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THE CODE OF CONDUCT TRIBUNAL AND ITS ROLE IN FIGHTING CORRUPTION IN NIGERIA: A REPLY TO THE EMINENT JURISTS

ABSTRACT

This paper looks at constitutional provisions on the Code of Conduct Tribunal and the Code of Conduct Tribunal Act on the nature of the Code of Conduct Tribunal and its criminal jurisdiction. We also discuss the unnecessary controversy by eminent jurists on the decision of the Supreme Court on the jurisdiction of the tribunal in *Code of Conduct Tribunal v Saraki*. We concluded the paper by stressing that the Code of Conduct Tribunal has criminal jurisdiction and that the Code of Conduct Tribunal Act which enjoined the tribunal to apply the Criminal Procedure Act and Criminal Procedure Code conclusively laid the controversy to rest. We also despised the proposed amendment of the constitution to confer immunity from criminal trial on the principal officers of the legislature in Nigeria especially at a time some of the principal officers of the National Assembly are undergoing criminal trial.

Introduction

Since the beginning of the trial of Senator Bukola Saraki before the Code of Conduct Tribunal, Nigerians have reacted in diverse ways. While some Nigerians said the trial is democracy on trial, some saw it as persecution because the offence had been allegedly committed since 2003 (about 13 years ago). Even, though, under Nigerian law, crimes are not statute barred. Crimes could be tried any time the state is prepared for trial. The most intriguing comment on the trial is the one that comes from eminent jurists like Justices SMA Belgore, Oguntade, Uwaifo and Professor B.O. Nwabueze who is a foremost constitutional expert in Nigeria. While they are all entitled to their views on any matter of constitutional importance in Nigeria, but the way and manner they are going about it has the effect of intimidating the chairman and members of the Code of Conduct Tribunal and ridiculing the Supreme Court Justices who gave a well considered judgment on the issue of jurisdiction of Code of Conduct Tribunal.

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1 Abati The Senate, CCT and the politics of Saraki Trial. The Guardian 22April 2016 P 48.

2 Ibid

3 Tribunal not Court of law say Belgore, Nwabueze, Agbakoba. The Guardian 25 march 2016 P 1.

Another effect of the controversy generated by the eminent jurists is that the culprit in this case (Senator Saraki) is treated as special breed Nigerian jettisoning the principle of egalitarian society created by the Nigerian Constitution. If everyone is equal before the law in Nigeria, then all the side comments and distractions in the case of Saraki before the Code of Conduct Tribunal should not have arisen. After all, Senator Wabara, the then Senate President was tried for corruption under Obasanjo administration. A serving Inspector General of police was tried and convicted in Nigeria among so many others. Nobody should be untouchable in Nigeria; nobody should be above the law in Nigeria, no matter his position or office.

Issues Raised by the Jurists on the trial

- (1) The CCT's refusal to grant a stay of proceeding based on section 306 of Administration of Criminal Justice Act 2015 is an error of law.
- (2) The Administration of Criminal Justice Act 2015 is not applicable to proceedings before the Code of Conduct Tribunal because the Code of Conduct tribunal is not a court as defined by section 6(5) of the constitution.
- (3) That the Code of Conduct Tribunal is established to exercise disciplinary power over public officers and not as criminal court that can try criminal offences. Citing United States case of *United States v Loveth* and Ceylon case of *Kanapper v Winjesinha*^{8a}.
- (4) That the Code of Conduct Tribunal not being so listed under section 6(5) of the constitution as a court has no power or jurisdiction derived from the constitution to try convict and impose punishment on persons for a criminal offence.
- (5) That the decision of the Supreme Court attributing that such Jurisdiction derived from the constitution is null and void under sections 1(3), 6 and 36(13) of the constitution, also (1) any law made by the National Assembly that confers such Jurisdiction in the Code of Conduct Tribunal is null and void.
- (6) That the Supreme Court's decision on the issue of the jurisdiction of the CCT is inconsistent with the constitution of the Federal Republic of Nigeria 1999 as amended. The court was wrong in holding that the constitution itself invests the CCT with a quasi criminal jurisdiction.

⁸ Section 15(1) and 15(5) & section 17 (2) (a).

⁹ *FRN v Tarfa Balogun* Reported in *Corruption and National Development* Abdulqadir (ed) 2013 Ilorin P 259.

¹⁰ Eminent Jurists Query CCT's Criminal Jurisdiction, demand fairness in Saraki's case. *The Guardian* 3 May 2016 P 44. S.O. Uwaifo Code of Conduct enshrined in Nigeria's Constitution and its Importance in fight against corruption.

The Guardian 19 April 2016 P 47.

¹¹ *Ibid*

¹² 1945 328 45 303 and 19673 All ER 485.

¹³ *Ibid*

position of the law.

The proposed amendment of the constitution to confer immunity from criminal trial on the legislature in Nigeria should be resisted by Nigerians. The civil societies should be active on this issue since the People Democratic Party that is supposed to provide virile opposition is now enmeshed in crisis.

The proposal for life pension for the principal officers of the legislature is not also necessary now that Nigerians are calling for reduction of cost of governance. The civil societies are too docile on these issues, they should be patriotic enough to mobilize Nigerians to resist the antics of the National Assembly before it is too late. The Conference of Nigeria Political Parties and the Interparty Advisory Council of Nigeria should stand up to the challenge instead of their current leadership crisis.

¹¹ Labour rejects life pension for political office holders business day.on line.com/2016/06/labour-rejects—v accessed on 15 July 2016.
See also Nigeria: NLC rejects proliferation of pension allafrica.com/stories/200603050016.html accessed on 15 July 2016 proposed pension for Saraki and Dogara product of greed. New 2.onlinenigeria.com/latest-addition/488446-propose-accessed on 15 July 2016.