



# **TRIAL CHALLENGES IN ANTI-CORRUPTION PROCEEDINGS IN NIGERIA**

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# PAPER OUTLINE

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# INTRODUCTION

- Anti-corruption proceedings, like every other criminal proceedings, experiences its fair share of challenges.
- Despite several attempts to reduces these challenges through laws, practices directions issued by heads of courts, these challenges still persist.
- “When you fight corruption, corruption fights back”  
– Nuhu Ribadu
- These words hold true even with the efforts to ensure speedy dispensation of corruption cases





**REFORMS**

**CORRUPTION**





# CHALLENGES – ABSCONDING DEFENDANTS

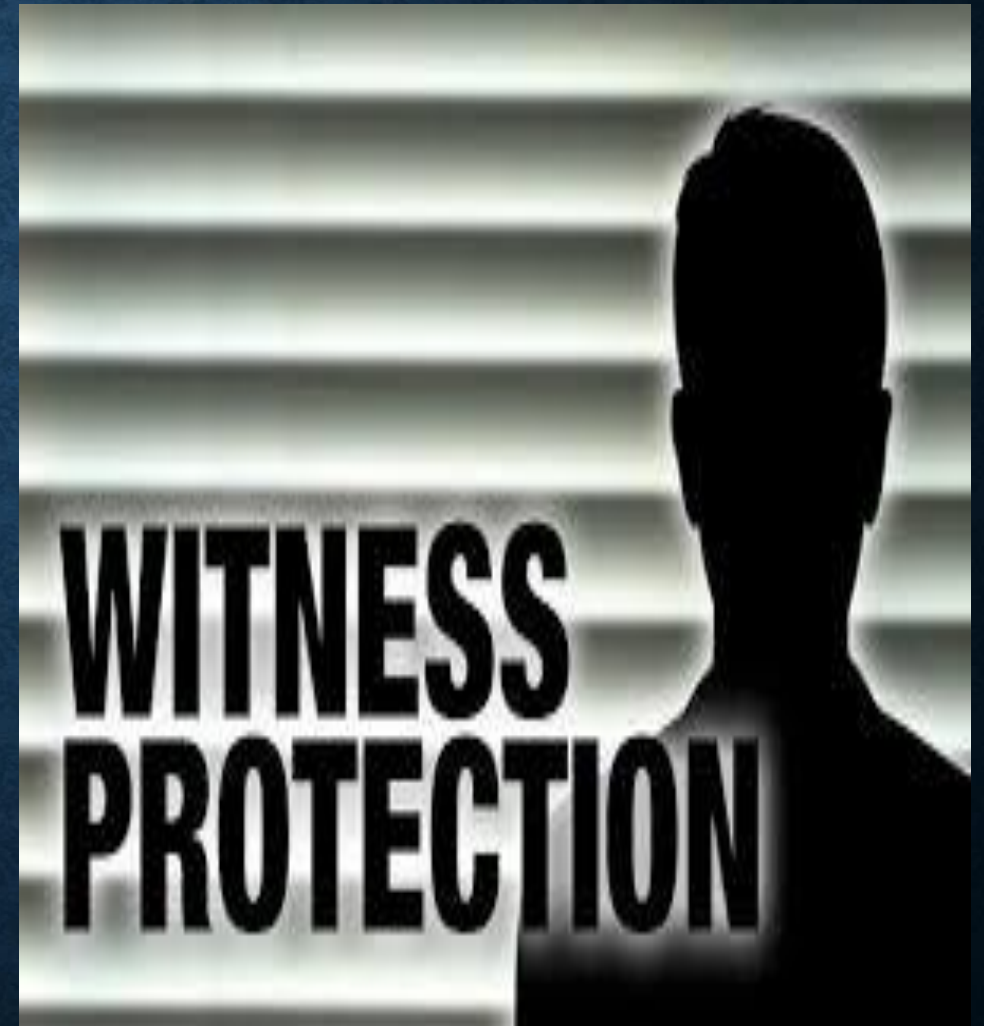
- Typically, corruption offences are bailable and defendants are admitted to bail
- However, the high incidence of absconding defendants is a major challenge to anti-corruption proceedings
- Though S. 352 (4) ACJA 2015 provides for trial-in-absentia, said provision has not been tested by the fire of the Supreme Court
- Generally, courts are more disposed to Section 266(b) ACJA 2015 which provides for hearing of interlocutory applications in the absence of the Defendant.





# CHALLENGES – ABSENCE OF EFFECTIVE WITNESS PROTECTION

- High profile corruption cases involve PEPs and highly influential persons who have the resources with resources to intimidate witnesses
- The absence of an institutional and legal framework for effective witness protection in Nigeria has done a number on such cases.
- The provisions of S. 232(3) ACJA 2015 do not adequately cover the gamut of effective witness protection as it is only provides for measure while testifying in court
- The non-passage of the Witness Protection Act into law is a major challenge to this issue







# CHALLENGES – TRIAL DE NOVO

- Could be occasioned by death, transfer or elevation of judges
- With the decision of the Supreme Court in *Ude Jones Udeogwu v FRN* striking down S. 396(7) ACJA, anti-corruption cases pending before judges elevated to the Court of Appeal have to start de novo.
- This entails reassignment of such cases, recalling witnesses who sometimes can not be traced and retrieving exhibits tendered in the earlier trial which sometimes cannot be found.
- These drawbacks sometimes led to the premature death of such cases as there is no case without evidence.





# CHALLENGES – LACK OF SPECIALIZED COURTS

- The lack of specialized courts/designated anti-corruption judges is a drawback on anti-corruption proceedings.
- The number of corruption cases in the court dockets across the country beg for specialized courts and designated judges.
- This will speed up court hearings, allow acquisition of specialised knowledge on anti-corruption laws, produce legal specialists among lawyers and judges who can focus solely on their legal specialties
- And ultimately strengthen capacity in anti-corruption litigation

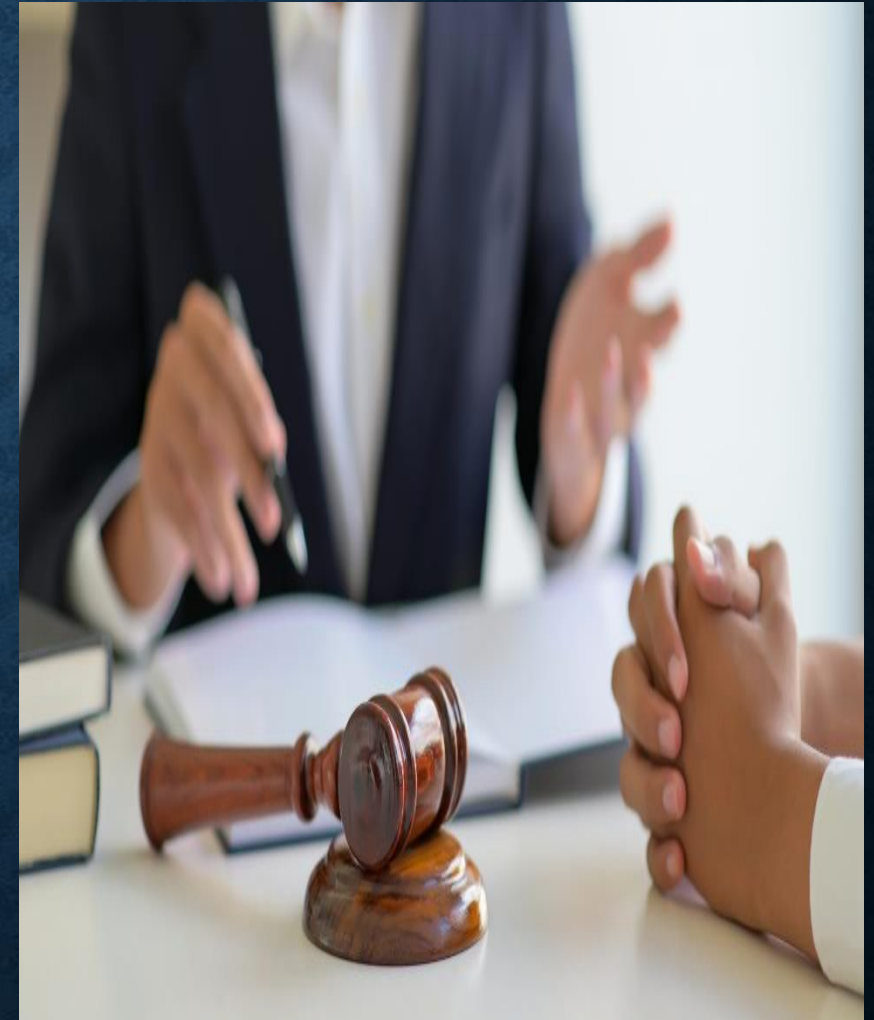






# CHALLENGES – POOR CASE MANAGEMENT SYSTEM

- There is hardly any form of case management i.e. hearing or conference for criminal cases in Nigeria.
- This is in spite the provisions of the practice directions on ACJA 2015 issued by the Chief Judge of the High Court of the FCT which provides for case management hearing immediately after arraignment.
- Issues to be addressed include objections on ground of jurisdiction; admissibility of evidence including statements of the defendant(s); relevant number of witnesses to be called by the parties; the non contentious evidence to be agreed and admitted - 'evidence agreed'; time estimate and schedule of witnesses for the trial; and any other questions of law relating to the case





# EFFECT OF HIGHLIGHTED CHALLENGES

- The ultimate effect of the highlighted challenges is delays and sometimes outright frustration of anti-corruption trials which could take the form of :
  - Long adjournments or cases adjourned sine die to secure the attendance of absconding defendants
  - Difficulty in procuring witnesses who had earlier testified in previous proceedings in the case of trial de novo
  - Unwillingness of witnesses to testify out of fear and intimidation
  - Frivolous objections and adjournments which the case management hearing would have taken care of
  - Judges inundated with several other cases equally requiring judicial attention e.g. election petition cases, other criminal matters etc.





# BEST PRACTICES FOR ANTI-CORRUPTION TRIALS

- Specialized courts/designated anti-corruption judges like in Philipines, Kenya, Pakistan etc
- Proper case management as done in civil cases (discovery)
- Provision of effective witness protection programme
- Effective court bail administration



**THANK YOU**

**FOR LISTENING**