Olusegun Obasanjo, GCFR, observed in his address that, corruption is a cankerworm that has eaten into the fabric of our society at every level. It has caused decay and dereliction within the infrastructure of government and the society in physical, social and human terms. Corruption has been responsible for the instability of successive governments since the First Republic.¹² The aim of the ICPC Act is to criminalise and punish actions that are inconsistent with integrity in public office. Section 3(1) of the Act established the Independent Corrupt Practices and Other Related Offences Commission (ICPC). The three pronged strategy of the ICPC in the fight against corruption consists of credible law enforcement activities, system review and public enlightenment.

4. In 2003, the Senate purportedly repealed the ICPC Act, 2000 in order to whittle down the powers of the Commission, following an investigation by the ICPC into a petition involving some Principal Officers of the National Assembly. This purported repeal was however nullified by the Federal High Court, Abuja, in the case of *A.G. of the Federation v Chief Pius Anyim, Senate President, Federal Republic of Nigeria & 3 Ors.*¹³ suit No. FHC/ABJ/CS/225/2003. This judgement, nullifying the purported repeal

⁹ 2002 as amended in 2004, CAP. E1, LFN, 2004.

¹⁰ 2011, CAP M18 LFN, 2004

¹¹ 2000

¹² See Chuks Nwaze, *op.cit* at p.403

¹³ Suit No. FHC/ABJ/CS/225/2003

of the I.C.P.C Act, 2000 (by the 2003 Act) was upheld by the Court of Appeal Abuja, in the case of *Senator A. N. Wabara & 2 ors v Federal Republic of Nigeria*.¹⁴

5. The ICPC has set up several Anti-corruption and Transparency Units (ACTU) in Federal Ministries, Parastatals and Area Councils in the Federal Capital Territory, Abuja. These units organise workshops and seminars and display anti-corruption posters, vests and handbills aimed at reducing corruption at all levels of government. The ICPC has also conducted systems studies in some organisations and made recommendations aimed at changing corruption prone systems and procedures. Through a special investigation conducted by the Accounts Department of the ICPC while reviewing the personnel costs of some Federal Ministries, some substantial sums of money were recovered and paid into the Federal Government Treasury. The ICPC receives petitions from all parts of Nigeria, concerning all categories of public officers and has filed and prosecuted some cases in court.

6. Nevertheless, having examined the provisions of the ICPC Act, it was decided to recommend that some of its provisions be amended as proposed in Part D of this paper, in order to strengthen the capacity of the ICPC to effectively fight corruption, which in the words of Nuhu Ribadu, “*makes democracy impossible because it subverts the will of the people.*”¹⁵ Some of the penalties provided for in the Act are trivial and need to be reviewed upwards in order to serve as effective deterrents to potential offenders.

¹⁴ Appeal No. CA/A/7/C/2006

¹⁵ Former Executive Chairman, Economic and Financial Crimes Commission, being his testimony before the House Financial Services Committee on 'Capital Loss and Corruption: The Example of Nigeria,' on May 19, 2009, as recorded by Jide Olakanmi & Co. in **7 Anti-Corruption Laws**, 4th Edition, 2012 at p.163

INVITATION FOR MEMORANDA

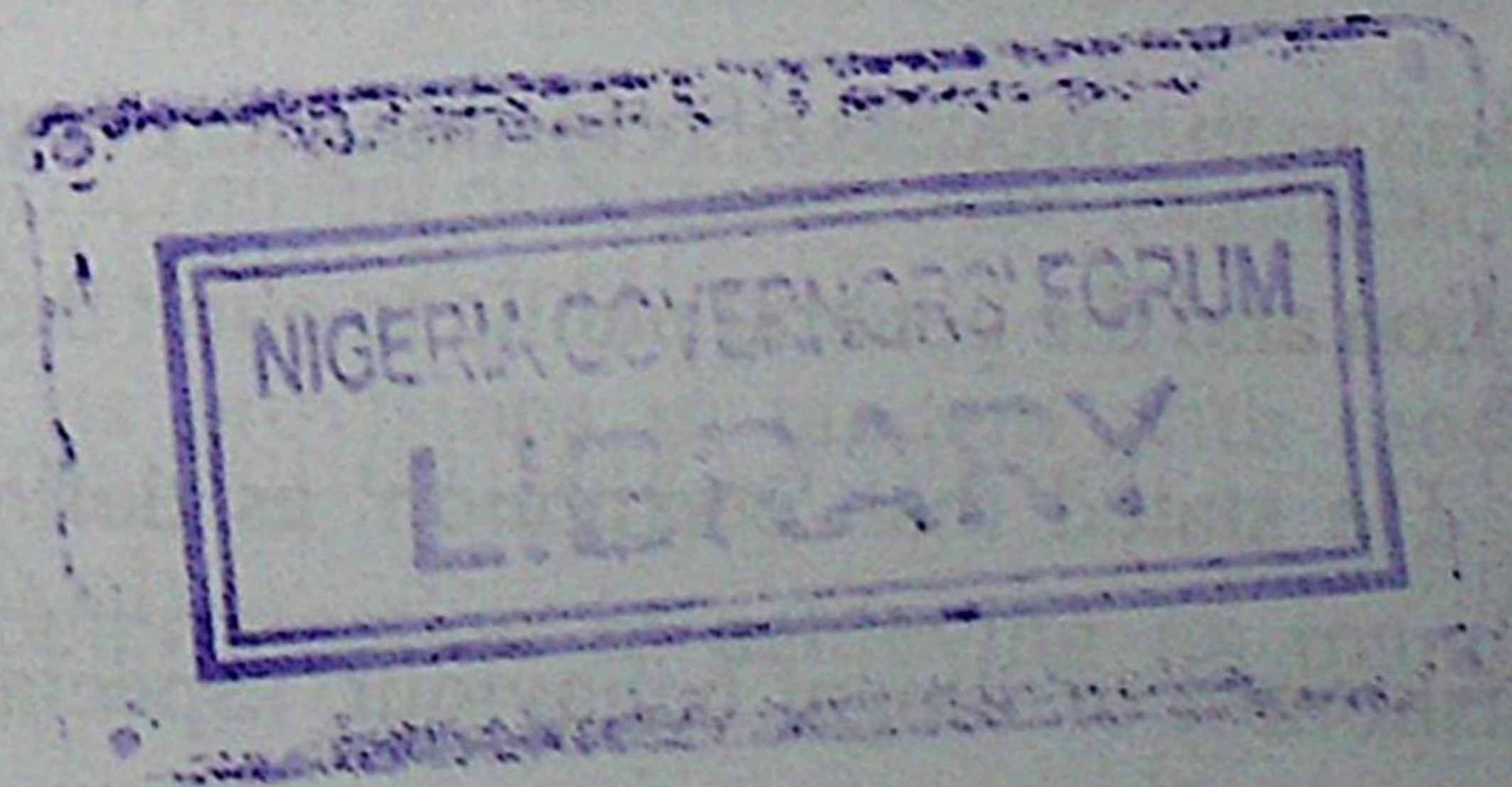
7. The Commission invited the views of some stakeholders on the reform of the Act and received some helpful comments. After an in-depth research, the Commission prepared a Working Paper and commissioned some experts from the academia and the Bar to write on specific topics on the subject matter. All comments and views expressed before and during the Workshop have been carefully considered and taken into account in the preparation of this Report. A list of Resource Persons is annexed to this Report as Appendix V.

8. THE WORKSHOP

The Workshop on the Reform of the I.C.P.C. Act was held at Reiz Continental Hotel, Abuja on Wednesday, 13th November, 2013. Participants included the Hon. Attorney-General of the Federation and Minister of Justice Mr. Mohammed Bello Adoke, SAN, CFR who was represented by his Senior Special Assistant, Prof. Adedeji Adekunle, a representative of the Inspector-General of Police, the Chairman, I.C.P.C., Chief Adegboyega Awomolo, SAN, Chief (Mrs) Awomolo, SAN, Prof. Yemi Akinseye - George, SAN, the Head of Department, Legal and other directors and staff of the I.C.P.C., representatives of the Nigerian Bar Association, the United Nations Office on Drug and Crime (UNODC), the Nigerian Institute of Advanced Legal Studies, the Auditor General of the Federation, the Bureau for Public Service Reforms, the Small and Medium Enterprises Agency of Nigeria (SMEDAN) and other stakeholders. The discussions and contributions were very useful in the preparation of this Report. A summary of the report of deliberations at the Workshop is contained in Part B of this Report. The Summary of Recommendations made at the Workshop is annexed as Appendix IV, while the list of registered participants is annexed as Appendix VI.

PART B.

THE WORKSHOP



PART B.

THE WORKSHOP ON REFORM OF THE CORRUPT PRACTICES AND OTHER RELATED OFFENCES ACT, 2000

9. The Workshop on the Reform of the Corrupt Practices and Other Related Offences Act, 2000 (I.C.P.C. Act) was held at Reiz Continental Hotel, Abuja on Wednesday 13th November, 2013. There were five sessions, namely the Opening Session, three Working Sessions and the Closing Session. The programme is set out as Appendix 1 in this Report.

10. THE OPENING SESSION

After the introduction of dignitaries by the Master of Ceremony, Dr. Taiwo Oladokun, there was a rendition of the National Anthem. The opening prayer was said by Barrister K. M. Magaji, Honourable Commissioner, Nigerian Law Reform Commission.

11. The Opening Remarks were made by Prof. C. O. Okonkwo, SAN, OON, then Honourable Commissioner, Nigerian Law Reform Commission who represented Hon. Justice U A Kalgo, JSC (rtd) CON, CFR, then Chairman, of the Commission. He said the Chairman was unavoidably absent and welcomed the participants. He thereafter, presented the Chairman's remarks wherein it was stated that the Commission usually consults widely with major stakeholders in the process of reforming any law and invites experts on the particular law under consideration and the general public to elicit their inputs, which was the main reason for the workshop. He stated that 'corruption' as defined in the Oxford Advanced Learner's Dictionary is 'dishonest or illegal behaviour, especially of people in authority'. Corruption inhibits development and progress. He further observed that the Federal Government has, through the enactment of some anti-

corruption legislation laid foundation for fighting the menace. The I.C.P.C Act 2000 is one of such legislation. The Act prohibits and prescribes punishment for corrupt practices and other related offences and established a Commission to implement the Act. The Nigerian Law Reform Commission having carefully examined the provisions of the Act made some proposals to amend some of its provisions in order to improve the capacity of the I.C.P.C to fight corruption. Such proposals include amendments to improve the provisions of the Act on composition, qualification and tenure of members of the Commission; fraudulent acquisition of property; deliberate frustration of investigation by the Commission, the offence of using position for gratification. Furthermore, some of the penalties in the Act are very low and the Commission has made recommendations for their upward review in order to deter potential offenders. He noted that details of the Commission's proposals for reform of the Act are contained in the Working Paper for consideration at the workshop. He urged all the participants to offer useful contributions towards the eventual improvement of the law. The Opening Remarks is annexed as **Appendix II** of this report.

12. The Workshop was formally declared open by Mr. Mohammed Bello Adoke SAN, CFR, Hon. Attorney-General of the Federation and Minister of Justice, who was represented by his Senior Special Assistant, Prof. A. Adekunle. The Attorney-General remarked that this reform exercise was in conformity with the good governance/anti-corruption measures of the Transformation Agenda of the Federal Government of Nigeria. A re-examination of the I.C.P.C Act, he said, was necessary to bring its provisions in tandem with modern times. He commended the Commission for its determination in achieving its mandate through the delivery of quality law reform to the nation. His remarks are annexed as **Appendix III** in this report.

THE WORKING SESSIONS

13. Each of the three Working Sessions was presided over by an eminent Jurist. After the opening remarks for each session, the relevant parts of the Working Papers were presented by the resource persons and then discussed by the participants. The following is a brief summary of the deliberations at each of the three Working Sessions and the Closing Session.

FIRST WORKING SESSION

- **Highlights of the Nigerian Law Reform Commission's Working Paper on the Reform of the ICPC Act by Senator, Professor O. A. Osunbor, then Hon. Commissioner, now Chairman, Nigerian Law Reform Commission.**
- **Discussion/comments.**

14. Senator (Prof) O. A. Osunbor highlighted the Commission's proposals for amendment of the ICPC Act, as contained in the Working Paper, with a draft (Amendment) Bill. The Commission's proposals include a re-definition of some words used in the Act in order to reflect advancements in technology; a reduction in the number of members of the Commission for ease of operations and to reduce the financial burden on the government; introduction of some level of educational qualifications to be possessed by some of the members, to reflect the seriousness of the task of the Commission; a re-arrangement of section 4 of the Act on the Commission, oath of office, e.t.c. for clarity of interpretation; an expansion of section 15 on deliberate frustration of investigation by the Commission in order to provide for other ways by which investigation may be frustrated; and the deletion of section 26(3) of the Act which requires a court to conclude judgement within ninety days from commencement of proceedings in the prosecution of corruption cases, having been declared

unconstitutional, null and void by the Supreme Court in the case of *Attorney-General of Ondo State v Attorney-General of the Federation & 36 ors*¹⁶ The Court held in that case that section 26(3) of the ICPC Act encroaches on the powers of the judiciary and violates the principle of separation of powers under the Constitution. The Commission further proposed an amendment of section 36(1) (a) and (c) of the Act, on forceful entry of premises, to restrict such entry to relevant premises and to seizure of only any article which is relevant to the commission of the offence. Also, the fines and penalties provided for in the Act should be increased to reflect the present value of the Naira and to deter potential offenders.

15. Comments on the highlights were made by the participants. Chief A. Awomolo, SAN, commended the efforts of the Commission towards this reform initiative and advocated that the ICPC should be specialized on the investigation and prosecution of corruption cases. In this regard, he recommended an amendment of section 6 on the general duties of the Commission to read that “it shall be the **exclusive** duty of the Commission ...” He further suggested that sections 67 and 69 of the Act, on application of provisions of the Act to any prescribed offence and the powers of police officers under the Act, respectively, should be amended to entrust the investigation and prosecution of corruption cases on the ICPC.

16. The representative of the Inspector General of Police and Prof. Yemi Akinseye – George, SAN, disagreed with the above recommendations of Chief Awomolo SAN, that the ICPC should be given the exclusive power under the Act, to investigate and prosecute corruption matters, since the ICPC may not be able to cope with the heinous task.

¹⁶(2002) 9 NWLR (Pt. 772)

17. Barr. K M. Magaji, Hon. Commissioner, Nigerian Law Reform Commission and Prof. A. Adekunle were also in support of retaining the investigative and prosecutorial powers of the ICPC under the Act as it is. There is no need to make it an exclusive preserve of the ICPC.
18. In response, Barr. Ekpo Nta, the Chairman of the ICPC observed that the ICPC has achieved much results in the fight against corruption but advocated for a change of public perception and media reports on corruption matters. He reiterated the fact that the ICPC is mainly empowered under the Act to prevent corruption and has always carried out training programmes on anti-corruption measures such as the Corruption Risk Assessors Programme, different from the Anti-Corruption Transparency Units established in most public institutions. He further advocated that the ICPC by its mandate under section 6 of the Act, on the general duties of the Commission, should come up with a Code of Ethics which will place a duty on Government Ministries, Departments and Agencies and private organisations to submit periodic reports to the ICPC on actions taken by them to prevent, investigate or report corrupt practices in their establishments. He said that the ICPC collaborates very strongly with the Bureau for Public Procurement and the Federal Inland Revenue Service in the performance of its functions.
19. Senator (Prof) O A Osunbor finally advised that the Police should be better trained on the investigation of corruption matters, for more efficiency and to achieve a higher success rate in the prosecution of persons accused of corruption.
20. Most participants at the Workshop generally agreed with the proposals of the Commission as contained in the Working Paper.

SECOND WORKING SESSION**CHAIRMAN OF SESSION – Prof. C. O. Okonkwo, SAN, OON, then****Commissioner, Nigerian Law Reform Commission****Topic – Corruption in Nigeria: The I.C.P.C and Effective Control.****Paper Presenter – Barr. Ekpo Nta, The Chairman, I.C.P.C.**

21. Barrister Ekpo Nta, in his presentation, observed that the astronomical rise in the incidence of corruption in Nigeria informed the determination of the Federal Government to tackle corruption headlong, through legal and institutional framework. This culminated in the enactment of the ICPC Act, which established the anti-corruption commission, ICPC, as the first of its kind in Nigeria, primarily empowered to investigate and prosecute persons engaged in corrupt practices in both the public and private sectors. He said that the Commission has worked within its enabling law which mandates it in the areas of enforcement, prevention and mass mobilization/education against corruption. He further observed that aside from setting up the Anti-Corruption Transparency Monitoring Units (ACTUs) in the Ministries, Departments and Agencies (MDAs), to serve as internal self-cleansing watchdogs, the Commission has conducted systems studies in critical areas of fund leakages in the MDAs, resulting in substantial recovery of government funds. He also noted that the ICPC can investigate suspected cases of corrupt practices and not just reported cases and recommended that the officers and staff of the ICPC should be more technically and morally motivated to perform their duties and the functions of the Commission.

22. The Chairman of the ICPC informed the workshop that the Commission recently embarked on relevant continuous staff development training aimed at improving the

investigative, prosecutorial and preventive activities of the Commission, to get desired results in tackling corruption. The Commission is also developing a Whistleblower and Witness Protection Policy that will encourage confidential reporting of corruption cases by the citizenry.

23. He further observed that having implemented the Act, the Commission observed some shortcoming in its provisions which necessitated a proposal for an amendment of the Act in 2003. Incidentally, within the same year, the Senate, following an investigation by the ICPC into a petition involving some principal officers of the National Assembly, purportedly repealed the ICPC Act, 2000, whittling down the powers of the Commission. This purported repeal was however nullified by the Federal High Court in the case of **Attorney-General of the Federation V Chief Pius Anyim, Senate President, Federal Republic of Nigeria & 3 ors.**¹⁷ This judgement was upheld by the Court of Appeal, Abuja, in the case of **Senator A. N. Wabara & 2ors V Federal Republic of Nigeria.**¹⁸ As such, the 2000 Act remains the extant law.

24. The Chairman further said that without prejudice to the proposed amendments contained in the Nigerian Law Reform Commission's Working Paper, the ICPC also proposes the inclusion of provisions in the Act to prevent a court from entertaining an application for stay of proceedings in corruption matters, in order to prevent delays; permit the ICPC to accept gifts, provided the terms and conditions are not contrary to its functions/objectives; and to provide for the offence of impersonation of an officer of the Commission. He also re-iterated the need for adequate funding of the agency for better performance.

¹⁷supra

¹⁸supra

25 Participants at the workshop commended the paper and made some comments thereon. It was observed that including a provision in the ICPC Act to prevent a court from entertaining an application for stay of proceedings in corruption cases may not be appropriate because it is a procedural matter which is usually provided for in the various Court Rules. Also, the offence of impersonation is already provided for in the Criminal and Penal Codes.

26. Prof. C. O. Okonkwo, SAN, OON advocated for an amendment of S.22(5) of the ICPC Act on the virement of public funds to allow for such virement in cases of extreme emergencies, to save perilous situations. Some other participants agreed with this view.

27. However, a participant Mrs. Rasheedat Okoduwa, a Director from the ICPC observed that section 22(5) of the Act does not abhor virement of public funds by MDAs, but it is permitted to be done with the required approval by an appropriate authority in accordance with Financial Regulations. The provision of section 22(5) should be left as it is since amending it will give room for misuse of public funds all in the cloak of virement for extreme emergency. The required approval should be sought and obtained for virement of public funds when the need arises.

Topic – Proposals for the Reform of the I.C.P.C. Act, 2000.

Paper Presenter – Barr . Ola Olanipekun,

Legal Practitioner, Prime Chambers, Central Area, Abuja

and Member of the NBA Constitutional Review and Law

Reform Committee.

28. Barrister O. Olanipekun commended the Commission for organising the workshop. He agreed with most of the Commission's proposals and recommended that the membership of the ICPC's board is too large and should be reduced for ease of

operations and prudent management of government funds. He also recommended that the name 'ICPC' seems to suggest that it is a Commission for corrupt practices and other related offences and should be changed to "Independent Anti-Corrupt Practices and Other Related Offences Commission", in order to truly reflect the Commission as an Anti-corruption Agency.

29 He also commented on the modalities for the implementation of the Act. He re-iterated the need to fine-tune the provisions of the Act on the protection of whistleblowers/informants in order to adequately protect, reward and encourage informants, especially with regards to the protection of their jobs. This will invariably enhance the performance of the Commission in the fight against corruption. He also advocated for an improved funding for the ICPC in order to strengthen its capacity for better performance of its functions.

30. He finally admonished that in addition to amending the provisions of the Act, our national value system should be hinged on honesty, hard work and diligence; and the law enforcement agencies should be adequately funded to meet with the fight against corruption.

31. Barrister Olanipekun's paper was discussed by participants at the Workshop. Chief A. Awomolo, SAN commended his recommendations and supported the idea of protecting and rewarding informants under the Act. He also advocated for an increase in the political will to fight corruption and more enlightenment programmes for the judiciary on the need for speedy dispensation of corruption cases. He further said that interlocutory appeals should not be allowed to serve as a means to delay court proceedings in corruption cases.

32. Some participants agreed with the recommendation of the paper presenter that the name 'ICPC' should be changed to 'Independent Anti-Corrupt Practices and Other Related Offences Commission'. Others were however of the view that it is unnecessary and inappropriate to change the name of the Commission since its existing name speaks for itself just like the names, Economic and Financial Crimes Commission (EFCC), Bureau for Public Procurement and Public Complaints Commission, which are also Anti-corruption Commissions/Agencies. The short title and explanatory memorandum of the ICPC Act makes it clear that the ICPC is an anti-corruption agency. Moreover, changing the name of the ICPC which has existed for over thirteen years, will cause administrative, operational and logistics problems for the Commission and the populace.

THIRD WORKING SESSION

CHAIRMAN OF SESSION – Barrister K.M. Magaji.

Commissioner, Nigerian Law Reform Commission

Topic – The ICPC and Other Anti-Corruption Agencies: Conflict or Collaboration.

Paper Presenter – Barr. Moses O. Olatunji, Head of Department, Business Law, Faculty of Law, Lagos State University, Lagos.

33. Barrister M. O. Olatunji in his presentation observed that corruption covers acts such as use of one's office for pecuniary advantage, gratification, insincerity in advice with the aim of gaining advantage, etc. He emphasized the need to strengthen the anti-corruption agencies in order to achieve our desired objective of ridding our nation of corruption. He noted that the ICPC and EFCC have been existing for more than ten years without apparent conflict and are both necessary anti-graft agencies, considering the magnitude of corruption in Nigeria. He recommended that both agencies as well as

others need to be strengthened for better performance and should complement each other in the fight against corruption.

34. He agreed with the view of the Commission that some penalties provided for under the Act should be reviewed upwards in order to adequately punish offenders and deter potential ones. He recommended that special courts should be established for the speedy dispensation of corruption cases.

35. Participants at the workshop agreed with most of the views of the presenter. It was however observed by a participant that section 61(3) of the ICPC Act, on the prosecution of offenders, already provides for the designation of courts to hear and determine corruption cases, in order to attain speedy dispensation thereof.

CLOSING SESSION

CHAIRMAN OF SESSION – Hon. Justice U. A. Kalgo, JSC (rtd). CON, CFR,

then Chairman, Nigerian Law Reform Commission,

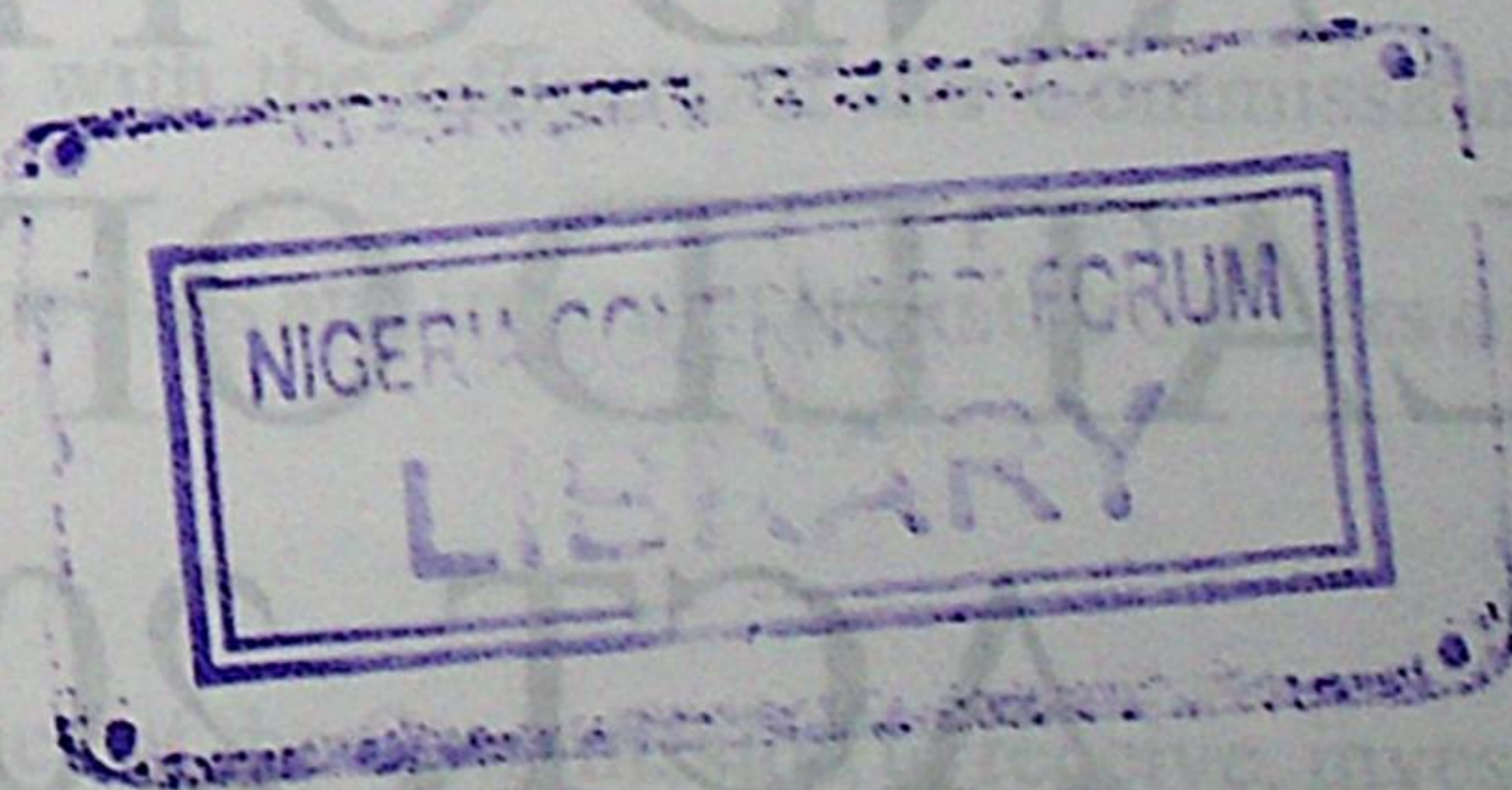
Represented by Prof. C. O. Okonkwo, SAN, OON.

36. Prof. C. O. Okonkwo, SAN, OON, then Hon. Commissioner, Nigerian Law Reform Commission, in his closing remarks, thanked the participants for their useful contributions at the workshop and assured them that due consideration will be given to all views expressed when preparing the final Report that will be submitted to the Hon. Attorney-General of the Federation and Minister of Justice.

37. The Summary of Recommendations made at the workshop was read by Mr. V. Uchendu, an Assistant Director, Private Law Department of the Commission, amended in some aspects by the participants and unanimously adopted thereafter. A copy is included in this Report as Appendix IV.

38. The Vote of thanks was given by Mrs. A. F. Oguneye, the Secretary, Nigerian Law Reform Commission who expressed appreciation to the resource persons and other participants for honouring the Commission's invitation and making useful contributions at the workshop.

39. The second stanza of the National Anthem was rendered by the participants as a closing prayer.



PART

‘C’

OVERVIEW OF THE CORRUPT PRACTICES AND OTHER RELATED OFFENCES ACT, 2000

PART 'C'

OVERVIEW OF THE CORRUPT PRACTICES AND OTHER RELATED
OFFENCES ACT, 2000

40. The Corrupt Practices and Other Related Offences Act, 2000 came into being on 13th June, 2000. The Act seeks to prohibit and prescribe punishment for corrupt practices and other related offences. It also establishes the Independent Corrupt Practices and Other Related Offences Commission, vesting it with the responsibility for the investigation and prosecution of offenders.

The Act comprises seventy-one (71) sections, hereunder summarised –

41. **SECTIONS 1 AND 2:**

Sections 1 and 2 of the Act provide for the short title, commencement and the interpretation of some words used in the Act.

42. **SECTIONS 3 – 6**

Section 3 establishes the Independent Corrupt Practices and Other Related Offences Commission and provides for the composition, tenure and removal from office of the members of the Commission. **Section 4** deals with the officers of the Commission as regards their appointment, oaths of office, etc. The powers and immunities of the officers of the Commission are provided for in **section 5**.

In **section 6** of the Act, the general duties of the Commission to receive, investigate complaints and prosecute offenders are provided for.

43. **Section 7:**

Section 7 provides for the right of the Chairman to issue administrative orders referred to as “Standing Order,” as may be expedient for the good administration of the Commission.

44. SECTIONS 8–26: OFFENCES AND PENALTIES

Sections 8 – 26 create offences that the Commission can prosecute, as well as the penalties for such offences. These offences mainly border on corruption such as allegation of bribery, gratification, etc.

Sections 8 – 10 provide for offences relating to gratification, while **section 11** makes it unnecessary to prove in any proceedings for an offence under the Act, that the public officer counselled the Commission of the offence.

Sections 12 – 13 provide for fraudulent acquisition and receipt of property.

Section 14 penalises offences committed through the postal system.

Section 15 punishes anyone who deliberately frustrates an investigation by the Commission.

Section 16 punishes anyone who makes false statements or returns.

In **Section 17**, gratification by and through agents is criminalized. The section also defines who an agent is.

Sections 18 – 26 provide for offences relating to bribery, dealing with property acquired through gratification, as well as attempt, preparation, abatement, and conspiracy.

45. SECTIONS 27–42: INVESTIGATION, SEARCH, SEIZURE AND ARREST

These Sections provide for the prosecutorial powers of the officers of the Commission.

Sections 27 – 29 give officers of the Commission powers to investigate reports, examine persons as well as to summon persons for examination.

Sections 30 – 33 provide for the procedure to be followed by the Commission in issuing summons, serving the summons as well as the acknowledgement of the service of summons.

Section 34 punishes refusal to acknowledge service. Under **Section 35**, failure to appear after the receipt of summons is penalised.

Section 36 grants the Commission the power to obtain a court order or warrant to forcefully enter a premises.

Sections 37 and 38 provide for the seizure and custody of seized property.

Under **Sections 39 – 40**, advocates and solicitors may be required to disclose information and a legal obligation is imposed on every person required by an officer of the Commission to give any information on any subject matter, to do so.

Section 42 provides for the offences under the Act to be seizable offences and bailable.

46. SECTIONS 43 – 52: PROVISIONS RELATING TO THE CHAIRMAN OF THE COMMISSION

SECTIONS 43 – 52 generally provide for the powers of the Chairman of the Commission. The sections empower the Chairman to investigate a share account, obtain information, and seize movable property in the bank. The sections also provide for the Chairman's powers in relation to forfeiture of property.

Section 52 provides for the power of an independent counsel to investigate the President or Vice-President of Nigeria; or the Governor or Deputy Governor of a state.

47. SECTIONS 53 – 60: EVIDENCE

Section 53 – 60, generally deal with evidence, presumptions, admissibility of statements and other documents. While section 53 provides for presumption in certain offences in any proceeding instituted under the Act, section 54 deals with public evidence of corroboration in any procedure against any person for an offence under sections 8 – 19 of the Act.

Section 55 deals with the evidence of an accomplice and agent provocateur.

Sections 56 – 60 make provisions for the admissibility of statements and documents etc.

Section 60 provides that evidence of custom shall be inadmissible as a defence for gratification under the Act.

48. SECTION 61 – 64: PROSECUTION AND TRIAL OF OFFENCES

Section 61 provides that the prosecution of offences under the Act shall be deemed to be done with the consent of the Attorney-General. **Sections 62 – 63** which relate to the trial of offences provide for circumstances for joinder of offences and certificate of indemnity. **Section 64** provides for the protection of informers and information.

49. SECTIONS 65 – 71: GENERAL

The general provisions of the Act are contained in sections 65 – 71. **Section 65** provides for the protection of officers of the Commission. **Section 66** provides for liability for offences committed outside Nigeria. **Section 67** states that the provisions of the Act shall apply to any prescribed offence, notwithstanding any other written law to the contrary.

50. The general penalty for offences in respect of which no specific penalty is provided for under the Act is covered by **section 68**. **Section 69** re-states the powers of a Police Officer to investigate or prosecute any person for an offence under the Act. **Section 70** empowers the Chairman of the Commission to make rules that will give effect to the provisions of the Act.

51. **Section 71** provides for the right of appeal for a convicted person, as conferred by the Constitution of the Federal Republic of Nigeria.

PART

'D'

RECOMENDATIONS FOR THE AMENDMENT OF THE CORRUPT PRACTICES AND OTHER RELATED OFFENCES ACT, 2000

PART 'D'

**RECOMMENDATIONS FOR THE AMENDMENT OF THE CORRUPT
PRACTICES AND OTHER RELATED OFFENCES ACT 2000****52. SECTION 2- INTERPRETATION**

Section 2 of the Act deals with the interpretation of words used in the Act. It is the view of the Commission that in order to reflect the advancements in technology and banking and for purposes of clarity, the following words defined in section 2 should be re-defined thus –

“Bank” means a bank, a finance company, commercial bank, a merchant bank, a mortgage bank or a discount house, licensed under the Banks and Other Financial Institutions Act, or any other financial institution established or licensed under any other written law;

“Money Instrument” includes coin or currency of Nigeria or of any other country, travellers' cheque, personal cheque, bank cheque, credit or debit card, money order, investment security or negotiable instrument in bearer form or otherwise in such form that title hereto passes upon delivery or upon delivery endorsement.

53. Most participants at the Workshop agreed with the above views of the Commission.

54. RECOMMENDATION

The definitions of the words “bank” and “money instrument” should be amended as proposed above, in order to reflect advancements in technology, banking practice and for purposes of clarity.

**ESTABLISHMENT OF THE INDEPENDENT CORRUPT PRACTICES e.t.c,
COMMISSION, COMPOSITION, TENURE AND REMOVAL FROM OFFICE.**

SECTION 3 OF THE ICPC ACT

55. SECTION 3 (3) – COMPOSITION

Subsection (3) provides that the Commission shall consist of the Chairman and 12 other members, two of whom shall come from each of the six geo-political zones. The size of the Commission is rather too large and unwieldy. There is need to reduce the membership for prudent management of government resources and effective performance.

56. Most participants at the workshop agreed with the above findings.

57. RECOMMENDATION

The number of the members of the Commission should be reduced to seven, the Chairman inclusive. Section 3 (3) of the Act should be amended to provide for the Chairman and six other members, one from each of the six geo-political zones of the country.

**INADEQUATE PROVISIONS AS TO THE QUALIFICATION OF MEMBERS OF
THE COMMISSION**

58. SECTION 3 (3)

It has been observed that the provisions of the Act with respect to the qualification of the members of the Commission to be appointed by the President are not adequate as discussed hereunder.

59. SECTION 3 (3) (b)

This section provides for the appointment of a legal practitioner as a member of the Commission, and such legal practitioner must possess a minimum of 10 years post-call experience.

PART 'D'

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63. SECTION 3 (3) (C)

In view of the fact that we have in paragraph 57 of this paper, proposed a reduction of the number of members from 12 to 6, one from each of the six geo-political zones (plus the Chairman) and by virtue of the fact that in section 3(4) it is provided that the Chairman shall be a person who has held or is qualified to hold office as a Judge of a superior court of record, it is observed that section 3(3) (c), on the appointment of a retired judge of a superior court of record as a member of the Commission, is a surplusage and should be deleted.

64. RECOMMENDATION

For the above stated reason, section 3 (3) (c) of the Act should be deleted; and sections 3 (d), (e), (f) and (g) consequently renumbered as sections 3 (c), (d), (e) and (f), respectively.

65. SECTION 3(3) (e)

This section provides for the appointment of a woman as a member of the Commission. This appears to be too loose. It is suggested that the qualification of the woman should be specified in clear terms. For example, the educational qualification and experience of the woman should be stated.

66. RECOMMENDATION

It is recommended that the educational qualification of the woman in section 3 (3) (e) should be provided for. The woman should have at least a university degree or its equivalent, considering the seriousness of the office.

67. SECTION 3(3) (f)

By virtue of this provision, a youth of not less than 21 years or more than 30 years of age at the time of his appointment can be a member of the Commission. It is the

60. There are two views on the issue of the years of experience of the legal practitioner. The first view is that the age of a lawyer at the Bar does not determine the level of his intellectual competence. Proponents of this view maintain that the qualification for appointment as a Chief Judge or a Judge of the High Court as provided in section 271 (3) of the 1999 Constitution of the Federal Republic of Nigeria,¹⁹ is a minimum of ten (10) years post call. Also, this same qualification applies for conferment of the rank of a Senior Advocate of Nigeria (SAN). Hence for the proponents of the above view, there is no objective basis for requiring more than 10 years for a legal practitioner to qualify for appointment as a member of the Commission.

61. The second school of thought maintains that the legal profession generally accords more respect to the age of a person at the Bar. Proponents of this view feel that as the society develops, standards are raised in order to strengthen the integrity of societal structures. Also, since corruption is a sensitive issue in Nigeria, the Commission requires persons with very high experience and proven integrity. The second school of thought therefore feels it is necessary to raise the qualification of a legal practitioner to be appointed as a member of the Commission to at least 12 or 15 years post-call experience.

62. RECOMMENDATION

It is recommended that the requirement of a minimum of 10 years post-call experience for appointment as a member of the Commission should be retained since the same number of years of post-call experience is by implication, required for appointment as a Chairman of the Commission. However, the Legal Practitioner should be nominated by the Nigerian Bar Association to ensure stronger commitment and accountability.

¹⁹Cap. C.23, Laws of the Federation of Nigeria (L.F.N), 2004

Commission's view that this provision is also too loose, since it does not state the educational qualification of the youth. The youth to be appointed should belong to any of the registered youth groups, as to have and represent a constituency, which will make him responsible

68. RECOMMENDATION

- (i) It is recommended that the educational qualification of the youth in section 3 (3) (f) should be clearly provided for. The youth should have at least a university degree or its equivalent, considering the importance of the office and also belong to a registered youth group.
- (ii) Furthermore, the Legal Practitioner, Woman and Youth should be nominated by the relevant recognised bodies.

69. SECTION 3 (7)

This section provides that the Chairman shall hold office for a period of five years and may be reappointed for another five years, while the other members of the Commission shall hold office for a period of four years and may be reappointed for another term of four years.

It is observed that there is a disparity between the tenure of the Chairman and that of the other members of the Commission.

Although one may argue that the disparity is justifiable on the grounds of continuity, continuity may not be of any relevance since the Chairman cannot function alone when the tenure of the other members has expired. Also, there is a Secretary who is vested with the day to day administration of the Commission. We cannot see any legally justifiable reason for the disparity. Hence the Commission is of the view that there should be uniformity in the tenure of office of the Chairman and other members of the Commission, for a smoother management of the affairs of the Commission.

70. RECOMMENDATION

Section 3 (7) of the Act should be amended to provide for uniformity in the tenure of both the Chairman and other members of the Commission to five years duration.

71. Most participants at the Workshop agreed with the foregoing views and recommendations of the Commission on the Composition and tenure of members of the board of the ICPC that is section 3 of the Act.

**APPOINTMENT OF OFFICERS OF THE COMMISSION, OATH OF OFFICE etc.
QUORUM FOR MEETINGS, PRODUCTION OF IDENTITY CARD – SECTION 4**

72. SECTION 4 (2)

This section provides that the Chairman and any four members shall constitute a quorum. This is based on the fact that there are 13 members of the Commission, inclusive of the Chairman. In view of our earlier suggestion on reduction of the size of the Commission to seven (inclusive of the Chairman), it is recommended that the quorum should be the Chairman or his representative and any three members, that is, four out of seven.

73. RECOMMENDATION

Section 4 (2) of the Act should be amended to provide that the Chairman or his representative and three other members shall constitute a quorum.

74. ARRANGEMENT OF SECTION 4

Generally, section 4 deals with the appointment of the staff of the Commission, oath of office, quorum for meetings, production of identity card. It is observed that there is a mix up in the arrangement of the provisions of this section. For instance, the provisions of sections 4(1), 4(5), 4(7) and 4(8) deal with officers of the Commission, while sections 4(2) and 4(3) deal with members of the Commission. In addition, section 4(6) provides

for the appointment of a Secretary, while section 4(4) deals with the conditions of service of officers of the Commission.

The above arrangement is rather confusing. There is need for a rearrangement of this section. Section 4(2) and (3) should be transferred to section 3 dealing with the members of the Commission and section 3(11), (12) and (13) should be transferred to section 4 which deals with the appointment of officers of the Commission. The side notes to both sections should be consequently amended.

75. RECOMMENDATION

The existing section 4 (3) and amended section 4 (2) should be transferred to section 3 and the side notes of sections 3 (2)-(13) and 4 (1) should be accordingly amended.

76. The participants agreed with the above recommendations on a consequential amendment of the quorum for meetings of the Commission and a re-arrangement of section 4 of the Act, for clarity of interpretation.

77. SECTION 4 (8)

By virtue of the provision of section 4(8), the Secretary shall be subject to the direction, control and supervision of the Chairman or any other superior officer of the Commission. This provision suggests that the secretary is subject to other members of the Commission, whereas officers of the Commission are subordinate to the Secretary as the Secretary is the most superior officer of the Commission. Members of the Commission are not officers of the Commission. The intention of this provision obviously refers to the Chairman and members of the Commission. The term 'superior officer' is not also defined in the Act and cannot be interpreted to mean members of the Commission.

78. RECOMMENDATION

The words 'other Superior Officer' in section 4 (8), proposed as new s.4 (6) should be substituted with the word 'member'.

79. SECTION 12 – FRAUDULENT ACQUISITION OF PROPERTY

This section provides for fraudulent acquisition of property by any person employed in the public service. It is observed that this provision is too restrictive as it excludes other persons not employed under the public service but are engaged in the service. There are other categories of persons that are not directly employed under the public service e.g. consultants, political appointees, contractors and persons generally on contract employment who could use their positions to fraudulently acquire government property.

80. The Commission recommends that this provision should be expanded to include persons engaged in any capacity in the public service. Furthermore, the words “joint stock” should be substituted with the words “registered company” in the section since joint stock companies are now simply known as registered companies.

81. Most participants at the Workshop agreed with the foregoing views.

82. RECOMMENDATION

Section 12 should be expanded to include any person engaged in any capacity in the public service. Also, the words “joint stock” should be substituted with the words “registered company” in the section.

83. SECTION 14 – PENALTY FOR OFFENCES COMMITTED THROUGH POSTAL SYSTEM

Section 14 provides for penalties for offences committed through the postal system. The drafting style of this section does not clearly suggest that an offence has been created. This section is seemingly linked to section 13... It is suggested that for clarity, section 14

should be amended by inserting the words 'under section 13,' immediately before the words 'is a felony' in order to clearly portray the intendment of the draftsman. Furthermore, in order to provide for offences committed through electronic devices such as the internet or GSM, it is recommended that the words 'postal matter' in section 14, should be substituted with the words 'a postal or electronic matter.'

84. RECOMMENDATION

For purpose of clarity of interpretation, section 14 should be amended as above stated.

85. SECTION 15 – DELIBERATE FRUSTRATION OF INVESTIGATION BY THE COMMISSION

Section 15 provides for deliberate frustration of investigation by the Commission. The section penalizes a person who with intent, defrauds or conceals a crime or frustrates the Commission in its investigation. The provision has three (3) paragraphs.

Paragraphs (a), (b) and (c) provide for acts which constitute deliberate frustration of investigation by the Commission. Paragraph (a) provides for the destruction of documents in various forms, paragraph (b) deals with making false entries in any document while paragraph (c) deals with deliberate omission from relevant documents.

86. There are other ways of frustrating investigation e.g. wilful prevention or restriction of informants or witnesses from giving valuable information to facilitate the process of investigation by the Commission. In this regard, it is suggested that an additional subsection should be provided to cover such instances or cases.

87. Most of the participants agreed with the above views of the Commission on section 15 of the Act.

88. RECOMMENDATION

A new paragraph 15 (d) should be included in the Act, in line with the above suggestion.

89 SECTION 19 – OFFENCE OF USING OFFICE OR POSITION FOR GRATIFICATION

Section 19 creates the offence of using office or position for gratification. An in-depth examination of the provision shows that it is restrictive. The use of the words “any relation or associate of the public officer or any other public officer” excludes any other person from the scope of the offence.

We suggest that the words “any other person” should be substituted for the words “any relation or associate of the public officer or any other public officer” so as not to limit the scope of the provision.

90. Most of the participants agreed with the above recommendations on section 19 of the Act.

91. RECOMMENDATION

Section 19 should be amended as stated above.

92. SECTION 22 – BRIBERY FOR GIVING ASSISTANCE, ETC, IN REGARD TO CONTRACTS

Section 22 deals with bribery for giving assistance, etc., in regard to contracts. For the purpose of clarity and elegant drafting, it is tidier to re-arrange/re-number section 22 (6) as new section 22(3) since it is the punishment for section 22 (1) and (2). Consequently, the existing section 22 (3), (4) and (5) should be re-numbered as new section 22 (4), (5) and (6), respectively.

93. RECOMMENDATION

The provisions of sections 22(3), (4), (5) and (6) should be re-numbered/re-arranged as stated above for clarity.

94. SECTION 26 (1) (b) ATTEMPTS, PREPARATIONS, ABETMENTS AND CRIMINAL CONSPIRACIES, PUNISHABLE AS OFFENCE, DELEGATION OF A.G.'S POWER TO PROSECUTE

This section criminalizes acts which constitute attempts, preparation, abetments and criminal conspiracy in relation to offences under the Act. Section 26(1) (b) provides that 'any person who does any act preparatory to or (underline ours) in furtherance of the commission of any offence under this Act, shall be guilty of an offence and shall on conviction be liable to the punishment provided for such offence

95. In criminal law, acts done preparatory to an offence are not punishable except, in few cases such as coinage offences. Preparation is distinct from attempt, as the offender has not manifested the attempt to commit the offence with an overt act. It will be impossible to establish a prima facie case based solely on preparatory acts which do not amount to overt acts as in the case of an attempt. It is therefore recommended that the words "preparatory to or" in section 26 (1) (b) of the Act should be deleted.

96. RECOMMENDATION

The words "preparatory to or" in section 26 (1) (b) should be deleted. Consequently, the word 'preparations' in the side note to section 26 should also be deleted.

97. SECTION 26(3)

Section 26 (3) of the Act provides that a prosecution for an offence shall be concluded and judgment delivered within ninety (90) working days of its commencement, save that the jurisdiction of the Court to continue to hear and determine the case shall not be affected where good grounds exist for a delay. Compelling a court to deliver judgement within ninety working days from the commencement of prosecution appears impracticable in the present day when courts usually have many cases to adjudicate

on, at any given point in time. Moreover, this requirement encroaches on the independence of the Judiciary.

98. This proposal is supported by the Supreme Court decision in the case of **Attorney General of Ondo State v Attorney General of the Federation & 36 Ors.**²⁰ In that case, the Supreme Court found that section 26 (3) which touches on the powers of the Judiciary infringes on the principle of separation of powers under the Constitution and therefore unconstitutional, null and void.

99. The resource persons and most participants at the Workshop supported the above position of the Commission on the amendment of section 26 of the Act.

100. RECOMMENDATION

Section 26 (3) of the Act should be deleted, in line with the above decision of the Supreme Court.

101. SECTION 36 (1)(a) and (C) – FORCEFUL ENTRY OF PREMISES

Section 36 deals with forceful entry of premises. Section 36 (1) (a) deals with entry of premises for search and seizures. Section 36 (1)(c) deals with the search of any person who is in or on such premises, and for the purpose of such search , detain such person and remove him to such place as may be necessary to facilitate such search; and seize and detain such article found on such person.

102. The provisions of these sections are too wide, especially as it relates to entry into premises, seizure and detention of such article found on such person. It is suggested that the provisions should be restricted to entry into the relevant premises and to seizure of any article which is relevant to the commission of an offence under the Act.

²⁰(2002) 9 NWLR, Pt.772

Consequently, the word "such" should be inserted before the word "premises" in section 36 (1)(a) and the words "which is relevant to the commission of the offence" should be inserted immediately after the word "article" in the last line of section 36 (1) (c).

103. Most participants at the Workshop agreed with the above observations on 'forceful entry of premises'.

104. RECOMMENDATION

Section 36(1) (a) and (1) (c) should be amended as above stated.

105. SECTION 52 – INDEPENDENT COUNSEL TO INVESTIGATE PRESIDENT, ETC.

This section provides for the powers of the Chief Justice of Nigeria to appoint an independent counsel to investigate the President or Vice President or a Governor or Deputy Governor of any state, upon an allegation made against them on offences relating to corrupt practices. This provision appears to be ambiguous.

106. First of all, the section provides that an application is made against the President etc., but does not state who the application is made to. The section should specifically state who the application should be made to. It can be inferred from the provisions of the section that it should be made to the Chief Justice of Nigeria to avoid ambiguity.

107. Secondly, it further provides that the Chief Justice of Nigeria (CJN) shall authorize an independent counsel of not less than fifteen years post-call, to investigate the allegation and make a report of its findings to the National Assembly in the case of the President or Vice President and to the relevant State House of Assembly in the case of the Governor or Deputy Governor

108. It may be argued that the ICPC should investigate the allegation since it is already within its mandate under section 6 of the Act. However, it should be borne in mind that the Chairman and members of the ICPC are appointees of the President. It is probably

for this reason that the ICPC is not empowered under the section to receive the application and investigate the President, etc. Independent parties, that is, the CJN, an independent counsel, the National and State Houses of Assembly, are more appropriate in this case.

109. However, under the Constitution, in proceedings relating to removal, the Chief Justice of Nigeria shall upon the service of a notice of allegation to the National Assembly, appoint a panel of seven persons who are in his opinion of unquestionable integrity to investigate the President or the Vice President. There is a clear difference between the removal process under the Constitution and this provision and this might be for the reason that the offence under section 52 of the Act involves corrupt practices whereas the offence envisaged under the constitution could relate to other matters.

110. It is however recommended that for the purpose of clarity, section 52 (1) of the Act should be amended to state that the application on notice, supported by an affidavit, should be made to the Chief Justice of Nigeria

111. RECOMMENDATION

Section 52 (1) should be amended as above stated.

112. SECTION 54 – PUBLIC EVIDENCE OF CORROBORATION

The marginal note to section 54 reads “public evidence of corroboration”. Section 54 generally deals with corroboration that is supportive evidence. The words “public evidence of” are not a proper expression to use in this section since there is nothing public about the corroborative evidence provided for under the section. It is suggested that the side note should be titled “corroboration”, since the words “public evidence of” appears superfluous thereon.

113. RECOMMENDATION

The side note to section 54 of the Act should read "corroboration".

114. SECTION 61 – PROSECUTION OF OFFENDERS

Section 61 of the Act deals with the prosecution of offenders. It is observed that section 61 (3) which provides for the designation of courts to hear and determine cases of corrupt practices only provides for the Chief Judge of a state or the Federal Capital Territory, Abuja. It does not include the Chief Judge of the Federal High Court whose courts also have the jurisdiction to hear such cases. It is suggested that the sub-section should be amended to include the Chief Judge of the Federal High Court, for the designation of Judges that will hear and determine corruption cases.

115. RECOMMENDATION

Section 61 (3) of the Act should be amended to include the Chief Judge of the Federal High Court.

116. FINES AND PENALTIES

Generally, most of the fines and penalties provided in this Act are too low to serve as effective deterrents to potential offenders and do not reflect the present value of the Naira. Examples are the fines and penalties stipulated in sections 20, existing 22 (4) and (5), 25 (1) and (2), 40, 43 (4), 45 (3), 64 (3) and 68. These should be reviewed upwards as proposed by the Commission and supported by most participants at the Workshop.

117. RECOMMENDATION

It is recommended that the fines and penalties above-mentioned should be reviewed upwards as reflected in the Draft (Amendment) Bill.

PART

'E'

CONCLUSION

CONCLUSION

118. Corruption has dented the image of Nigeria both locally and internationally. It is a national malaise which must be tackled by the government. The consequences of the evil practice of corruption have taken this nation into the list of corrupt nations. It is clear that we need a law to punish every act or omission which amounts to corrupt practice. This law is the Corrupt Practices and Other Related Offences Act, 2000 which also established the Anti-corruption Commission, ICPC.²¹

119. The ICPC has no doubt made some achievements in tackling corruption in Nigeria. The Commission educates the public on the evil effects of corruption by organising workshops and seminars. The Commission has set up a large number of Anti-Corruption and Transparency Units (ACTUs) in Federal Ministries, Departments and Agencies. Substantial recoveries have been made and people in authority are now more cautious about corrupt practices.²² It is however recommended that there is need to reform the ICPC Act, 2000, as proposed in Parts 'D' and 'F' of this Paper, so as to ensure greater efficiency and better performance of the ICPC.

120. These proposals if implemented will improve the anti-corruption mechanisms provided for under the Act and strengthen the capacity of the ICPC to carry out its statutory mandate.

²¹ Per Uthman Mohammed, JSC in *Attorney-General of Ondo State v Attorney-General of the Federation & 36 Ors. (Supra)* at pp. 1122 – 1123.

²² See ICPC NEWS, Vol.8 No. 2, June, 2013 at pp. 4 – 5: 'ICPC has Reduced Looting of Public Funds' – Governor Akpabio of Akwa Ibom State.

PART

“F”

PROPOSED DRAFT CORRUPT PRACTICES
AND OTHER RELATED OFFENCES ACT
(AMENDMENT) BILL 20—

PART F

PROPOSED DRAFT CORRUPT PRACTICES AND OTHER RELATED
OFFENCES ACT (AMENDMENT) BILL 20—

A BILL

FOR AN ACT TO AMEND THE CORRUPT PRACTICES AND OTHER RELATED
OFFENCES ACT, 2000.

[Date] Commencement

1. **Amendment of the Corrupt Practices and Other Related Offences Act, 2000.**

The Corrupt Practices and Other Related Offences Act, 2000 (hereinafter referred to as “the Principal Act”) is hereby amended as set out in this Act.

2. **Amendment of Section 2. Interpretation.**

Section 2 of the Principal Act is amended by:

(i) inserting the words “a mortgage bank” immediately after the words “a merchant bank” in the interpretation of the word “Bank”, that is –

“**Bank**” means a bank, a finance company, a commercial bank, a merchant bank, a mortgage bank or a discount house licensed under the Banks and Other Financial Institutions Act or any other financial institution established or licensed under any other written law;

(ii) inserting the words “credit or debit card” immediately after the words “bank cheque” in the interpretation of the words “money instrument”, that is –

“**Money Instrument**” includes coin or currency of Nigeria or of any other country, travelers' cheque, personal cheque, bank cheque, credit or debit card, money order, investment security or negotiable instrument in bearer form or otherwise in such form that title hereto passes upon delivery or upon delivery endorsement;

3. **Amendment and re-arrangement of section 3(2) – (14): Commission, Composition, tenure and removal from office; And section 4: Appointment of Officers of Commission, Oath of Office, e.t.c.; Quorum for meetings, production of identity card.**

Section 3(2) – (14) and section 4 of the Principal Act are amended and re-arranged by:

- (i) Substituting the word “six” for “twelve” and “one” for “two”, and deleting the words “of whom shall come” in section 3(3);
- (ii) deleting section 3(3)(c);
- (iii) inserting the words “nominated by the Nigerian Bar Association” immediately after the words “post-call experience” in section 3 (3) (b);
- (iv) inserting the word “with at least a university degree or its equivalent, nominated by the National Council for Women Societies” immediately after the word “a woman” in section 3 (3) (e);
- (v) inserting the words “with at least a university degree or its equivalent, nominated by a recognized Youth Group” immediately after the words “a youth” in section 3(3)(f);
- (vi) renumbering the existing sections 3(3)(d), amended sections 3(3)(e) and (f) and existing section 3(3)(g) as new sections 3(3)(c), (d), (e) and (f) respectively;
- (vii) inserting the words “and other members of the Commission” immediately after the words “the chairman” in section 3(7) and deleting the words “and the other members of the Commission shall hold office for a period of four (4) years and may be re-appointed for another term of four (4) years but shall not be eligible for re-appointment thereafter” in the same subsection;
- (viii) substituting the word “three” for the word “four (4)” in section 4(2);
- (ix) substituting the word “member” for the words “other superior officer” in section 4(8);
- (x) inserting the existing section 4(3); and the amended section 4(2) and existing section 3(14) immediately before the existing section 3 (11), as new sections 3(11); 3(12) and 3(13) respectively;
- (xi) re-numbering the existing section 3(11), (12) and (13) as new section 4(1), (2) and (3) respectively;
- (xii) consequently, re-numbering the existing section 4(1), (4), (5), (6), (7) and the amended section 4(8) as new section 4(4), (5), (6), (7), (8) and (9) respectively; and
- (xiii) consequently amending the side note to section 3 (2)-(13) to read as follows-

“Commission, Composition, tenure, removal from office, oath of office, quorum for meetings.” and

the side note to section 4 to read as follows –

“Appointment of Officers of the Commission, production of identity card”

that is –

“Commission, Composition, tenure, removal from office, oath of office, quorum for meetings

- 3 (2). The Commission shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.
- (3). The Commission shall consist of a chairman and six other members, one from each of the six geo-political zones, who shall be:
- (a) a retired Police Officer not below the rank of Commissioner of Police;
 - (b) a legal practitioner with a least 10 years post-call experience, **nominated by the Nigerian Bar Association;**
 - (c) a retired Public Servant not below the rank of a Director;
 - (d) a woman with at least a university degree or its equivalent, **nominated by the National Council for Women Societies;**
 - (e) a youth with at least a university degree or its equivalent, **nominated by a recognized youth group** not being less than 21 or more than 30 years of age at the time of his or her appointment; and
 - (f) a chartered accountant.
- (4) The Chairman shall be a person who has held or is qualified to hold office as a judge of a superior court of record in Nigeria
- (5). Remuneration for members of the Commission shall be determined by the National Revenue Mobilization, Allocation and Fiscal Commission.
- (6) The Chairman and members of the Commission who shall be persons of proven integrity shall be appointed by the President, upon confirmation by the Senate and shall not begin to discharge the duties of their offices until they have declared their assets and liabilities as prescribed in the Constitution of the Federal Republic of Nigeria.
- (7) **The Chairman and other members of the Commission** shall hold office for a period of five (5) years and may be reappointed for another five (5) years but shall not be eligible for reappointment thereafter.

- (8) Notwithstanding the provisions of section 3 (7) of this Act, the Chairman or any member of the Commission may at any time be removed from the office by the President acting on an address supported by two-thirds (2/3) majority of the Senate praying that he be removed for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misconduct.
- (9) The Chairman or any member of the Commission may resign his appointment by notice in writing under his hand addressed to the President and the Chairman or that member shall on the date of the receipt of the notice of resignation by the President cease to be a member of the Commission.
- (10) The Chairman and members of the Commission shall hold office on such terms and conditions as may be specified in their instruments of appointment, and in the exercise of their functions, they shall not be subject to any other authority except as provided by the Act.
- (11) Every member of the Commission shall, before assuming the duties of his office, subscribe to oath prescribed in the Constitution of the Federal Republic of Nigeria for public officers.
- (12) The Chairman or his representative and any three (3) members of the Commission shall constitute a quorum.
- (13) The Commission shall in the discharge of its functions under this Act, not be subject to the direction or control of any other person or authority.

4. Appointment of Officers of the Commission, production of identity card

- (1) The tenure of office and conditions of service of the staff of the Commission shall, subject to the provisions of this Act, be determined by the Commission.
- (2) The Commission shall have power to appoint, dismiss and exercise disciplinary control over its staff and for this purpose shall prescribe its own rules.
- (3) The Commission shall have power to appoint, designate and deploy such number and category of staff and officers which, in the opinion of the Commission, shall be required to assist it in the discharge of all or any of its functions and shall have powers to pay persons so employed such remuneration (including allowances) as is in accordance with section 3 (14) of this Act.

- (4) An officer pursuant to this Act shall have such powers as may be conferred upon him under this Act and shall be subject to the direction, control and supervision of the Chairman or any other officer of the Commission superior to him in rank, and shall exercise his powers and discharge his duties in compliance with such directives or instructions as may be given by the Chairman or such other officers as aforesaid.
- (5) Service in the Commission shall be approved service for the purposes of the Pensions Reform Act.
- (6) Every officer of the Commission, when discharging the duties of his office, shall, on demand, declare his office and produce to the persons against whom he is acting or from whom he seeks any information, evidence of his identity issued by the Commission.
- (7) There shall be a Secretary to the Commission appointed by the President, who under the general direction of the Chairman shall be responsible for keeping the records of the Commission and the general administration and control of the staff of the Commission.
- (8) There shall be appointed such number of Commissioners, Deputy Commissioners, Assistant Commissioners, Superintendents, Assistant Superintendent, Senior Investigators and Investigators of the Commission as may be necessary for the purpose of carrying into effect the provisions of this Act.
- (9) An officer appointed under sub-section (4) shall have such powers as may be vested in him under this Act and shall be subject to the direction, control and supervision of the Chairman or any member of the Commission and shall exercise his powers, and discharge his duties in compliance with such directives as may be given orally or in writing by the Chairman or any member of the Commission”

4. **Amendment of section 12. Fraudulent Acquisition of property.**

Section 12 of the Principal Act is amended by inserting the words “or engaged in any capacity” immediately after the words “being employed”; and substituting the words “joint stock” with the words “registered company”, that is –

“12. Fraudulent acquisition of property

Any person who, being employed or engaged in any capacity in the public service, knowingly acquires or holds, directly or indirectly, otherwise than as a member of a **registered company** consisting of more than twenty (20) persons, a private interest (in any contract, agreement or investment emanating from or connected with the department or office in which he is employed or which is made on account of the public service, is guilty of an offence, and shall on conviction be liable to imprisonment for seven (7) years”

5. **Amendment of section 14. Penalty for offences committed through postal system**

Section 14 of the Principal Act is amended by:

- (i) inserting the words “under section 13” immediately after the words “by means of which the thing was obtained;”
- (ii) substituting the words “a postal or electronic matter” for the words “postal matter”; and
- (iii) inserting the words “or electronic device” immediately after the words “postal system” in the side note to the section, that is –

“Penalty for offences committed through postal system **or electronic device.**”

14. If the offence by means of which the thing was obtained **under section 13** is an offence punishable with not less than three years imprisonment, the offender shall on conviction be liable to imprisonment for three (3) years, except the things so obtained was a postal **or electronic** matter, or any chattel, money or valuable security contained therein, in which case the offender shall on conviction be liable to imprisonment for seven (7) years”

6. **Amendment of section 15. Deliberate frustration of investigation by the Commission.**

Section 15 of the Principal Act is amended by inserting the word “or” immediately after the words “electronic record” in paragraph (c); and inserting a new paragraph (d) as follows –

“15(c) omits, or is privy to omitting any material particular from any such book, document, account or electronic record; **or**

(d) Willfully prevents or restricts an informant or a witness from giving information;”

7. **Amendment of section 19. Offence of using office or position for gratification.**

Section 19 of the Principal Act is amended by substituting the words “other person” for the words “relation or associate of the public officer or any other public officer”, that is –

“19. Offence of using office or position for gratification

Any public officer who uses his office or position to gratify or confer any corrupt or unfair advantage upon himself or any **other person** shall be guilty of an offence and shall on conviction be liable to imprisonment for five (5) years without an option of fine.”

8. Amendment of section 20. Penalty for Offences under sections 8-19

Section 20 of the Principal Act is amended by substituting the words “one hundred” for the word “ten”, that is –

“20. Penalty for Offences under sections 8-19

Without prejudice to any sentence of imprisonment imposed under this Act, a Public Officer or other person found guilty of soliciting, offering or receiving gratification shall forfeit the gratification and pay a fine of not less than five times the sum of the value of the gratification which is the subject-matter of the offence where such gratification is capable of being valued or is of a pecuniary nature, or **one hundred thousand Naira**, whichever is higher”

9. Amendment of section 22. Bribery for giving assistance, e.t.c. in regard to contracts.

Section 22 of the Principal Act is amended by:

- (i) Substituting the words “three hundred” for the words “one hundred”, in subsection (4), that is-

“22.(4) Any public officer who, in the discharge of his official duties, awards or signs any contract without budget provision, approval and cash backing shall be guilty of an offence under this Act and on conviction be liable to three (3) years imprisonment and a fine of **three hundred thousand Naira**”.

- (ii) Substituting the words “one hundred” for the word “fifty” in subsection (5), that is –

“22 (5) Any public officer who transfers or spends any sum allocated for a particular project or service, on another project, or service, shall be guilty of an offence under this Act and on conviction be liable to one (1) year imprisonment or a fine of **one hundred thousand Naira**”.

- (iii) re-numbering the existing section 22(6) as new section 22(3); and

- (iv) re- numbering the existing section 22(3) and the amended section 22(4) and (5) as new section 22(4), (5) and (6) respectively.

10. Amendment of section 25. Making of statement which is false or intended to mislead, e.t.c.

Section 25 of the Principal Act is amended by:

- (i) substituting the word “three” for the word “one” in subsection (1), that is –

25.(1) Any person who makes or causes any other person to make to an officer of the Commission or to any other Public Officer, in the course of the exercise by such Public Officer of the duties of his office, any statement which to the knowledge of the person making the statement, or causing the statement to be made –

(a) is false, or intended to mislead or is untrue in any material particular;

or

(b) is not consistent with any other statement previously made by such person to any other person having authority or power under any law to receive or require to be made such other statement notwithstanding that the person making the statement is not under any legal or other obligation to tell the truth,

shall be guilty of an offence and shall on conviction be liable to a fine not exceeding **three** hundred thousand Naira or to imprisonment for a term not exceeding two (2) years or to both such fine and imprisonment.”

(i) substituting the words “one hundred” for the word “ten” in subsection 2, that is-

“**25 (2)** Where any person who has made a statement to an officer of the Commission or to the Attorney-General in the course of such officer or Attorney-General exercising any power conferred by this Act, subsequently thereto makes any other statement to any person having authority or power under any law to receive or require to be made such other statement, regardless of whether or not the person making the statement is under a legal or other obligations to tell the truth, he shall, if such other statement is inconsistent with any statement previously made to an officer of the Commission or such other Public Officer, be guilty of an offence and shall on conviction be liable to a fine not exceeding **one hundred** thousand Naira or to imprisonment for a term not exceeding two years or to both.”

11. Amendment of section 26. Attempts, preparations, abetments and criminal conspiracies punishable as offence, delegation of Attorney-General's power to prosecute.

Section 26 of the Principal Act is amended by:

(i) deleting the words “preparatory to or” in subsection (1)(b), that is –

“**26(1)(b)** does any act in furtherance of the commission of any offence under this Act; or”

(ii) consequently deleting the word “preparations” in the side note to section 26; and

(iii) deleting subsection (3)

12. Amendment of section 36. Forceful entry of premises.

Section 36 of the Principal Act is amended by:

- (i) inserting the word "such" immediately after the word "premises" in subsection 1 (a) that is -

"36(1)(a) enter any **such** premises and there search for, seize and take possession of any book, document or other article evidencing the commission of such offence".

- (ii) inserting the words "which is relevant to the commission of the offence," immediately after the words "any article" in subsection (1)(c), that is -

"36(1)(c) search any person who is in or on such premises, and for the purpose of such search detain such person and remove him to such place as may be necessary to facilitate such search and seize and detain any article **which is relevant to the commission of the offence** found on such person;"

13. Amendment of section 40. Legal Obligation to give information.

Section 40 of the Principal Act is amended substituting the words "one hundred" for "ten", that is -

"40. Legal obligation to give information.

Subject to such limitation as is provided under this Act, every person required by an officer of the Commission to give any information on any subject which it is the duty of such officer to inquire into under this Act and which it is in that person's statutory power to give, shall be legally bound to give information, failing which he shall be guilty of an offence and shall on conviction, liable to imprisonment for six (6) months or a fine of **one hundred thousand Naira**"

14. Amendment of section 43(4). Investigation of Share Accounts, e.t.c.

Section 43 (4) of the Principal Act is amended by substituting the words "two hundred" for the word "ten", that is -

"43(4) Any person who willfully fails or refuses to disclose any information or produce any account, document or article referred to in sub-section (2) to any officer of the Commission authorized under sub-section (1) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding **two hundred thousand Naira** or to imprisonment for a term not exceeding two years or to both".

15. Amendment of section 45 (3). Seizure of Movable Property in bank.

Section 45(3) of the Principal Act is amended by substituting the words "two hundred for the word "fifty in line 7 of the subsection that is -

"45 (3) Any person who fails to comply with an order of the Chairman of the Commission under sub-section (1) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding two times the amount which was paid out in contravention of the Chairman's order or **two hundred thousand Naira**, whichever is the higher, and to imprisonment for a term not exceeding two (2) years"

16. Amendment of section 52(1). Independent counsel to investigate President, etc.

Section 52(1) of the Principal Act is amended by inserting the words "made to the Chief Justice" immediately after the word "affidavit", that is -

Independent counsel to investigate President e.t.c.

52. - (1). When an allegation of corruption or anything purporting to contravene any provision of this Act is made against the President or the Vice-President of Nigeria or against any State Governor or Deputy-Governor, the Chief Justice of the Federation shall, if satisfied that sufficient cause has been shown upon an application on notice supported by an affidavit, **made to the Chief Justice**, setting out the facts on which the allegation is based, authorize an independent counsel (who shall be a legal practitioner of not less than fifteen years standing) to investigate the allegation and make a report of his findings to the National Assembly in the case of the President or Vice-President and to the relevant State House of Assembly in the case of the State Governor or the Deputy Governor."

17. Amendment of the side note to section 54. Public evidence of corroboration.

The side note to section 54 of the Principal Act is amended by deleting the words "Public evidence of", that is -

"54. Corroboration."

18. Amendment of section 61(3). Prosecution of offences.

Section 61(3) of the Principal Act is amended by inserting the words "The Chief Judge of the Federal High Court," immediately before the words "The Chief Judge of a State," that is -

"61(3) The Chief Judge of the Federal High Court, the Chief Judge of a State or the Federal Capital Territory, Abuja shall, by order under his hand, designate a

court or judge or such number of courts or judges as he shall deem appropriate to hear and determine all cases of bribery, corruption, fraud or other related offences arising under this Act, or any other laws prohibiting fraud, bribery or corruption, a court or judge so designated, shall not, while being so designated, hear or determine any other cases provided that all cases of fraud, bribery or corruption pending in any court before the coming into effect of this Act shall continue to be heard and determined by that court.”

19. Amendment of section 64(3). Protection of informants and information.

Section 64 (3) of the Principal Act is amended by substituting the words “five hundred thousand naira” for the words “one hundred thousand naira”, that is -
“64(3) Any person who gives the information referred to in sub-section (1) knowing the information to be false shall be guilty of an offence and shall on conviction be liable to imprisonment for a term not exceeding ten years, and shall also be liable to a fine not exceeding five hundred thousand naira:”

20. Amendment of section 68. General Penalty for other offences.

Section 68 of the Principal Act is amended by substituting the words “five hundred” for the word “ten”, that is-

“68. General penalty for other offences.

Any person convicted for an offence under this Act for which no penalty is specifically provided shall be liable to a fine not exceeding five hundred thousand Naira or to imprisonment for a term not exceeding two years or both”

PART G

APPENDICES

APPENDIX 1

NIGERIAN LAW REFORM COMMISSION

REFORM OF THE CORRUPT PRACTICES AND OTHER RELATED OFFENCES ACT, 2000 (I.C.P.C.
ACT)

13TH NOVEMBER, 2013 AT REIZ CONTINENTAL HOTEL, ABUJA

Workshop Programme

9:00 – 9:30 am Registration of participants

9:30 – 9:45 am Arrival of Guests

All guests to be seated by 10:00 am

OPENING SESSION - 10:00 am-10:45am

- ❖ Introduction of Guests
- ❖ National Anthem
- ❖ Opening Prayers
- ❖ Opening Remarks by Hon. Justice U. A. Kalgo, JSC (rtd), CON, CFR, FNIALS, Chairman, Nigerian Law Reform Commission.
- ❖ Formal Opening of the Workshop by Mr. Mohammed Bello Adoke, SAN, CFR, the Honourable Attorney-General of the Federation and Minister of Justice

1ST WORKING SESSION - 10:45 am – 11.30 am

- ❖ Highlights of the Nigerian Law Reform Commission's Working Paper on the Reform of the I.C.P.C. Act by **Senator (Prof.) O A Osunbor**: Commissioner, Nigerian Law Reform Commission
- ❖ Discussion/Comments

TEA BREAK/REFRESHMENTS - 11.30am - 12: noon**2ND WORKING SESSION - 12: noon - 1:30 pm****Chairman of Session – Prof. C. O. Okonkwo, SAN, OON**

Commissioner,

Nigerian Law Reform Commission.

Topic – Corruption in Nigeria: The I.C.P.C. and Effective Control

12 noon - 12:45pm

Paper Presenter - **The Independent Corrupt Practices
and Other Related Offences Commission**

❖ Discussion/Comments

Topic – Proposals for the Reform of the I.C.P.C Act, 2000.

12.45 pm – 1.30 pm

Paper Presenter - **Barr. Ola Olanipekun**
Legal Practitioner and
Member of the NBA Constitutional
Review and Law Reform Committee
Prime Chambers, Central Area Abuja

❖ Discussion/Comments

3RD WORKING SESSION - 1:30 pm - 2:30 pm

Chairman of session - **Barrister K. Magaji**
Commissioner,
Nigerian Law Reform Commission.

**Topic – The I.C.P.C and Other Anti-Corruption Agencies: Conflict
or Collaboration**

Paper Presenter - **Barr. M. O. Olatunji**
Head of Department, Business Law,
Faculty of Law,
Lagos State University, Lagos

Discussion/Comments

CLOSING SESSION - 2:30 pm – 3:30 pm

Chairman of Session – **Hon. Justice U. A. Kalgo, JSC (rtd).CON, CFR, FNIALS**
Chairman,
Nigerian Law Reform Commission

❖ Closing Remarks

❖ Summary of Recommendations

❖ Observations/Comments

Vote of Thanks - **Mrs. A. F. Oguneye**
Secretary,
Nigerian Law Reform Commission

LUNCH AND DEPARTURE - 3:30 pm

APPENDIX II

OPENING REMARKS BY HON. JUSTICE UMARU A. KALGO JSC (RTD), CON, CFR, FNIALS, CHAIRMAN, NIGERIAN LAW REFORM COMMISSION, AT A WORKSHOP ON THE REFORM OF THE CORRUPT PRACTICES AND OTHER RELATED OFFENCES ACT, 2000 (I.C.P.C. ACT) HELD ON WEDNESDAY, 13TH NOVEMBER, 2013 AT REIZ CONTINENTAL HOTEL, CENTRAL AREA, ABUJA

PROTOCOL

I am pleased to welcome all our distinguished guests and participants to this very important workshop. It is a Workshop on the Reform of the Corrupt Practices and Other Related Offences Act, 2000 (I.C.P.C. Act) organised by the Nigerian Law Reform Commission.

The Nigerian Law Reform Commission (hereinafter referred to as “the Commission”) was established in July 1979 by the Nigerian Law Reform Commission Decree, now an Act, Cap N118 Laws of the Federation of Nigeria, 2004. Section 5 of the Act vests the Commission with the duty generally –

“to take and keep under review all Federal Laws with a view to their systematic and progressive development and reform in consonance with the prevailing norms of Nigerian Society including, in particular, the codification of such laws, the elimination of anomalies, the repeal of obsolete, spent and unnecessary enactments, the reduction in number of separate enactments, the reform of

procedural laws in consonance with changes in the machinery of the administration of Justice and generally the simplification and modernization of the law”.

In fulfillment of its mandate, the Commission usually consults widely with major stakeholders in the process of reforming any law and invites experts on the particular law under consideration and the general public to elicit their inputs. This is the main reason for organizing this workshop.

Corruption is defined in the Oxford Advanced Learner's Dictionary as 'dishonest or illegal behaviour, especially of people in authority'. Corruption inhibits development and progress. It is a fact that corruption is not peculiar to Nigeria. In Nigeria foundations are being laid to fight the menace called corruption through the enactment of anti-corruption legislations. The Corrupt Practices and Other Related Offences Act is one of such legislations. The Corrupt Practices and Other Related Offences Act was enacted on 13th June, 2000 to prohibit and prescribe punishment for corrupt practices and other related offences and to establish a Commission to implement the Act.

The Nigerian Law Reform Commission has carefully examined the provisions of the I.C.P.C. Act and has made some proposals to amend some of its provisions. Such proposals include amendments to improve the provisions of the Act on composition, qualification and tenure of members of the

Commission; fraudulent acquisition of property; deliberate frustration of investigation by the Commission and the offence of using position for gratification. Furthermore, some of the penalties in the Act are very low and the Commission has made recommendations for their upward review in order to deter potential offenders. Details of the Commission's proposals for reform of the Act are contained in the Working Paper for consideration and discussion at this workshop. I urge all the participants to offer useful contributions towards the eventual improvement of the law.

Finally, I wish all the participants at this Workshop a fruitful deliberation.

Thank you and God bless.

APPENDIX III

REMARKS BY MR. MOHAMMED BELLO ADOKE, SAN, CFR, THE HONOURABLE ATTORNEY-GENERAL OF THE FEDERATION AND MINISTER OF JUSTICE AT A WORKSHOP ON THE REFORM OF THE CORRUPT PRACTICES AND OTHER RELATED OFFENCES ACT, 2000 HELD ON WEDNESDAY, 13TH NOVEMBER, 2013 AT REIZ CONTINENTAL HOTEL, CENTRAL AREA, ABUJA

PROTOCOL

I am glad to be part of this workshop on the Reform of the Corrupt Practices and Other Related Offences Act, 2000 organized by the Nigerian Law Reform Commission.

The Federal Government of Nigeria under our amiable President, Dr. Goodluck Ebele Jonathan, GCFR, has embarked on a strong fight against corruption and other related offences. This reform exercise is in conformity with the good governance/anti-corruption measures of the Transformation Agenda of this Administration. In this regard, a re-examination of our existing laws on corruption is necessary to bring them in tandem with modern times.

The Nigerian Law Reform Commission has proposed the amendment of some provisions of the Corrupt Practices and Other Related Offences Act, 2000. Such amendments include the improvement of the provisions on composition, qualification, tenure of members of the Commission and quorum for meetings; fraudulent acquisition of property; deliberate frustration of investigation by the Commission; the offence of using position for gratification and the upward review of fines and penalties under the Act. I urge the participants at this Workshop to come up with useful

contributions that will eventually aid in up-dating the provisions of the Act for better performance of the Anti-corruption Commission and effectiveness of public institutions.

I wish to commend the Nigerian Law Reform Commission for its determination in achieving its mandate through the delivery of quality law reform to the nation. The present administration is pleased with the reform of various laws, especially those that address social ills like corruption, in the country. I assure you that the Federal Ministry of Justice is strongly in support of your relentless efforts to actualize your mandate and I urge you to keep on with the good work.

Finally, I hereby declare this workshop opened and wish you a meaningful and successful deliberation.

Thank you and God Bless.

APPENDIX IV

NIGERIAN LAW REFORM COMMISSION

WORKSHOP ON THE REFORM OF THE CORRUPT PRACTICES AND OTHER RELATED OFFENCES ACT, 2000, HELD AT REIZ CONTINENTAL HOTEL, ABUJA ON WEDNESDAY, 13TH NOVEMBER, 2013

SUMMARY OF RECOMMENDATIONS

The Nigerian Law Reform Commission, pursuant to its mandate under section 5 of the Nigerian Law Reform Commission Act, Cap.N118, Laws of the Federation of Nigeria, 2004 and in line with the good governance/anti-corruption measures of the Federal Government's Transformation Agenda, embarked on the reform of the Corrupt Practices and Other Related Offences (I.C.P.C.) Act, 2000.

This is with a view to making proposals for amendment of those provisions of the Act identified as defective or inadequate to tackle corruption and enhance public accountability, transparency and efficiency in the Public Service.

Jurists from the academia and the Bar were commissioned to write on certain areas of the law that need reform.

The Commission, after an extensive research and consultation with some major stakeholders on the subject matter, prepared a working paper and proceeded to hold a workshop on the Reform of the I.C.P.C. Act, 2000 at Reiz Continental Hotel, Abuja on 13th November, 2013. The Workshop was declared open by *Mr. Mohammed Bello Adoke, SAN, CFR, FCI Arb, the Honourable Attorney-General of the Federation and Minister of Justice*, who was represented by *Prof. A. Adekunle, Senior Special Assistant to the Honourable Attorney-General of the Federation and Minister of Justice*.

The summary of recommendations made at the Workshop is as follows –

1. The Workshop agreed that corruption damages the economic and social well-being of a nation, distorts the political system and inhibits development and progress.
2. That the ICPC as an anti-corruption agency has been in operation for the past 13 years and there is need to update the provisions of

APPENDIX VI

NIGERIAN LAW REFORM COMMISSION

WORKSHOP ON

REFORM OF THE I.C.P.C. ACT, 2000

REIZ CONTINENTAL HOTEL, ABUJA, 13TH NOVEMBER, 2013,

LIST OF PARTICIPANTS

S/N	NAME	ORGANISATION
1.	Mrs. Galit Adeyosoye	Right Foods and Supplements Nig. Ltd, Hacres, Benin Shop
2.	G. U. Ewa	MITT
3.	Barr. Ekpo Nta	I.C.P.C.
4.	P. M. Okongwu	Office of Head of Service of the Federation.
5.	Ele Imoke	Corporate Affairs Commission
6.	Barr. Uche Okofor-Agbi	Office of the Auditor General of the Federation
7.	Ogwuegbu Chike P.	I.C.P.C.
8.	Rasheedat Okoduwa	I.C.P.C.
9.	Florence Oyotuye	I.C.P.C.
10.	Akeem Lawal	I.C.P.C.
11.	Paul Bassey	I.C.P.C.
12.	Aishatu Nasiru Ahmed	I.C.P.C.
13.	A. Udofia	I.C.P.C.
14.	Gombu Iheobu	I.C.P.C.
15.	Peace Arocha (Mrs)	I.C.P.C.
16.	Peter Adamu Alumbugu	I.C.P.C.
17.	Ayade Emmanuel	I.C.P.C.
18.	Iliya Ashom	I.C.P.C.
19.	Olu Olamiti	I.C.P.C.
20.	Adeshina Raheem	I.C.P.C.
21.	Enosa Omoghibo	I.C.P.C.
22.	Akinsola Olakunio	I.C.P.C.
23.	Agha-ibe Grace	I.C.P.C.
24.	Tobi Samiyi	Thisday
25.	Ajayi Abiola	CAC
26.	Olukayode Olatunji	Resource Newspapers
27.	Ade Bamgboye	Daily Trust
28.	Samuel E. Ebemya	NOTAP
29.	Ola Olanipekun	Prime Chambers
30.	Uche Chizoba E.	Joveran Law Firm
31.	Ehi-Uwaifoh Becky	Comm. on Trade and Investments
32.	Olu Wilcurbyara	Nigeria Ports Authority
33.	Malam W. Petter Arings	I.C.P.C Headquarters, Abuja
34.	Ayobami Adepoju	I.C.P.C Headquarters, Abuja
35.	Agbili Ezenwa K.	I.C.P.C Headquarters, Abuja
36.	Kioba Anabraba	I.C.P.C Headquarters, Abuja
37.	Usman A. Awac H.	Nigerian Immigration Service, Abuja

38.	Elder David O. Abuo (PSC)	Nigeria Police Force
39.	Edet Ufot	I.C.P.C.
40.	Sheila Obi	AIT
41.	Caleb Ayunsina	Vanguard
42.	Monday Ijeh	NAN
43.	Musa Bala Zakari	I.C.P.C.
44.	Jesse Wachanga	UNODC
45.	Amina Halilu	SEC
46.	A.S. Awomolo, SAN	Awomolo & Associates
47.	V. O. Awomolo, SAN	Awomolo & Associates
48.	Anagboso Elizabeth	Prime Chambers
49.	Ayo Ogunleye	Awomolo & Associates
50.	Nene Nwobbi C.	I.C.P.C Headquarters, Abuja
51.	Jiya Isaac N.	I.C.P.C Headquarters, Abuja
52.	Bulus J. Mai	I.C.P.C Headquarters, Abuja
53.	Yusuf Olatunji	I.C.P.C Headquarters, Abuja
54.	S. O. Igbudu	I.C.P.C Headquarters, Abuja
55.	Amedu J. Sule	I.C.P.C Headquarters, Abuja
56.	Igbodaro Eno	I.C.P.C Headquarters, Abuja
57.	Efanga Imaobo	I.C.P.C Headquarters, Abuja
58.	Bala U. Mohammed	I.C.P.C Headquarters, Abuja
59.	Okwor John Paul	I.C.P.C.
60.	Fatima R. Musa	I.C.P.C.
61.	Ifeanyi Nwaigwe	I.C.P.C.
62.	Adeleka. V. Y (Mrs)	I.C.P.C.
63.	Abosede Musari	The Guardian
64.	Bar. Longe Frank	NPF
65.	Ayakpat Robert Silas	I.C.P.C.
66.	Dr. Fatima Waziri -Azi	NIALS
67.	Ali Alamu	NOTAP
68.	Efanga Imabong E.	I.C.P.C.
69.	Amina Bashir	I.C.P.C.
70.	Ayo Olubamu	I.C.P.C.
71.	Shehu Yahaya	I.C.P.C.
72.	Abdulkerem sulaumen Ukssen	I.C.P.C.
73.	Prof. Yemi Akinseye George	Private
74.	Akin Akintewe	FMOJ Ag. DPPF
75.	Kalu J.C.	I.C.P.C.
76.	Mosunmola Yetunde	I.C.P.C.
77.	Usman Mayibin	NTA 24
78.	Sabastine Nalok	BPSR
79.	Zakariah A. Ishaku	SMEDAN
80.	Yakubu Oladimeji	LASU
81.	Emechala Emeka	NOTAP
81.	Jones-Ngbo N.B.	Federal Ministry of Justice
82.	Barr. Owoseni Ajayi	NBA Ado Ekiti
83.	Gani Saidu	Nigerian Immigration Service
84.	Prof. A. Adekunle	Federal Ministry of Justice

85.	Barr. M. O. Olatunji	Lagos State University
86.	Mrs. C. I. Onuogu	I.C.P.C.
87.	Prof. C. O. Okonkwo, SAN, OON.	then Commissioner, Nigerian Law Reform Commission
88	K. M. Magaji, Esq.	Commissioner, Nigerian Law Reform Commission
89	Senator (Prof.) O. A. Osunbor	then Commissioner, now Chairman, Nigerian Law Reform Commission
90	Mrs. A. F. Oguneye	Secretary to the Commission
91.	Mrs. Yakubu Jummai	NLRC
92.	Kodilinye J. Ezeobi	NLRC
93.	Mrs. Didi Odigie Bedell	NLRC
94.	Kingsley C. Umeh	NLRC
95.	Beatrice Ibeziako	NLRC
96	Atuanya, John I	NLRC
97	Udoekpe U. Jeremiah	NLRC
98	Mrs. A. Onwuasigwe	NLRC
99	Jena Ugbeji	NLRC
100.	Anaele F. U.	NLRC
101.	Kasana Dashe	NLRC
102.	Victor Uchendu	NLRC
103.	Igbo Chuks Y. A.	NLRC
104.	Yinka Soile	NLRC
105.	Olusola Kayode Alabi	NLRC
106.	Seun T. Ogunbiyi	NLRC
107.	Taiwo Aregbe	NLRC
108.	Yakubu Lawal	NLRC
109.	Hope Chukwuma	NLRC
110.	Ogbonna Chidinma	NLRC
111.	Mpama Glory	NLRC
112.	Adelakun Oreoluwa	NLRC
113.	Adamu Shirley Hassana	NLRC
114.	Samande Saratu Opeyemi	NLRC
115.	John Ekeh	NLRC
116.	Ayodele Nojeem M	NLRC
117.	Aaron Nwokonnaya	NLRC
118.	Mahandan U. Lora	NLRC
119.	Mary Nwaezeapu	NLRC
120.	Sylvia Oha	NLRC
121.	Mr. T. E. Ogbabila	NLRC
122.	Gideon Ayuba	NLRC
123.	James Udoh	NLRC
124.	Huthman A. O.	NLRC
125.	Oboh J. O. E.	NLRC
126.	Balogun Faliat	NLRC
127.	Arikhan Aimeya	NLRC
128.	Hangeior Fidelis Ter	NLRC
129.	Idowu Olubuyola	NLRC

130.	Sakena Ishaq Mohammed	NLRC
131.	Hannana Akude	NLRC
132.	Umar Mohammed Aminu	NLRC
133.	Adeyemi F. Adedeji	NLRC
134.	Diana Obadiah Danjuma	NLRC
135.	Audu Bala Kalbasa	NLRC
136.	Erhire M. Brorhie	NLRC
137.	Ateh Ebideseghabofa	NLRC
138.	Mary Okogbue	NLRC
139.	Maful S.M.G.	NLRC
140.	Datukun Blessing O.	NLRC
141.	Obinna Ozumba	NLRC
142.	Friday Osunbor	NLRC
143.	Nuhu Ibrahim	NLRC
144.	Daniel B. Istifanus	NLRC