

Recouping proceeds of corruption: is there any need to reverse extant trends by enacting civil forfeiture legal regime in Nigeria?

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Abstract

Purpose – The aim of this study is to investigate how Nigeria can seek legal assistance on recovery of its stolen assets to reduce corruption and to ensure no sheltered havens for incomes from corruption.

Design/methodology/approach – The research adopts a conceptual method by using existing literature with the application of doctrinal legal research technique. The research likewise uses primary and secondary sources of legislations such as legislative provisions, case laws and the provisions of Chapter V of the United Nations Convention against Corruption and the process of asset recovery. The study compares the United Kingdom, USA, Hong Kong in China, South Africa and Nigeria proceeds of corruption recovery laws to gain basic legal features that would be beneficial to Nigeria in reforming its anti-corruption laws.

Findings – The principle of territorial sovereignty under the international law makes the offence of corruption not punishable outside the jurisdiction of the state where the offence was committed. As a result, some developed states boost their economy with these proceeds and the developing states are impoverished. There is also an allegation of discrepancies in the figures of funds recovered by the anti-corruption agencies. Thus, there is the need for transparency; law on civil forfeiture of proceeds of corruption; bilateral treaties; and mutual legal assistance on investigation, confiscation among countries for tracing and returning of proceeds of corruption.

Research limitations/implications – The estimates of the volume of assets looted from Nigeria vary widely because of the complexity of collecting data on proceeds of corruption as official statistics on proceeds of corruption recovered do not exist as each anti-corruption agency occasionally makes pronouncements on the volume of assets recovered without any breakdown in terms of assets seized, nature of assets and their locations and its values. Such data would aid policymakers to measure the effectiveness of the present assets legislations and to enhance its effectiveness.

Practical implications – Considering the clandestine manners corruption is being committed, it is tasking to correctly evaluate the amount of money stolen so, their economic impacts on the nation's economy.

Social implications – Absence of accurate data would aid policymakers to measure the effectiveness of the present assets legislations and to enhance its effectiveness.

Originality/value – The study offers modules on management of proceeds of corruption by establishing “Assets Management Commission” and “Proceeds of Corruption Forfeiture Funds” for reparation of victims’ of corruption. The study suggests the necessity for civil forfeiture of proceeds of corruption, which is presently lacking, and creation of Proceeds of Corruption Recovery and Management Commission to manage



such proceeds and advocate establishment of “Proceeds of Corruption Forfeiture Funds” for reparation of victims of corruption.

Keywords Conviction, Civil forfeiture, Proceeds of corruption, Investigation, Nigeria

Paper type Research paper

1. Introduction

Corruption is a severe sore on the fiscal growth of any nation, and is a challenge of national and international concern as vast amounts of funds that could be used for developmental projects are lost annually because of this menace. It has undermined good governance and economic advancement of Nigeria. Thus, there is a need to retrieve proceeds of corruption to serve as a deterrent to corrupt activities and to combat corruption in the country. Misappropriation of public funds in Nigeria is a serious problem as the sum stolen from emerging economies and laundered from foreign countries annually is about \$20–\$40bn (20%–40%; [Jean-Pierre et al., 2011](#)).

Moreover, the return of proceeds of dishonesty has been a crucial topic in many intercontinental platforms in contemporary years because of the economic interests and other concerns. However, presently, there is no generally endorsed meaning of corruption. However, Transparency International’s Corruption Perceptions Index describes corruption as the misuse of public office for personal advantages. In contrast, proceeds of corruption are assets or property obtained wholly or implicitly from the crime of corruption ([Adekunle, 2011](#)).

Globally, confiscation of profits from corruption is an anti-corruption tool designed to weaken the device of corruption suspects to serve as a disincentive to others, to facilitate compensation of victims of corruption and to strengthening anti-corruption legislations. The Economic and Financial Crimes Commission (EFCC) Act, 2004 Laws of the Federation of Nigeria 2004 provides that an individual sentenced under the Act shall lose to the Federal Government all the possessions and assets which may be or are the substance of an interim order of attachment by the commission. The aim is to ensure that a person convicted of an offence is prevented from enjoying the benefits of his or her criminalities. Also, the agency, if convinced that the funds in the bank deposit of a detained corruption suspect were gotten via corrupt activities, may request the law court via motion *ex parte* for a directive freezing the account of such suspect. Confiscation is the permanent deprivation of corrupt suspects of its proceeds by order of a court of competent jurisdiction in Nigeria ([Abdullahi, 2014](#)).

Consequently, corruption suspects keep the proceeds of their corruption in tight water cubicles and make every attempt to attribute the proceeds to particular crime illusory. It is the duty of the anti-corruption agency to demonstrate a strong linkage between the proceeds of corruption and the alleged corruption where it is derived before the court can make the order of forfeiture. There are two modes of forfeiture: conviction based on penal conviction, where the assets are acquired via proceeds of corruption, whereas civil forfeiture is not centred on the criminal conviction of the suspect but on the property. This is distinct or separate from the person. It is based on the provision of the statute that imposed pecuniary penalties or forfeiture of the asset derived from crime, but this approach is presently absent in Nigeria ([Ayoade, 2015](#)).

Equally, administrative confiscation occurs devoid of conviction or judicial determination whereas disgorgement is a civil remedy that entails reimbursement of ill-gotten wealth via an order of the court. Fines may also be imposed centred on the significance of the profits obtained from the crime of corruption. The aim of the approach is

to place the victim as much as possible in the position where he or she would have been if the corrupt acts which occasioned the damage had not occurred (Olujobi, 2020a, 2020b, 2020c).

The paper is arranged as follows. The subsequent section discusses the methodology, statement of problem and literature review on corruption in Nigeria. Section 2 considers the international legal framework on corruption and the legal regime on the recovery of proceeds of corruption in Nigeria. The remedies to the impediments against reclaiming proceeds of corruption whereas Section 3 focuses on the necessity for civil forfeiture of proceeds of corruption law in Nigeria hurdles to proceeds of corruption recovery and the panaceas. Section 4 discusses the comparison of proceeds of corruption recovery laws in Australia, United Kingdom, Hong Kong in China, South Africa and Nigeria. Section 5 focuses on anti-corruption experiences Nigeria can learn from the designated case study nations. The findings and discussion of the results of research. The proposed model is “Civil Forfeiture of Proceeds of Corruption”. The research ends with recommendations and conclusions.

2. Literature review

Ayoade (2012), in his work, opined that the challenges that give room for corruption in Nigeria are the lack of a political will to fight corruption by the government, but the work failed to discuss the various challenges that bedevilled the anti-corruption agencies which have hindered their efficiencies. This has occasioned slacken in pellucidity and reasonable regulatory control, notwithstanding the numerous anti-corruption appraisal details that have revealed corruption in Nigeria (Yusuf, 2015). It was observed that the absence of steadfastness to fight corruption has led to the averseness of selected global anti-corruption organisations from offering their complete backings on the return of proceeds of corruption to the country.

Also, because of the identified hypocrisy regarding the *modus operandi* adopted by the anti-corruption agencies for combating corruption and recovery of its proceeds in the country discouraged some international organisations.

Furthermore, the various anti-corruption audits set up to uncovered corruption in Nigeria their reports have not been used to gained valuable knowledge to improve Nigeria’s anti-corruption laws to boost recovery of proceeds of corruption in the country (Olujobi, 2017). Meanwhile, some government officials are purportedly profiting from corruption in the country, thus repelling all transparency processes. This has occasioned forfeiture of oil revenues by the Federal Government (Oyewunmi and Olujobi, 2016). However, the paper failed to discuss the practical panaceas to the menace, which will aid in recovery of proceeds of corruption faster.

Besides, the basic drawbacks with the anti-corruption legislation are inelegant implementation and the vagueness of the laws. Ambiguous laws make it difficult to comprehend its aims, leading to defeat of recovery of proceeds of corruption cases in courts (Bello, 2014) but the work also failed to emphasise on the feeble execution challenges of the anti-corruption legislation. Thus, encouraging corruption in Nigeria and also making proceeds of corruption recovery difficult.

Consequently, in 2004, Nigeria initiates the various Inquiry Committees to probe the allegations of malpractices and to recover their proceeds (Igbinedion, 2011) by ensuring fairness and justice before the application of such authorities to reduce the incident of forfeiture of incomes to the government via the recurrent unprosecuted prevalence of bribery in Nigeria and inelegant attitude of prosecutors in handling corruption cases in the country (Olujobi, 2020a, 2020b, 2020c). A robust political will is a prerequisite for efficient

execution of anti-corruption legislation to ensure transparency and accountability of proceeds of corruption (Olujobi and Olujobi, 2020).

Nigeria is at risk of corruptions and other oil related crimes owing to feeble execution of its anti-corruption legislation, thereby occasioned decline in national revenues, which has impeded transparency and emboldened predominance of corruption in Nigeria. Therefore, there is the need for civil forfeiture of proceeds of corruption Bill and swift passage of the proposed “Civil Forfeiture of Proceeds of Corruption Bill” for transparency in Nigeria.

However, the suspected missing of US\$20bn oil incomes from the NNPC as suspected by the past Governor of the Central Bank of Nigeria, Lamido Sanusi, via domestic crude oil deals owing to inelegant implementation of transparency legislations (Akinola, 2015). The flaw in the enforcement of the anti-corruption legislation and insufficient budgets of the anti-corruption agencies occasioned corruption in Nigeria, thereby hindering the commitment of the anti-corruption organisations to the recovery of proceeds of corruption in the country.

According to the United Nations Office on Drugs and Crime in its article “Management of Seized and Confiscated Assets”, there is the need for management of confiscated assets with a uniform guideline to prevent depreciation in values of seized assets and to entrench transparency and accountability on proceeds of corruption recovered.

3. Methodology

The study is a library-based doctrinal legal study. It is buttressed by appropriate legal assessment, comprising a reference to internet sources, broad appraisal of scholarly literature, evaluation of case studies and the analysis of pertinent judicial and legislative provisions and the provisions of Chapter V of the United Nations Convention against Corruption and the process of asset recuperation in Nigeria.

The study analyzed the impediments to recouping of proceeds of corruption and the need for civil forfeiture in Nigeria’s legal framework. The aim is to ensure that criminals do not enjoy the proceeds of their crimes, to make corruption less attractive and to remodel Nigeria’s anti-corruption laws. The study makes use of journals, textbooks and internet sources as secondary sources. The primary sources of laws, such as case laws, statutes, relevant international anti-corruption conventions for gaining useful insights to reform Nigeria’s anti-corruption legislation for transparency and probity in Nigeria’s oil sector.

The United Kingdom, USA, Hong Kong in China, South Africa and Nigeria. The case study countries were selected because they possess a structured legal regime on proceeds of corruption recovery for the requisite field of experience because the countries have common law backgrounds while South Africa was selected being an African country with comparable governance challenges like Nigeria. Also because of their relatively favourable annual rating by Transparency International Corruption Perspection Index and being relatively advanced countries with stringent anti-corruption laws to gain key legal and policy features that would be beneficial to Nigeria in reforming her anti-corruption laws.

4. Statement of problems

It is no longer news that the challenge of corruption with the excessive rate of misappropriation of public funds remains a bane to Nigeria’s social and economic development. The way the proceeds of corruption are treated remains a challenge in Nigeria as perpetrators ensure that their proceeds are kept outside Nigeria to disguise their sources (Chamberlain, 2002).

Forfeiture order is used as a weapon to combat corruption by depriving corruption suspects of funds to sustain their criminal activities to facilitate compensation or restitution of victims of corruption to deter future occurrence. The study explores ways of addressing

the gaps in the anti-corruption law by considering the various impediments against recouping proceeds of corruption in Nigeria. As legal technical are impediments which often delay the recovery of proceeds of corruption as each nation has its peculiar plethora of legislations and bureaucratic peculiarities and those who are perpetrating corrupt activities are enhancing their efforts to conceal their corruption profits in both domestic and international arenas. Therefore, tracking and recuperating of proceeds of corruption require novel skills, technologies and continuous mutual cooperation among nations (Ayoade, 2015).

Currently, there are allegations of discrepancies in the figures of proceed of corruption reported by the EFCC Acting Chairman Ibrahim Magu and the alleged illegal dispositions of some proceeds of corruption without approval, or knowledge of the Attorney General of the Federation's office, which is the supervisory ministry of the agency (Punch Newspaper, 2020).

Besides, there are also no special departments empowered yet by law to deal with and manage proceeds of corruption recovered in Nigeria. Besides, it is approximated that over US\$148bn or about 25% of gross domestic product is adrift to corruption and bribes received by public officials in Africa, which is more than the US\$20bn annually. Transnational legal action for recovery of proceeds of corruption recovery is energy zapping in spite of sustained diplomatic, bilateral relationships, the progress is dawdling and vulnerable because of distrust and reluctance of the requested states to have confidence in the ruling government not to misappropriate the recovered funds (Chamberlain, 2002).

Lack of financial resources and expertise in managing the proceeds of corruption recovery requests may lead to procrastination and subsequent refusals by the requested state especially where the requested state lacks confidence in the ruling government regarding transparency and accountability in the administration of such proceeds to prevent future occurrence. Most times, the recovery actions are outsourced to foreign private lawyers, including investigation and legal functions, which often delayed the recovery process. Non-compliance with the legal and other prerequisites of the demanded states on repatriation of proceeds of corruption can be surmounted via mutual legal assistance and access to database of banks and other criminal records of corruption suspects (Linda, 2020).

However, most states' anti-corruption treaties on mutual assistance require conviction of the suspect as a prerequisite for repatriation of such proceed of corruption, and this is often difficult because of the standard of proof beyond a reasonable doubt under the criminal law and because of the protracted investigations and long trial associated with criminal trials. Corruption suspects often delay criminal trials or proceedings using part of their proceeds to influence government's officials (Policy and Legal Advocacy Centre, 2017).

However, Nigeria gives too much importance to combating corruption but less importance to rectifying the damage it has triggered to the economy and the public. Corrective justice is *sine qua non* to proceeds of corruption recovery and management law for instance compensation of victims of corruption, funding of anti-corruption institutions, funding of public projects that are of value to Nigerians, these are means of redressing the harm caused by corruption and to maintain the status quo of the assets values. There are also instances where anti-corruption agencies lack the capacity to manage and preserve such corruption proceeds. EFCC often appoints diverse asset director to manage the saved assets. The process of tracking, seizing and repatriation of stolen assets to Nigeria is often a difficult and protracted one, especially where many jurisdictions are involved with tedious procedural, legal or political hurdles. Therefore, Nigeria should contemplate providing specifically for the administration of proceeds of corruption under its anti-corruption legislation (Oduote, 2014).

There are loopholes in the country’s anti-corruption legal regime and institutions; implementation of anti-corruption laws requires support from other legislations, and weakness in these laws affects the implementation of anti-corruption laws and recovery of proceeds of corruption (Olaniyan, 2007).

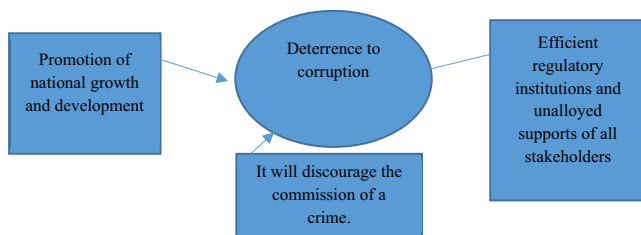
Also, there is a slow pace of court proceedings which is an impediment to a successful recovery of proceeds of corruption. Abuse of immunity and Constitutional *lacunas*, government officials, brazenly misappropriate public funds for personal enrichment believing they could elude justice under Section 308 of the 1999 Constitution (as amended) made provision for immunity clause, this has frustrated efforts to recover proceeds of corruption from serving public officials. Similarly, absence of genuine commitment with strong political will by requesting that the requested states combat corruption and to retrieve proceeds of corruption is one of the hurdles to the recovery of proceeds of crime in Nigeria.

The aim of the study is to deliberate on impediments against recovery of proceeds of corruption, to proffer effective measures for investigation and recovery of proceeds of corruption. The study identifies obstacles to reclaiming proceeds of corruption in Nigeria and makes recommendations and proposes a model “Civil Forfeiture of Proceeds of Corruption Bill”, to be managed by the “Assets Management Commission” with the proposed “Proceeds of Corruption Forfeiture Funds” for compensation of victims of corruption to deter corruption in Nigeria (Figure 1).

5. International legal framework on proceeds of corruption recovery

In recent years, there has been an upsurge in the international focus on the recovery of proceeds of corruption, as corruption is perceived as a major developmental challenge. The United Nations Convention against Corruption (UNCAC) was established as an anti-corruption convention to foster cooperation among member states on repatriation of proceeds of corruption by providing a mechanism for countries to make requests to each other for licit aid in the recuperation of incomes of corruption. Articles 30 and 31 require every member state to make the commission of an offence liable to sanctions which commensurates with the severity of the offence. Chapter V of the convention provides for proceeds of corruption recovery through mutual cooperation by member states. The convention stipulates the procedures for assets recovery, which must be complied with by the requesting and requested states.

Articles 43, 44 and 46 of the convention provide obligations of cooperation, repatriation and common legal aid on repatriation of proceeds of corruption. Also, articles 53, 54 and 55 provide for the recuperation of incomes of corruption and oblige the member states to surrender proceeds of corruption in reply to demand from one other member state. It also



Source: Author’s preparation

Figure 1.
Benefits of reclaiming
proceeds of
corruption in Nigeria

provides for the commencement of civil forfeiture action against the asset itself rather than the person under the civil forfeiture proceedings, whereas Article 57 provides for the return of confiscated assets. Therefore, there is the necessity for civil forfeiture of proceeds of corruption in Nigeria which is presently lacking. Non-conviction-based forfeiture is civil in the description, and the burden of proof is a balance of probabilities. Countries that have not signed or ratified the provisions of the convention are enjoined to do so to exterminate the hurdles to the repatriation of proceeds of corruption.

The United Nations Office on Drugs and Crime (UNODC) Global Programme against Corruption obliges member states to have legal infrastructure on the proceeds of corruption, anti-money laundering laws and practices, a functioning financial intelligence unit to ascertain and track proceeds of corruption with proficiency on anti-corruption legal framework but Nigeria has not domesticated the provisions of this convention fully because its anti-corruption agency, Financial Intelligence Unit has not been given full autonomy by separating it from the EFCC.

Furthermore, the United Nations Convention against Transnational Organized Crime, 2000 and the African Union Convention on Preventing and Combating Corruption, 2003 and the Economic Community of West African States Protocol on the Fight against Corruption made provisions for combating corruption and to address the issues of proceeds of corruption recovery. Also, the Stolen Asset Recovery Initiative (StAR) of the World Bank/UNODC and the Financial Action Task Force has not performed satisfactorily on asset recovery because of weak implementation of the UNCAC. Low budget and lack of expertise on the recovery of proceeds of corruption are some of the challenges hindering the efficiency on successful recovery of proceeds of corruption.

Recently, there are new successfully documented proceeds of corruption recovery cases. Inelegant implementation of anti-corruption legislation has been the problem. The successes recorded are as follows ([Table 1](#)).

6. Legal framework on recovery of proceed of corruption in Nigeria

In Nigeria, the vital legal framework on repossession of proceeds of corruption is the Proceeds of Crime Act, 2019, which offers a statutory and institutional framework on seizure, loss, recuperation and administration of booties of crimes. The Act establishes the Asset Recovery Management Agency but infringes on the mandates of the present anti-corruption agencies in the country. The Act offers a certain percentage of the recovered assets to the anti-corruption agencies. Presently, in Nigeria, there is no legal framework on the civil recovery of proceeds of corruption. Recoveries of proceeds of corruption are made through criminal and penal laws even though Sections 28 and 29 of the EFCC Act 2004 and the Money Laundering (Prohibition) (Amendment) Act, 2012 make provisions for seizure and confiscation of proceeds of crimes, but no provisions were made under the Nigerian law for non-conviction-centred seizure of proceeds of corruption.

However, the absence of this legal regime has impeded recovery of proceeds of corruption in Nigeria. The civil forfeiture is against the asset itself rather than the suspect, who are often third-party claimants. In such circumstances, the anti-corruption agencies must prove that the assets are proceeds of crimes. The standard of proof in a civil action is based on a balance of probabilities which is less rigorous than the mandatory standard of proof under the criminal proceedings.

Further, the EFCC being the country's primary anti-corruption organisation appears to be guided by its enabling Act, the Executive Order six, regulations 2018 made by Nigeria's Attorney General of the Federation in conformity with Sections 31(2)(4) of the EFCC Act and other governmental policies on forfeited assets. Also, Sections 26(2), 28, 29, 32, 33 and 34

S/N	Name of countries	Defendant	Amounts	Projects	Lessons learnt
1	Nigeria	Sani Abacha	The sum of US\$160m was returned Also, in 2004 and 2006, Switzerland returned US\$505.5m to Nigeria	Social infrastructures	There is the need to adopt civil forfeiture or other administrative actions to recover proceeds of corruption. It is faster than criminal confiscation
2	Angola	Angolan officials	In 2004 and 2012, Switzerland returned US\$64m to the Angolan government	Improvement of infirmity infrastructures, water supply and for reintegration of dislocated people	There is the need to adopt civil forfeiture or other administrative actions to recover proceeds of corruption. It is faster than criminal confiscation
3	Tanzania	Bribery allegation by BAE systems	A settlement concerning bribery claims between BAE systems and the United Kingdom's Serious Fraud which occasioned returned of <i>an exgratia</i> sum of £29.5m (US\$35.9)	Improvement of education and teaching materials	There is the need to adopt civil forfeiture or other administrative actions to recover proceeds of corruption. It is faster than criminal confiscation
4	Peru	The past President Alberto Fujimori and Vladimiro Montesinos (The past leader of Peru's intelligence Unit)	The sum of US\$174m was returned from Switzerland, the USA and the Cayman Islands. The sum of US\$47 is yet to be released from Switzerland	Developmental projects that will improve the lives of its citizens	There is a need to adopt civil forfeiture or other administrative actions to recover proceeds of corruption. It is faster than criminal confiscation
5	The Philippines	Ferdinand Marcos	In 2004, Switzerland released the sum of US\$683m to the country because of the Supreme Court forfeiture order dated July 2003 against the former President and first lady Ferdinand and Imelda Marcos's Swiss deposits	Developmental projects that will improve the lives of its citizens	There is the need to adopt civil forfeiture or other administrative actions to recover proceeds of corruption. It is faster than criminal confiscation
6	Kazakhstan	In respect of contested assets exposed under the United States Foreign Corrupt Practices Act on the alleged illegal payments on behalf of United States oil firms	The sum of US\$116m was recovered	Developmental projects that will improve the lives of its citizens	There is the need to adopt civil forfeiture or other administrative actions to recover proceeds of corruption. It is faster than criminal confiscation

Source: This table was prepared by the author with some of the contents obtained from [Marie Chene \(2017\)](#)

Table 1.
Selected current
successful recovery
of proceeds of
corruption cases

EFCC Act provide for tracking, confiscation, attachment, safekeeping and administration of interim and completely forfeited proceeds of crime prosecuted by the commission.

The provision of Section 7(1) (b) of the Economic and Financial Crimes Commission Act (2004) empowers the commission to investigate proceeds of corruption, but the absence of a specific provision on civil recovery and proceeds of corruption management has been a challenge to recovery of proceeds of corruption faster by the anti-corruption agencies, and it will prevent the devaluation of such assets. Some extant laws made provisions for recovery of proceeds of crimes; for instance, The Economic and Financial Crimes Commission Act, Criminal Procedure Act, Currency Conversion (Freezing Orders) Act, Corrupt Practices and Other Related Offences Act, the Mutual Assistance in Criminal Matters Act, 2019 which was enacted to foster reciprocal support in criminal matters between Nigeria and other countries. Section 6(j)(ii) EFCC Act also empowers the agency to collaborate with other governmental agencies, both at local and international level on the tracking of proceeds of corruption and other illicit activities.

Conversely, Sections 20, 26(1)(a), 27, 28, 29 EFCC Act confers on the commission powers to seize proceeds of corruption in the course of arrest or search but under an order of the court and Section 44(2)(K) of the 1999 Constitution of the Federal Republic of Nigeria (as amended). But where the commission cannot prove any connection between the assets and the alleged offence under the Act, the court will not have any legal basis for granting the interim order of forfeiture, and failure to bring an application after the seizure of such proceeds is a breach of due process under Section 29 of the Act.

Section 27 of the EFCC Act obliges any person detained for a crime under the Act to make a complete revelation of all his possessions and assets by effecting the Declaration of Assets Form as stated in Form A of the annexures to the Act. The *rationale* is to provide EFCC with sufficient facts which can be investigated and verified. Refusal or failure to make full disclosure or disclosure of false declaration is a crime indictable with five years' incarceration. Section 30 obliges EFCC to approach the court for a directive on seizure and forfeiture of possessions or assets of an individual found guilty of a crime under the Act. The constitutionality of the provision of Section 27 EFCC Act compelling an arrested person to complete Declaration of Assets Form is an encroachment of the suspect's right to silence until after consultation with a legal practitioner or any other individual of his/her preference under Section 35(2) of the 1999 Constitution (as amended).

Also, Section 34 of the Act authorised the commission, and it contented that the money in the financial credit of a suspect is a proceed of crime to approach the law court for a directive on freezing such account. The overlapping of the provisions on seizure, attachment or interim forfeiture is confusing and ambiguous. In *Nwaigwe v. Federal Republic of Nigeria* [2009] 16 NWLR (Part 1166) 169(CA), the court held that EFCC could not apply for an interim order of seizure before seizing assets as this would be contrary to Sections 28 and 29 of the EFCC Act. The court further held that Section 29 of the EFCC Act is unconstitutional as it constituted punishment on the Appellant on the basis of mere suspicion of a crime.

Similarly, in *Mohammed Abacha v. Federal Republic of Nigeria* (2014) 6 NWLR (Pt. 1402) 43, the court held that the final forfeiture order is to divest the convict of the title to, or any interest in the property and to transfer the same to the Federal Government. Forfeiture perceives as the loss of some rights or property as a penalty for the crime committed.

Likewise, the Prevention of Terrorism Act 2011, Cap C38 LFN 2004 authorises the National Security Adviser or Inspector General of Police subject to the President's endorsement to confiscate cash where there are reasonable beliefs that such cash will be used or are derived from terrorist activities. This provision is a preventive measure as the

Act made provisions for the return of the funds where the circumstances justifying the seizure no longer exist. This Act may be abused because of unregulated power of seizure of proceeds of corruption by EFCC; consequently, Section 26(1) of the EFCC Act stipulates the procedure for the seizure of proceed of crime but subject to forfeiture under the Act in the following circumstances: The seizure is related to arrest or search in the case of assets liable to forfeiture upon the process issued by the court after a request has been made by the agency to the court in harmony with the stipulated rules. Section 29 of the Act provides the procedure for the procurement of an interim order of forfeiture concerning the possessions or property of any individual detained for a crime under the Act or any assets confiscated by the agency under the Act. Judicial review is also a veritable legal instrument for regulating the exercise of the power of seizure of property by the anti-corruption agencies.

6.1 Hurdles and the remedies against reclaiming of proceeds of corruption in Nigeria

There are some hurdles against the recovery of proceeds of corruption in Nigeria which has hindered the success of anti-corruption agencies in this regards. Some of these hurdles are as follows.

Generally, the request for extradition of a suspect on the ground of corruption may be denied where the requested state anti-corruption agencies believe that the requesting state intends to prosecute or punish the individual on the ground of sex, tribe, belief, nationality, racial origin or party-political affiliations; this may slow the recovery processes of proceeds of corruption to Nigeria, and therefore, there is the necessity to have a fair hearing of all suspects to avoid selective prosecution.

Also, where there is a violation of human rights of a corruption suspect. Mutual international cooperation may be declined when a requesting state does not comply with fundamental procedures, for instance, the United Nation Universal Declaration of Human Rights or their European equivalent, and this may stand as a hurdle against speedy recovery of proceeds of corruption. Compliance and respect for the basic international legal regime by domesticating relevant international anti-corruption conventions will foster mutual cooperation and assistance towards speedy repatriation and recovery of proceeds of corruption to Nigeria.

There are also instances of poor compliance with the Plea Bargaining Regulations because of poorly drafted and unfairly structured Plea Bargaining Agreements by the anti-corruption agencies and corruption suspects in Nigeria, which also hinder proceeds of corruption recovery.

Plea bargaining is an arrangement between the defendant and the public prosecutor in a criminal matter to reach a satisfactory settlement of the case with the endorsement of the court. It generally comprises the defendant's confessing culpable to a smaller crime or to one or specific of the charges of a multi-count accusation in return for a fairer punishment. The advantage of plea bargaining is that the public prosecutor obtains speedier verdict and recuperates the proceeds of corruption faster, thereby saving time and financial resources of the state they would have used in prosecuting the crime. Consequently, there is a need for stringent compliance with the Plea Bargaining Regulations and agreements for the speedy recovery of proceeds of corruption in Nigeria.

Also, there is a shortage of useful anti-corruption information by whistleblowers or citizens to assist the anti-corruption agencies in investigation and procurement of evidence for possible prosecution of corruption suspects. This also slowed the recovery efforts of the anti-corruption agencies because of culture of silence or fear of reprisal attacks because of absence of the Whistle-Blowers Protection Act in Nigeria. The existing Whistle Blower Policy is not a veritable legal tool to protect the vulnerability of whistleblowers or witnesses

in court. Thus, there is a need for the Whistle Blowers Protection Act to protect whistleblowers and their family members. Similarly, Article 37(1) of the United Nations Convention Against Corruption requires member state to adopt procedures to encourage persons to supply information useful to law enforcement agencies for probing. The objective is to offer truthful, precise assistance to anti-corruption agencies that may deprive criminals of the proceeds of corruption and to recuperating such proceed. However, this provision has not been adequately enforced in Nigeria.

There is a lack of access to national databases by anti-corruption agencies in the country. There is the need for direct access to government's repository, for instance, immigration, Corporate Affairs Commission on companies registered in the country and vehicle registrations details devoid of formal requests. Absence of uninterrupted access of anti-corruption agencies to walk into the applicable organisations with a court warrant or application and to get the data they want via the requested unit personnel. In other relatively advanced climes such as the selected case study countries, anti-corruption agencies have direct access to a centralised government database, without a warrant. Uninterrupted access to a consolidated government's agencies record devoid of a court order will make it seamless to identify and track proceeds of corruption by anti-corruption agencies against unnecessary delay and bureaucracy associated with such requests in Nigeria.

There is also an issue of meagre budgetary allocation to anti-corruption agencies, which is a constraint to tracing, freezing and recovery of proceeds of corruption in Nigeria. Absence of sufficient resources to probe proceeds of corruption is one of the critical problems encountered by Nigeria's anti-corruption agencies because of the cost of hiring lawyers abroad, difficulty in prosecution and maintenance of the frozen assets in both local and international arenas. The Federal Government should increase the budgets of anti-corruption agencies for investigation of corruption and recover its proceeds or properties. It also advocated that the anti-corruption organisations should be allowed to keep a specific ratio of the recuperated proceeds for their anti-corruption activities.

Moreover, the statute of limitations for recovery of proceeds of corruption in some jurisdictions abroad are tiny and specific probes require time to be completed, mainly when material evidence from the country where the offence occurred or where the proceeds are kept is crucial. Extension of duration of corruption to a longer period or eradication of the statute of limitations for corruption globally will enable anti-corruption agencies to assemble cogent evidence in a reasonable time for the successful prosecution of corruption cases, and it will deter corruption as suspects may be prosecuted any time once there is sufficient evidence to do so. For instance, in Zimbabwe, the statute of limitations is 20 years for every crime excluding murder; in Singapore and Nigeria, there is no limit, but often evidence is tampered with, and witnesses may lose their memory and thereby delayed recovery of proceeds of corruption processes.

Besides, there is an absence of law permitting the utilisation of distinct probing techniques for instance monitoring, cell phone tapping and clandestine operations in Nigeria; this is one of the problems encountered by many of the anti-corruption agencies in Nigeria. To efficiently probe and track proceeds of corruption, there is the need for amendment of the existing anti-corruption laws to inculcate these new anti-corruption techniques for efficiency.

Other obstacle, is the requirement of dual criminality this matter could be predominantly sensitive in cases involving illegal, unfair enrichment or bribery of foreign public officials because this is not a crime as such in Nigeria and numerous other nations. Hence, there is the need to criminalise illicit enrichment in Nigeria's anti-corruption laws by making any assets that cannot be justified subject to a forfeiture order of the court.

Nigeria's anti-corruption agencies encounter challenges on investigation and prosecution of corruption suspects with dual citizenship as they may abscond to countries where they are citizens. Some countries may decline to repatriate them being their citizens. Therefore, there is the need for stringent enforcement of the provisions of Articles 42 and 46 of the United Nations Convention against corruption which provides that double corruption should not be a hurdle to providing backing to other nations on the recovery of proceeds of corruption and other crimes.

Additional challenge, is the absence of similar offence with similar ingredients in the place where the offence was committed hampered anti-corruption agencies recovery efforts especially where the requested state does not have similar offence; then the anti-corruption agencies should fit the conduct into an offence that is applicable in the requested state.

Another challenge to recovery of proceeds of corruption in Nigeria is the request for an undertaking not to use the evidence gotten from the requested states in another case or not to disclose it to a third party. Most anti-corruption agencies in Nigeria are not familiar with these undertakings. They are sometimes indisposed to sign it, and this has further slowed the pace of recovery of proceeds of corruption in the country, and because of this non-disclosure, undertakings, there is often insufficient evidence to justify the forfeiture order in courts. Another challenge is that under some treaties and legislation, mutual legal assistance may only be granted if the laws of the requested state offer the same punishments for the alleged crime committed outside its territory. Many requested states will not assent to any request for mutual legal assistance unless they are assured that the requesting state will not impose capital punishment for the crime.

Often, there is difficulty in accessing some bank records of corruption suspects during investigations in some foreign jurisdictions because of bank secrecy regulations of some bank documents. Some countries often deny mutual legal assistance on corruption cases because of bank secrecy regulations. The provisions of Article 46(8) and Article 46(22) of the United Nations Convention against Corruption prohibit the refusal of assistance because of bank secrecy. There is the need to allow anti-corruption agencies to acquire bank accounts of corruption suspects devoid of the law court order to mitigate the challenges encountered in identifying and tracing proceeds of corruption to forestall excessive bureaucratic procedures which are often time-consuming.

Another factor militating against the speedy recovery of proceeds of corruption is the differences in legal systems that often needed different procedures in gathering the same evidence. Some requesting states often fail to include sufficient evidence in the request for assistance because the state requires less evidence to obtain such investigative measure than the requested state. The delays associated with the appeals processes particularly the transmission of record of proceedings from the lower court to the appellate court. There is also the need to amend the various High Court Rules, the Administration of Criminal Justice Act and the Constitution to abridge the process and to regulate the total number of appeals allowed in corruption lawsuits to make the possession recuperation procedure more efficient and quicker.

6.2 Necessity for civil forfeiture of proceeds of corruption bill in Nigeria

There is the need for stringent anti-corruption legislation on recovery of proceeds of corruption which has been kept within or laundered abroad in Nigeria to deter corruption. Under the United Nations' Declaration against Corruption and Bribery in International Commercial Transactions, Nigeria is obliged to enact a civil forfeiture law to recover proceeds of corruption (Odusote, 2014).

This obligation necessitated this study, and the work proposed a model law to be known as “Civil Forfeiture of Proceeds of Corruption Bill”, which has been enacted in other advanced climes, for instance, the USA, United Kingdom, Norway and many other countries, to combat corruption. This model is a distinct legal framework for combating corruption to serve as deterrence to corrupt practices. There is a pending “Proceeds of Crime Bill” before Nigeria’s National Assembly, which is to be executed through the criminal procedure but this may not yield the expected deterrence value because of the delay associated with the Nigerian Criminal Justice System.

However, the proposed Civil Forfeiture of Proceeds of Corruption Bill is expected to be based on civil proceedings which use the balance of probabilities or preponderance of evidence as the standard of proof. The relevant provisions of this hybrid law or model can be harmonised with the pending Proceeds of Crime Bill at the National Assembly to prevent duplication of laws. The Proposed Civil Forfeiture of Proceeds of Corruption Bill will promote speedy dispensation of corruption cases because it is not based on criminal law proceedings but distinct from the pending Proceeds of Crime Bill whose standard of proof is based on proof beyond a reasonable doubt. This latter bill requires credible evidence under criminal law. The model proposes the establishment of a separate bank account with the Central Bank of Nigeria to house recovered proceeds of corruption, which is a welcome development to ensure transparency and accuracy of the exact funds recovered to ensure transparency and proper management of the proceeds to prevent their devaluation or depreciation and fraud.

The commission is to be managed by the proposed “Proceeds of Corruption Management Commission” because of lack of legal regime on maintenance and management of frozen assets in Nigeria and abroad. Conversely, the pending Proceeds of Crimes Bill seeks to permit defendant to gain from the incomes of his illegality by offering reasonable expenditures for himself, dependents and legal team to be paid from the alleged incomes, which will make it very problematic and monetarily onerous for the anti-corruption organisations to implement the procedure. This asset recovery is not the form of legislation that Nigeria desires at this period of global recognition of the prevalence of corruption in Nigeria.

The goal of this proposed model is to strengthen the existing anti-corruption laws by generating a regulatory framework for effective administration and sales of surrendered proceeds of corruption and to make provisions for the compensation of victim of crimes in Nigeria, which is novel in Nigeria’s legal framework as it is anchored on deterrence and retributive justice’s principles.

However, civil recovery proceedings were used to recover some late General Sani Abacha’s loots. This procedure allows the defendant assets to be forfeited by the government without much legal rigour. The following reliefs among others could be sought from the court civil recovery processes against corruption suspects: action for rescission or setting aside the contract because of corruption or for contravention of the express provision in the agreement or the law regulating the contractual relationships. Action for damages for breach of fiduciary duty can be sought, and action for forfeiture or conversion against the financial institution where the funds were deposited. Action for restitution, constructive trust or action to render detailed accounts on how he/she got the suspected proceeds of corruption. Requesting for repayment to the state of the amount of proceed of corruption.

Civil forfeiture or recovery of proceeds of corruption is an anti-corruption mechanism being used in the USA, United Kingdom and Italy, among others, to recover proceeds of corruption but this is still absent under the Nigerian Anti-corruption legal framework. The rationale for civil forfeiture of proceed of corruption is that it lowers the standard of proof as

the Federal Government can prove its right to the proceeds on the balance of probability different from proof beyond reasonable doubt as obliged under the criminal law before conviction.

Another remedy is the Mareva injunction which may be issued by the court to prohibit corruption suspect from moving the proceeds of corruption out of the jurisdiction of the state to foist on the state situation of hopelessness or nugatory if eventually final forfeiture order is made in favour of the state. Often, the limitation of sovereignty and the conflict of laws deprived Nigeria's anti-corruption agencies the right to prosecute persons for proceeds of corruption kept abroad or for corruption committed abroad especially in the absence of a treaty or national legislation that recognised conviction secured abroad as the basis for civil reliefs at the national courts. The solution is to criminalised the corruption committed abroad in the national legislations such as the United States' Foreign Corrupt Practice Act, 1977 that prohibits the country's nationals and registers firms from the inducement of foreign public officials in commercial and other dealings. Sections 6 and 75 of the United Kingdom's Proceeds of Crimes Act, 2002 strengthened repossession of earnings from corruption, especially if the lifestyle of the suspect is proven to be attributable to his/her criminal activities. However, its arbitrary nature may occasion extreme penal measure which may be higher than the standard of punishment which may occasion on an innocent party which may be prejudiced because of absence of discretion in determining the assets being affected by such forfeiture order.

Another hurdle to proceeds of corruption recovery to Nigeria is the perceived political influence and tribal sentiment in the appointment of anti-corruption agencies officials and chairpersons in Nigeria, preferably on merit and professionalism. To successfully detect, track and recuperate earnings of corruption, the anti-corruption executives must be autonomous; the appointment should be based on merits, and they should be free from political party influence.

In Nigeria, there are perceived tribalism and political influence in the appointment of anti-corruption commission members and presiding officers. Consequently, there is the probability of tribalism and political pressure on the investigation of corruption issues if their agnate or politicians are interested. Anti-corruption agencies must be independent of all political influence and must be seen to be fair and unbiased.

The following are some of the advantages of the proposed Civil Forfeiture of Proceeds of Corruption Bill in Nigeria (Table 2).

6.3 Comparison of proceeds of corruption recovery laws between Australia, United Kingdom, Hong Kong in China, South Africa and Nigeria

In Australia, the Proceeds of Crime Act, 2002 provides for civil forfeiture as a substantial deterrent in the recuperation of proceeds of corruption in the country while this is still lacking under Nigeria's legal regime on corruption. The court may order civil forfeiture if it is satisfied that such assets are incomes of corruption. The civil forfeiture is centred on a balance of probabilities the action can be instituted even when such person has not been indicted or sentenced. Also, the defendant does not have to be in the same jurisdiction as the properties for the seizure to be ordered by the court. Also, the United Kingdom's Proceeds of Crime Act 2002 and the Serious Crime Act 2007 are a comprehensive legal regime on recovery and repossession of incomes of corruption in the country.

The proposed Proceeds of Crime Act provide for asset recovery via the confiscation of criminal proceeds on conviction, civil assets recovery in the High Court is a non-conviction based anti-corruption asset forfeiture mechanism, the action is against the property *in rem* not against the suspect. The Act enables the state to recover criminal proceeds as long as the

Table 2.
Some benefits of the proposed civil forfeiture of proceeds of corruption bill in Nigeria

S/N	Benefits of the proposed civil forfeiture of Proceeds of Corruption Bill	The existing forfeiture under the Nigerian Criminal Law
1	There must be reasonable grounds to suspect commission of a crime	Reasonable grounds to suspect a crime
2	The standard of proof is based on the balance of probabilities or preponderance of the evidence	The standard of proof is “proof beyond a reasonable doubt”
3	Evidence is needed to establish that the assets are proceeds of crime for the court to order forfeiture	There is a need for proof beyond reasonable doubt to secure a conviction
4	The action is against the asset <i>in rem</i> or not against the suspect(s)	Forfeiture or confiscation order may not be entertained until there is a conviction except where plea bargaining mechanism is used
5	The <i>rationale</i> is to recover the assets and to discourage corruption	The <i>rationale</i> is to punish the offender for serving as deterrence to others
6	A private party may initiate corruption charges. It is faster and less expensive	Because the offence is committed against the state, it is only the state that can sue It may be slow because of presumption of innocence and other technical defence tactics that the defence counsel may use in the course of the trial
7	Other remedies such as reparations and restitution and settlement agreements are available	The remedy is the conviction, and occasionally, restitution may be ordered by the court

Source: This table was prepared by the author

defendant or suspect fails to legitimately explain the sources of his/her incomes or his/her lifestyle and where he/she provided false information to the court. The court may infer that he/she enjoys criminal assets. Therefore, there is the need for the enactment of stringent anti-corruption clauses that criminalised unexplained increase in sources of wealth by a public official as a measure to deter corruption in Nigeria which is presently lacking.

Seizure and forfeiture are done in the Magistrate courts. The taxation of proceeds of crime where no tax has been paid is a mechanism for repossession of profits from corruption. The National Crime Agency, a non-ministerial government agency, is responsible for the recovery of earnings from corruption. In contrast, in the country, all anti-corruption agencies are responsible for repossession of incomes from corruption.

Also, in the United Kingdom, Section 7 of the United Kingdom’s Bribery Act 2010 prohibits refusal of commercial firms to prevent bribery, but the firm can establish it has sufficient measures in place to avert individuals connected with it from involving in bribery. It is an offence for the United Kingdom nationals and firms to give or take bribes overseas. However, Nigeria’s legal framework has not prohibited bribery of foreign government’s officials or agencies yet.

The United Kingdom has a strong track record of combating corruption as the level of corruption in the United Kingdom is lower than the majority of other countries around the world, whereas the USA’s asset recovery policy is centred on the following: fighting corruption and rectifying the damage triggered by such corruption. This is an effective mechanism for investigation and forfeiture of proceeds of corruption with mutual legal assistance for restoring earnings from corruption to their countries of derivation. The country’s international standards and its leading fight against corruption in all its forms is a benchmark for Nigeria to replicate.

The National Crime Agency was also founded in October 2013, to manage the functioning and responses to severe and organised crime, including economic crime while Nigeria inaugurated the EFCC to combat economic and financial crimes. However, poor finance and political inference have hindered its efficiency. The Serious and Organised Crime Strategy was also established to set out how the government will make it harder for individuals either based in the United Kingdom or overseas, to transfer, conceal or use the incomes from crime. To obtain an order of confiscation, it must be proved that the accused benefitted from the crime and the amount of the benefit derived must be ascertained.

Implementation of a publicly accessible register of beneficial ownership of companies via a central register in the United Kingdom helps to deter corruption by uncovered corruption proceeds used to set up companies with their beneficial ownership information, but this has not been replicated in Nigeria's legal regime yet. There is the need to crushing the wall of secret corporate ownership, especially in Nigeria, as clandestineness of corporate ownership is responsible for the country's underdevelopment. Although unidentified companies are not illegal, secrecy offers suitable concealment for corruption, tax evasion, conflict of interest, money laundering and terrorism bankrolling.

There is the necessity for the amendment of corporate laws in Nigeria to mandate the disclosure of beneficial interest in a company's shares and prescribe stringent penalties for non-disclosure. This will make corruption costly and send a clear signal that corruption does not pay thereby promoting asset recovery and return in Nigeria's legal framework. Other anti-corruption measures are visa bans of corrupt foreign officials. The management of the recovered proceeds of corruption to maintain their value by applying such assets to interest yielding account after the finalisation of the recovery process.

Hong Kong in China has a comprehensive national legal framework on asset recovery. The Mutual Legal Assistance in Criminal Matters Ordinance (MLACMO, Cap 525) governs mutual legal assistance and recovery of proceeds of corruption; Sections 21 and 22 of the Drug Trafficking (Recovery of Proceeds) Ordinance 1989 Cap 405 authorise search and collection of evidence on crimes whereas Sections 5, 6, 15 and 16 of the Organised Serious Crimes Ordinance 1994 Cap 455 authorise searching during an investigation into organised crime for disclosure of information especially where the prosecution has been initiated against the suspect. It offers assistance on identifying and tracing of proceeds of corruption and persons suspected of corruption via Mutual Legal Assistance in Criminal Matters Ordinance Cap 525, 1997 and Section 27 of the ordinance allows execution of foreign confiscation orders on request but such order must be registered by the court.

Confiscations are done under civil law distinct from criminal proceedings. Proceedings for preservation order and forfeiture order are civil proceedings which can be made alongside preservation order for a fair and effective preservation order. Proceeds of corruption can also be recovered via Special Investigating Units and Special Tribunal Act, and Special Tribunal was established to adjudicate on civil matters emanating from investigations by special investigating units. However, Nigeria has not fully replicated this in its anti-corruption legal regime. However, it is applicable under Section 319 of the Administration of Criminal Justice Act 2015, which provides for compensation to victims of crime in addition to fine or other punishment that may be awarded.

In South Africa, national laws aid recovery of proceeds of crime through international cooperation and under the Prevention of Organised Crime Act and the Prevention and Combating of Corrupt Activities Act. The country has a single National Prosecutions Authority that prosecutes corruption cases compared to Nigeria with multiple anti-corruption agencies with duplicities of functions. The country establishes an Asset Forfeiture Unit and the Directorate of Special Operations unlike Nigeria's Financial

Intelligence Unit which has not been given full autonomy to function by separating its functions from the EFCC corruption thereby occasioned inefficiency. In Nigeria, the absence of proceeds of corruption recovery and confiscation has been the challenge in spite of extensive anti-corruption laws.

The Nigerian Financial Intelligence Unit is set up in 2004 as a unit in EFCC whose responsibilities are endorsed in the +9 unique recommendations of the Financial Action Task Force. The EFCC (Establishment) Act and Money Laundering (Prohibition) (Amendment) Act 2012 to receives records of financial transactions from financial institutions designated non-financial institutions to monitor compliance, full disclosure of assets are required by an individual detained for perpetrating a crime under the EFCC Act. Sections 22, 34(1) empower the EFCC to arrest anybody suspected to have made money via criminal conduct and where the assets or property are located outside the country and such asset will be surrendered to the government.

The Civil Forfeiture of Proceeds and Instrumentalities of Unlawful Activity Bill, 2009 is to offer extensive legal regime on confiscation of assets or property which is proceeds of corruption, but the bill has not been passed into law by the National Assembly. Also, the foreign confiscation order can be received and enforced in Nigerian courts via the Foreign Judgement (Reciprocal Enforcement) Act Cap F35, LFN 2004 which empowers the court to enforce a foreign order if the request has been registered by the court and made a domestic order based on the principle of reciprocity, production of all germane documents and consideration of the procedure of the requesting court and what transpired in the proceedings.

The following are some of the legal frameworks on the recovery of proceeds of corruption in Australia, United Kingdom, Hong Kong in China, South Africa and Nigeria (Table 3):

6.4 Anti-corruption lessons Nigeria can learn from the selected case study countries

The criminal and civil law approaches to assets confiscation and forfeiture play an essential role in combating corruption. Nigeria has no legal regime and expertise in this area. Therefore, there is a need for a holistic legal regime on assets recovery and reforms such as the selected case-study country. Civil non-conviction-based forfeiture is a valuable anti-corruption tool in combating corruption in Australia, United Kingdom, Hong Kong and South Africa. This can be used to effectively recover proceeds of corruption as the instrument allows recovery of illegal assets from a suspect without the need for conviction, especially in the United Kingdom.

The utilisation of criminal taxation legal regime in the United Kingdom can be replicated in Nigeria as corruption as affected the government's progress because of poor tax receipts in the absence of criminal conviction of an offender such offender would be taxed on every unexplained wealth in addition to normal tax liabilities owed to the Federal Inland Revenues Services and State's government tax agencies. EFCC as well as the ICPC exercises jurisdiction over corruption-related matters and in exercising jurisdiction over confiscation and forfeiture, it is vital there is an institutional roles clarity by vesting such powers on a single lead institution like South Africa where the National Prosecution Authority prosecutes corruption cases in the country. Nigeria has several anti-corruption agencies which often give room for inefficiencies and duplicities of roles. Nigeria has failed to put in place a robust system to safeguard confiscated or forfeited proceeds of corruption such as South Africa with designated National Revenues Fund to protect and preserve proceeds of corruption. Seized assets in Nigeria are usually held by the EFCC's Asset Forfeiture Unit with little or no public data on the administration and preservation of such incomes from

SN	Countries	Legal framework/aims	Lessons learnt	Remarks
1	Australia	The Proceeds of Crime Act, 2002 offers civil forfeiture for recovery of proceeds of corruption	It is based on the balance of probabilities. The action may be instituted even when such individuals have not been charged or convicted	A comprehensive legal regime on recovery and confiscation of proceeds of corruption will promote speedy recovery of proceeds of corruption
2	United Kingdom	Proceeds of Crime Act 2002 and Serious Crime Act 2007. These are the legal regime on recovery and confiscation of earnings from the offence in the country – the Mutual Legal Assistance (MLA)	The action is against the property in <i>rem</i> , not against the suspect The utilisation of criminal taxation legal regime in the United Kingdom can be useful in Nigeria as corruption has affected the government's progress because of low tax receipts. In absence of criminal conviction of an offender, such offender would be taxed on every unexplained wealth in addition to expected tax liabilities owed to the Federal Inland Revenues Services and State's government tax agencies. It used a publicly accessible register of beneficial ownership of companies via central register to uncovered companies' beneficial ownership information which Nigeria is presently lacking	It enables the state to recover criminal proceeds as long as the defendant or suspect fails to legitimately explain the sources of his/her incomes or lifestyle. There is the need for a publicly accessible register of beneficial ownership of registered companies in Nigeria via central register to uncovered suspicious companies' beneficial ownership information to aid investigation and recovery of proceeds of corruption
3	Hong Kong, China	The Mutual Legal Assistance in Criminal Matters Ordinance (MLACMO, Cap 525) governs reciprocal lawful support and repossession of incomes of corruption; Sections 21 and 22 of the Drug Trafficking (Recovery of Proceeds) Ordinance 1989 Cap 405 authorise search and collection of evidence on drugs trafficking and the Organised Serious Crimes Ordinance 1994 Cap 455 authorises searching during an investigation into organised crime for disclosure of information	Civil non-conviction-based is used for recovery of illegal assets from a suspect without the need for a conviction. It is faster for recovery of proceeds of corruption	Forfeiture and confiscations are done under civil law distinct from criminal proceedings. It promotes speedy hearing of corruption cases. To safeguard recovered proceeds of corruption, Criminal Assets Recovery Account was established for safekeeping of proceeds of corruption which Nigeria can also replicate to preserved proceeds of corruption with compensation of the victim of crimes

(continued)

Table 3.
Proceeds of corruption recovery laws in Australia, United Kingdom, Hong Kong in China, South Africa and Nigeria

Table 3.

SN	Countries	Legal framework/aims	Lessons learnt	Remarks
4	South Africa	The Prevention of Organised Crime Act and the Prevention and Combating of Corrupt Activities Act	The country has designated National Revenues Fund to protect and preserve proceeds of corruption, unlike Nigeria	The country has a single National Prosecutions Authority that prosecutes corruption cases compared to Nigeria with multiple anti-corruption agencies with duplicities of functions
5	Nigeria	The Proceeds of Crime Act, 2019, Sections 28 and 29 of the EFCC Act 2004 and the Money Laundering (Prohibition) (Amendment) Act, 2012 offer provisions for seizure and confiscation of proceeds of crimes but no provisions were made under the Nigerian law for non-conviction-based confiscation of proceeds of corruption. Absence of this legal regime has impeded recovery of proceeds of corruption in Nigeria	Recoveries of proceeds of corruption are made through criminal and penal laws. There is the need for a robust system to safeguard forfeited proceeds of corruption such as South Africa with designated National Revenues Fund to protect and preserve proceeds of corruption	Absence of Civil Forfeiture procedure for repossession of assets from corruption and for civil confiscation has been a challenge in spite of extensive anti-corruption laws against recovery of proceeds of corruption in Nigeria

Source: The author prepared this table

corruption. Therefore, there is the need to prevent devaluation or depreciation of such assets or proceeds of corruption.

The following are the selected cases of recovered proceeds of corruption in Nigeria and the amount recovered (Table 4).

7. Results and discussion of findings

Currently, Nigeria lacks regulatory policies or laws on management and preservation of proceeds of corruption. The provisions of EFCC Act provides that a person convicted under the Act shall forfeit to the Federal Government all the assets or property which may be subject of an interim order of attachment by the commission. Sections 19 and 20 of the EFCC Act fail to consider instances where the proceeds of corruption belong to the state government. The provision directing that the proceeds of corruption to be forfeited to the Federal Government is unconstitutional; such property or assets should be forfeited to the state government concerned and not the Federal Government because the money was stolen from the state government's treasury.

Extradition and mutual legal assistance are fundamental tools in the fight against corruption. There may be no treaty or convention between the requesting and requested states. Flaws in legislation or treaties may preclude the type of assistance that is sought. Furthermore, some countries require the approval of their National Assembly to domesticate the convention. This, in turn, necessitates a thorough review of existing national legislation and possibly the passage of new legislation. This may undermine international cooperation in combating corruption in these countries, especially if the requesting and requested states have different legal systems and judicial procedures. Substantial time and resources may also be required, but the paltry budget of the anti-corruption may slow the success of this anti-corruption exercise.

Bureaucracy and unnecessary delays. Countries should consider harmonising their schemes for extradition and mutual legal assistance to reduce misunderstandings over differences in legal systems. The use of standardised processes, forms and language for making and executing requests can significantly improve efficiency and lower costs.

Establishment of multiple anti-corruption agencies creates potential duplication and competition in the pursuit of recovery of proceeds of corruption. There is absence of legal provisions on the management of the recovered proceeds of corruption to prevent loss of its values; this legal lacuna could be remedied through the enactment of a unifying "Civil Forfeiture of Proceeds of Corruption Bill" with dedicated "Proceeds of Corruption Management Commission". In spite of the multiplicity of assets recovery-related legal provisions in the country, the Nigerian anti-corruption legal framework only partially provides for non-conviction-based asset forfeiture. There is the need for civil forfeiture of proceeds of corruption which is presently lacking non-conviction-based forfeiture is civil in the description, and the onus of proof is on a balance of probabilities. It does not rest on the imprisonment of the criminal, and it can be resorted to where the wrongdoer is innocent, dead or is an escapee as this is consistent with Section 167 of the 1999 Constitution of the Federal Republic of Nigeria (as amended). Non-conviction-based forfeiture will reduce delay associated with corruption trials with strict guidelines to prevent abuse.

Early notification of the request for repatriations of suspected proceeds of corruption and consultation is essential; communication through the diplomatic channels will promote efficient international cooperation as this is vital for successful recovery of proceeds of corruption. Strengthening anti-corruption agencies, weak law enforcement identifies unique features encouraging corruption in the country.

Table 4.
List of selected cases
of recovered
proceeds of
corruption in Nigeria

S/N	Names	State of origin	Position held	Offence and sentence	Amount recovered
1	General Sami Abacha	Kano	Governor	Not charged because he has died but his son and a business associate were charged, but parties later settled out of court	1998: \$750m 2000: \$64m 2002: \$1.2bn 2003: \$160m 2004 : \$88m 2005: \$461m 2006: \$44m 2006: US\$723m 2014: \$227m 2017: US\$322m 2019: £211million 2020: \$308m 2020 May: \$311m Total: \$3.624bn
2	Joshua Dariye	Plateau	Governor	Criminal infringement of trust and misappropriation of public funds of N1.126bn Plateau State Government's ecological funds	Dariye was sentenced to 14 years' imprisonment on the charges of criminal breach of trust and misappropriation of public funds N1.6bn but the Court of Appeal sitting in Abuja on Friday, November 16, 2018, reduced the 14-year sentence against Dariye to 10 years
3	Dieprieve Solomon Peter Alamiyeigha	Bayelsa	Governor	He was charged with money-laundering and sentenced to two years in imprisonment	Metropolitan police found about £1m in cash in his London home; £1.8m (\$3.2m) in cash and bank accounts In the USA, the Department of Justice executed an asset forfeiture order of \$401,931 in a Massachusetts brokerage fund traced to him
4	James Ibori	Delta	Governor	The United Kingdom courts froze Ibori's assets, valued at about £17m (\$35m), in early August 2007 and sentenced him to 13 years by Southwark Crown Court	A building in Hampstead, North London, for £2.2m A house in Shaftesbury, Dorset, for £311,000 A £3.2m great house in Sandton, close to Johannesburg, South Africa A convoy of armoured Range Rovers estimated £600,000 A £120,000 Bentley Continental GT A Mercedes-Benz Maybach 62 acquired for €407,000 cash that was dispatched to his house in South Africa

(continued)

S/N	Names	State of origin	Position held	Offence and sentence	Amount recovered
5	Mr Lucky Igbenidion	Edo	Governor	A plea bargaining agreement was entered and was charged with the lesser offence of stealing of N4.4bn and sentenced to a six months imprisonment with the option of N3.5m fine	He was fined a paltry sum of N3.5m, with no option of jail term
6	Cecilia Ibru	Delta state	The past Chief Executive Officer and Managing Director of Oceanic Bank Plc	Mismanagement and abuse of office. Six months imprisonment	She forfeited N191bn worth of properties and assets to the Federal Government
7	John Yakubu Yusuf	Gombe state	The former Assistant Director in the Federal Civil Service, Nigeria	Misappropriation of N27.2bn from the pension fund of retired police officers. Two years' imprisonment with the alternative of a fine of N750,000.00. The Court of Appeal, Abuja quashed the verdict and imposed two years' imprisonment per count (without substitute of fine) and directed Yusuf to repay N22.9bn to the Federal Government	He forfeited all the ill-gotten wealth he acquired from police pension fund worth over 325m and 32 properties all over the country
8	Chief Erastus Akingbola	Osun state	Former Managing Director of the former Intercontinental Bank PLC	Ordered to refund more than £165bn he siphoned from depositors' funds	Assets worth £83m were frozen by the courts in the United Kingdom
9	Chief Tafá Balogun	Osun state	Former Inspector General of Police, Nigeria	He was found guilty of graft and was sentenced to six months incarceration	The court directed him to surrender all his properties including the sum of \$150m which he got with the fund embezzled from police's funds such as money stashed in banks, shares in companies and 14 luxury buildings

Source: The author prepared this table

Table 4.

Whistle-Blowers and Witness Protection Act is very crucial as an instrument to ascertain and track the earnings from corruption. Absence of these fortification procedures makes it thornier to ascertain and track the profits of corruption. There is the need for the establishment of Whistleblower Protection Act so that citizens can report suspected or actual cases of corruption without fear of reprisal attacks. Low salaries and incentives for anti-corruption agencies will encourage anti-corruption agencies to carry out their duties professionally. Increased remunerations and benefits could be motivating and prevent corruption among anti-corruption agencies in Nigeria.

7.1 Recommendations and implications

There is the need to amend the 1999 Constitution of the Federal Republic of Nigeria to curb abuse of immunity by public officials because the purpose of the immunity clause is to ensure that certain public officials can exercise their functions free from lawsuit distractions. However, in many cases, this protection has been abused, creating a class of “Sacred Cow”. To deal with this, there is the need for the amendment of the Constitution to change the conditions and procedures through which immunity of public officials can be lifted and to expand the scope to cover foreign state officials and to prohibit bribery of foreign public officials.

Building anti-corruption agencies capacities through continuous training and re-training programs and international cooperation will block a haven to corruption and its assets, and it will enhance global combat against corruption. Effectiveness of any recovery, confiscation and asset forfeiture legal regime depends on institutional capacity and funding.

In Nigeria, there is weak institutional capacity because of persistent underfunding and poor political support for anti-corruption agencies in spite of bilateral supports from the USA and the United Kingdom; therefore, there is the need for legislative reform with independent budgetary funding of the anti-corruption agencies in Nigeria for effectiveness in the discharge of their duties.

There is the need for the introduction of comprehensive “Civil Forfeiture of Proceeds of Corruption Bill” with dedicated “Proceeds of Corruption Management Commission” with “Asset Forfeiture funds” for compensation of victims of corruption and mandatory declaration of beneficial ownership or interests in registered companies to deter corruption through the facilitation of anti-corruption investigations and prosecution of corruption suspects.

This study discusses some of the legal issues that arise in the course of recovery of proceed of corruption but it by no means presents an exhaustive list. Communication between the requesting states and requested state is essential. There is the need for a comprehensive civil procedure or legal regime on proceeds of corruption recovery and management, both domestically and internationally, for transparency and accountability.

General awareness and public cooperation are fundamental for the success of enforcement of anti-corruption laws for all stakeholders with sufficient knowledge of anti-corruption laws adverse effects of corruption to the nation’s economy and growth. As the efficiency of the Financial Intelligence Unit of investigating and prosecution of financial crimes depends on accuracy and quality of the report made available to it by the financial institution and other intermediaries, there is the need for the autonomy of the Nigerian Financial Intelligence Unit from EFCC to guarantee its effectiveness in combating corruption. There is the need for management of proceeds of corruption, which requires skills which often cannot be found within some anti-corruption agencies. An effective assets management mechanism will ensure proper accountability of proceeds of corruption and

reduce the impact of arbitrary seizures and discrepancies in the figures of proceeds recovered.

There is a need for the establishment of Proceeds of Corruption Recovery and Management Agency to take inventory, manage and to audit proceeds of corruption in Nigeria as the Asset Forfeiture Unit of the EFCC is not a creature of statute, and it has not been highly skilled, professional, efficient in management promotion of transparency and accountability of proceeds of corruption in Nigeria. The same anti-corruption agencies that initiate and enforce forfeiture of proceed of corruption also manage the asset. This leads to abuse and raises the question of transparency, accountability and competencies in the management of proceeds of corruption as mentioned earlier. There is the need for the institution of "Proceeds of Corruption Forfeiture Funds" for the reparation of victims of acts of corruption in Nigeria. Proceeds of corruption can be used to revamp Nigeria's health and education facilities, reintegration of displaced persons and to enhance the capacity of anti-corruption and law enforcement agencies.

There is the need for monitoring public record of the receipts of recovered funds and its utilisation via projects tracking measures and auditing to ensure that the assets are not misappropriated but used to boost the quality of life of Nigerians. It is also fundamental to enact strict law on civil recovery of proceeds of corruption to recovery devoid of conviction and to inaugurate Proceeds of Corruption Management Commission to manage the proceeds of corruption by maintaining and preserving their values and to build the capacity of anti-corruption organisations and other law enforcement bodies in Nigeria.

8. Conclusions and further studies

The study has contributed to knowledge by revealing the key challenges that Nigeria faces in the recovery of proceeds of corruption with solutions. Corruption is a critical crime and combating it and recuperating assets are arduous responsibilities confronted by anti-corruption agencies. The proposed "Civil Forfeiture of Proceeds of Corruption" must take into consideration the actual value of the suspected proceeds, its sources, right proprietorship and situations and the alleged crime.

The legal problems within and outside the country in seeking recovery of proceeds of corruption are issues of burden of proof, fundamental rights and how can they be overcome mostly where the suspect is dead and secure the cooperation of the requested states. Forfeiture and recovery of proceeds of corruption are vital aspects of anti-corruption efforts of the present government in Nigeria. Nigeria should domesticate fully the provisions of the United Nations Convention against Corruption to combat corruption and to promote transparency in Nigeria.

The utilisation of non-conviction-centred repossession and forfeiture is the finest tool in this respect. States should also support in implementing the orders from other countries to make asset repossession a success. Whistleblowers Protection Act being an anti-corruption tool to complement other anti-corruption mechanisms, its enactment and enforcement in Nigeria is imperative. Assets declaration by public office holders should be made open to the public with a public responsibility to report corruption and money laundering cases.

Chapter V of the United Nations Convention against Corruption on assets recovery enjoins member states to take a proactive approach to ensure recovery of proceeds of corruption and other illegal assets through international cooperation to enhance effectiveness prevention, tracing, seizure, freezing and confiscation mechanisms as well as return and disposal of proceeds of corruption. Making the asset declarations of public officials available to the public for scrutinisation by the Code of Conduct Bureau will deter corruption.

The absence of specific and well-constructed proceeds of corruption recovery and confiscation regime in the Nigerian anti-corruption legal framework constitutes obvious *lacunae* that must be filled urgently. Therefore, there is the need for civil forfeiture in Nigeria's legal framework to deprive corruption offenders of corruption proceeds with caution in operating this instrument to prevent its abuse to suffer innocent party.

The research has pointed out the features in the selected countries that may be beneficial in establishing a cutting-edge anti-corruption legal framework by passing an updated Civil Forfeiture of Proceeds and Instrumentalities of Unlawful Activity Bill 2009 with clauses such as criminal taxation, allowance for financial reporting order, the definition of proceeds of corruption and independent funding of anti-corruption agencies with the transparent and accountable system. The political will on the part of the Federal Government and National Assembly is *sine qua non* to drive the reform to change the perception that those policymakers have the complacent attitude to corruption in Nigeria.

Therefore, there is the need to incorporate innovative anti-corruption mechanisms from other jurisdictions in our anti-corruption laws to combat the menace. Further research can consider a prosecutorial discretion of anti-corruption agencies and justification for plea bargaining in corruption cases. The future studies should carry out quantitative analysis of proceeds of corruption in Africa.

8.1 Limitations of the study

The estimates of the volume of assets looted from Nigeria vary widely because of complexity of collecting data on proceeds of corruption as official statistics on proceeds of corruption recovered do not exist as each anti-corruption agency occasionally makes pronouncements on the volume of assets recovered without any breakdown in terms of assets seized, nature of assets and their locations and its values. Such data would aid policymakers to measure the effectiveness of the current assets legislations and to enhance its effectiveness. Considering the secret nature of corruption, it is taxing to correctly evaluate the amount of money stolen so, their economic impacts on the nation's economy.

References

- Abdullahi, Y.S. (2014), "Key legal issues and challenges in the recovery of the proceeds of crime: Lessons from Nigeria", *International Law Research*, Vol. 1 No. 3, pp. 186-201.
- Adekunle, A. (2011), *Proceeds of Crime in Nigeria: Getting Our Act Right, Inaugural Lecture*, Nigerian Institute of Advanced Legal Studies, Lagos, Nigeria.
- Akinola, A.O. (2015), *Globalization, Sustainable Democracy and Deregulation in Nigeria: A Case Study of the Downstream Oil Sector, Being a Dissertation Submitted in Fulfillment of the Requirements for the Award the Degree of Doctor of Philosophy in International Relations*, University of KwaZulu-Natal, available at: https://researchspace.ukzn.ac.za/bitstream/handle/10413/12151/akinola_adeoye_ologumtoye_2015.pdf?sequence=1&isallowed=y (accessed 23 August 2020), 143.
- Ayoade, M.A. (2012), "Evaluating the legal architecture on corruption in Nigeria, the", *Nigerian Journal of Contemporary Law*, Vol. 18 No. 1, p. 51.
- Ayoade, M.A. (2015), "Global survey of national responses to assets recovery, confiscation and forfeiture", in Ayoade, M.A. and Igbinedion, S.A., *Legal Perspectives to Corruption, Money Laundering and Assets Recovery in Nigeria*, 291.
- Bello, O.A. (2014), "Redefining the mental element of bribery in Nigeria, an unpublished thesis submitted to the faculty of law", *University of Lagos for the Award of Doctor of Philosophy in Public Law*, Vol. 3.

- Chamberlain, K. (2002), "Recovering the proceeds of corruption", *Journal of Money Laundering Control*, Vol. 6 No. 2, pp. 157-165.
- Igbinedion, S.A. (2011), "Culpability of attorney general of the federation in multinational companies' corporate liability", *The Guardian Lagos*, August 23, available at: www.guardiannewsngr.com/index.php?option=com_content&view=article&id=58689:culpability-of-agf-in-multinational-companies-corporate-liability&catid=42:law&itemid=600 (accessed 23 August 2020).
- Jean-Pierre, B. Gray, L. Stephenson, K. Scott, C. and Gidwaney, N. (2011), "Asset recovery handbook: a guide for practitioners", available at: www.unodc.org/documents/corruption/publications/star/star_publication_-_asset_recovery_handbook.pdf (accessed 23 August 2020).
- Linda, M. (2020), "Recovering proceeds of corruption", available at: www.unafei.or.jp/publications/pdf/gg3/third_ggseminar_p3-9.pdf (accessed 4 May 2020).
- Marie Chene (2017), "International support to anti-money laundering and asset recovery: Success stories", *Transparency International*, Vol. 3, pp. 1-13.
- Oduosote, A. (2014), "Assets repatriation and global best practices: lessons for Nigeria, acta universitatis danubius", *Administratio*, Vol. 6 No. 1, p. 86
- Olaniyan, H.A. (2007), "Conflict of laws and the challenge of recovering proceeds of fraud and corruption", *Department of Jurisprudence and International Law*, Unilag, Akoka, Lagos.
- Olujobi, O.J. (2017), "Legal framework for combating corruption in Nigeria – the upstream petroleum sector in perspective", *Journal of Advanced Research in Law and Economics*, Vol. Viii, Vol. 3 No. 25, pp. 956-997.
- Olujobi, O.J. (2020a), "Comparative appraisal of anti-corruption laws: lessons Nigeria can learn from Norway, United Kingdom and United States' anti-corruption strategies", *International Journal of Management (IJM)*, Vol. 11 No. 2, p. 1.
- Olujobi, O.J. (2020b), "Renegotiation and stabilisation clauses in Nigeria's upstream petroleum industry's contracts: the issues and the options", *International Journal of Innovation, Creativity and Change*,
- Olujobi, O. (2020c), "The legal regime on renewable energy as alternative sources of energy in Nigeria's power sector: the impacts and the potentials", *Academy of Strategic Management Journal*, Vol. 19 No. 3,
- Olujobi, O.J. and Olujobi, O.M. (2020), "Theories of corruption "public Choice-Extractive theory" as alternative for combating corruption", *International Journal of Environmental Sustainability and Green Technologies (IJESGT)*, Vol. 11 No. 2, pp. 68-83.
- Olujobi, O.J., Olujobi, O.M. and Ufua, D.E. (2020), "A critical appraisal of legal framework on deregulation of the downstream sector of the Nigerian petroleum industry", *International Journal of Management*, Vol. 11 No. 6, pp. 252-268.
- Olujobi, O.J., et al. (2020), "Re-Thinking and optimising Nigeria's anti-Corruption legal framework: Upstream petroleum sector corruption evaluation", *Journal of International and Comparative Law, Department of Jurisprudence and International Law Faculty of Law University of Ilorin*, Ilorin, Nigeria.
- Oyewunmi, O.A. and Olujobi, O.J. (2016), "Transparency in Nigeria's oil and gas industry: is policy re-engineering the way out? ", *International Journal of Energy Economics and Policy*, Vol. 5 No. 4, pp. 630-636.
- Policy and Legal Advocacy Centre (2017), "Observations on the proceeds of crime bill, 2017 (SB376)", available at: <http://placng.org/wp/wp-content/uploads/2017/06/Observations-on-the-proceeds-of-crime-bill-1.pdf> (accessed 23 August 2020), 5.
- Punch Newspaper (2020), *Breaking: DSS Arrests EFCC Acting Chairman*, Magu available at: <https://punchng.com/breaking-dss-arrests-efcc-acting-chairman-magu/> (accessed 23 August 2020).
- Yusuf, Y.M. (2015), "Nigerian perspectives on the recovery and repatriation of assets", in Ayoade, M.A. and Igbinedion, S.A., *Legal Perspectives to Corruption, Money Laundering and Assets Recovery in Nigeria*, 313.

Further reading

- Bello, A. (2007), *EFCC Establishment Act 2004 and Due Process in Economic and Financial Crimes Prosecution in Nigeria*, Department of Public Law, Unilag, Akoka, Lagos.
- Civil Society Legislative Advocacy Centre/Transparency International Nigeria (2019), "Global forum for asset recovery progress report: Nigeria development since December 2017 to June 2019", pp. 1-20. Available at: <https://uncaccoalition.org/files/Asset-Recovery-Nigeria-GFAR-2019.pdf> (accessed 23 August 2020).
- Wikipedia (2020), "Diepreye alamieyeseigha", available at: https://en.wikipedia.org/wiki/Diepreye_Alamieyeseigha (accessed 23 August 2020).
- HM Government (2014), "UK anti-Corruption plan", available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/388894/UKantiCorruptionPlan.pdf (accessed 23 August 2020), 10-66.
- Ignasio, J. (2009), "Managing proceeds of asset recovery: the case of Nigeria, Peru, the Philippines and Kazakhstan", Basel Institute on Governance, International Centre for Asset Recovery, Working Paper Series No 06, available at: www.unodc.org/documents/corruption/addisegm2017/working_paper_basel_institute.pdf (accessed 23 August 2020).
- Ibori, J. (2020), available at: https://en.wikipedia.org/wiki/James_Ibori#cite_note-7 (accessed 23 August 2020).
- Dariye, J. (2020), available at: https://en.wikipedia.org/wiki/Joshua_Dariye (accessed 23 August 2020).
- Liusha, M. and Alsaedi, K.A. (2020), "Effective measures to investigate the proceeds of corruption crimes", available at: www.unafei.or.jp/publications/pdf/rs_no104/no104_24_gw_group_2.pdf (accessed 4 May 2020), 127-133.
- Nwanolue, B.O.G. and Osegbue, C. (2013), "The Nigerian state and crude oil bunkering in Niger Delta: Examining the environmental vulnerability", *African Journal of Social Sciences*, Vol. 1 No. 3, p. 41.
- Nwokeji, G.U. (2007), "The Nigerian national petroleum corporation and the development of the Nigerian oil and gas industry: History, strategies and current directions", available at: www.bakerinstitute.org/media/files/page/9b067dc6/noc_nnpc_ugo.pdf (accessed 23 August 2020), 49.
- OECD Anti-Corruption Network for Eastern Europe and Central Asia (2018), "Confiscation of instrumentalities and proceeds of corruption crimes in Eastern Europe and Central Asia", available at: www.oecd.org/corruption/acn/OECD-Confiscation-of-Proceeds-of-Corruption-Crimes-ENG.pdf (accessed 23 August 2020), 1-100.
- OECD/The World Bank (2011), "The legal framework for the treatment of proceeds of active bribery", in *Identification and Quantification of the Proceeds of Bribery*, OECD Publishing, Paris.
- Ogbonna-Nwaogu, I. (2010), "Contradictory positions of government and its anti-graft agencies: an analysis of the Halliburton case from media reports", *Journal of Alternative Perspectives in the Social Sciences*, Vol. 2 No. 2, p. 663
- Olujobi, *et al.* (2018), "Oil spillage in Nigeria's upstream petroleum sector: beyond the legal frameworks", *International Journal of Energy Economics and Policy*, Vol. 8 No. 1, pp. 220-226.
- Olujobi, O.J., *et al.* (2018), "Commercial dispute resolution: has arbitration transformed Nigeria's legal landscape?", *Journal of Advanced Research in Law and Economics*, Vol. 9 No. 1, pp. 204-209.
- Olujobi, O.J. and Olusola-Olujobi, T. (2019), "Insolvency law and business recovery practices in Nigeria's upstream petroleum sector: the need for a paradigm shift", *International Journal of Mechanical Engineering and Technology*, Vol. 10 No. 1, pp. 1609-1628.
- Olujobi, O.J. and Olusola-Olujobi, T. (2019), "The appraisal of legal framework regulating gas flaring in Nigeria's upstream petroleum sector: how efficient? ", *International Journal of Advanced Research in Engineering and Technology*, Vol. 10 No. 3, pp. 234-250.
- Olujobi, O.J. and Olusola-Olujobi, T. (2020), "Comparative appraisals of legal and institutional framework governing gas flaring in Nigeria's upstream petroleum sector: How satisfactory? ", *Environ Quality Management*, pp. 1-14.

-
- Olujobi, O.J. and Oyewunmi, O.A. (2017), “Annulment of oil licences in Nigeria’s upstream petroleum sector: a legal critique of the costs and benefits”, *International Journal of Energy Economics and Policy*, Vol. 7 No. 3, pp. 364-369.
- Organisation for Economic Co-operation and Development and Asian Development Bank (2006), “Denying safe haven to the corrupt and the proceeds of corruption, enhancing Asia-Pacific cooperation on mutual legal assistance, extradition, and return of the proceeds of corruption capacity building program”, *Papers Presented at the 4th Master Training Seminar of the ADB/OECD Anti-Corruption Initiative for Asia and the Pacific Kuala Lumpur*, Malaysia, 28–30 March, available at: <https://think-asia.org/bitstream/handle/11540/239/denying-safe-haven.pdf?sequence=1> (accessed 23 August 2020), xvi-125.
- Stolpe, O., (2015), “Asset recovery – tracing freezing and returning proceeds of corruption”, in Ayoade, M.A. and Igbinedion, S.A. *Legal Perspectives to Corruption, Money Laundering and Assets Recovery in Nigeria*, 278.
- The Financial Intelligence Consultative Group (2019), “Counter-terrorism financing summit transnational laundering of corruption proceeds, counter terrorism finance summit”, available at: www.austrac.gov.au/sites/default/files/2019-11/Regional%20threat%20assessment%20report%20_2019.pdf.pdf (accessed 23 August 2020).
- United Nations Office on Drugs and Crime (2020), “Management of seized and confiscated assets”, available at: www.unodc.org/unodc/en/corruption/asset-management.html (accessed 23 August 2020).
- United States Diplomatic Mission to Nigeria, Public Affairs Section available at: https://ng.usembassy.gov/wp-content/uploads/sites/177/PR-Return_of_Stolen_Assets.pdf

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