



# **POWER & JUSTICE**

**Leading the Onslaught Against Corruption**

**Policy Brief Series One**  
**Addressed to the Presidency and Federal Ministry of Justice**

**September 2023**

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A publication of  
HEDA Resource Centre &  
Centre for Fiscal Transparency and Integrity Watch  
(Addressed to the Presidency and Federal Ministry of Justice)

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# #1

# INTRODUCTION

## Aim of this policy brief

This policy brief was informed by the discussions and recommendations from experts and stakeholders at the 30<sup>th</sup> Anti-Corruption Situation Room (ACSR), a two-day premier National Conference on Anti-Corruption which held on Tuesday 11 and Wednesday 12, July 2023 in Abuja, Nigeria's Capital, with the theme: "Nigeria and the Fight Against Corruption – Reviewing the Buhari Regime and Setting Agenda for the Tinubu Administration." Hence, drawing from the discussions and recommendations of the conference, this policy brief seeks to provide strategic recommendations to the Presidency as well as the Federal Ministry of Justice (FMOJ) in relation to constructive engagement on the fight against corruption by the the new government.

## Summary

This policy brief sets the tone by contextualising corruption and highlighting its implications in the Nigerian context, chief of which is the massive and widespread poverty in Nigeria. It argues that the role of the Presidency and the FMOJ in ensuring a successful fight against corruption cannot be over-emphasised. When the Presidency and the Ministry of Justice combine to champion anti-corruption campaigns, it sends a powerful message of commitment and accountability. For instance, a wrong choice of the Attorney General of the Federation (AGF) will guarantee failure in the fight against corruption even if the President is a saint. The brief further acknowledges some of the challenges faced by the two offices in discharging their responsibilities on the fight against corruption.

To this extent, it highlights, inter alia, the challenges of interagency rivalry; the abuse of nolle prosequi by AGFs as well as the lack of trust in government by members of the public, among others. The brief thus recommends appointing individuals with integrity as Attorney Generals; activation of Article 21 of the African Charter on Human and Peoples' Rights; engaging the civil society as well as enhancing feedback mechanism. It further recommends the creation of specialised anti-corruption courts; investing in a vibrant and accountable civil service; effective implementation of anti-corruption frameworks such as the Freedom of Information Act (FOIA); National Anti-Corruption Strategy (NACS) as well as the passage of the pending Whistle-Blower Bill.

# #2

## CONTEXT

The implications of grand corruption are devastating, far-reaching and cross-cutting. Corruption remains a major barrier to meeting the UN Sustainable Development Goals (SDGs); fighting climate change; promoting democracy and human rights; establishing international peace and security as well as securing a just society.

In Nigeria, corruption has remained the biggest problem that has inhibited the development and growth of the country since independence with pervasive and deep-rooted consequences. As a result, anti-corruption slogans and mantras are often exploited by political office seekers to garner votes from the citizens, who obviously are fed up with the festering state of corruption and impunity in the country.

Every year, Nigeria loses between \$15 billion and \$18 billion to Illicit Financial Flow (IFF), an amount far above what the country needs to address climate change annually. Diezani Madueke, former Petroleum Minister alone allegedly superintended over the stealing of \$20 billion; Sambo Dasuki, former National Security Adviser is standing trial for over \$2 billion; Former Attorney General, Muhammad Bello Adoke's OPL 245 supervised deal short-changed Nigeria by over \$1 billion; and it's doubtful if the country will ever finish recovering the Abacha loot. When all of these are added to the P&ID case which former President Buhari in 2019 referred to as an "international conspiracy to defraud Nigeria of over \$9.6 billion," then it is safe to conclude that there is danger ahead unless an aggressive action is taken.

According to Chatham House, between 1960, when Nigeria gained her independence, and 2014, up to \$582 billion has been stolen from the country. The HEDA report independently researched and published by HEDA Resource Centre in 2022, titled: "Impunity Galore: A chronicle of some unresolved high profile corruption cases in Nigeria, 1999 – 2022," is not any less revealing. Shockingly, the report states that over \$825 billion and another N1.6 trillion are involved in the unresolved corruption cases within a 23-year period.

In yet another report, specifically the fifth Edition of "A Compendium of 100 High Profile Corruption Cases in Nigeria", also released by HEDA Resource Centre, in May 2022, over 17 trillion Naira (about 35.4 billion US Dollars) is involved in pending (non-exhaustive) high profile corruption cases. This is the equivalent amount of Nigeria's 2022 budget. Nigeria's 2022 budget is 17.1 trillion Naira with a deficit of 6.4 trillion Naira.

The implication of this is that, the amount of money pending in some high profile corruption cases alone can conveniently finance Nigeria's budget without any deficit or loan. Hence, assuming the 100 cases captured in our publication is exhaustive, save for corruption, in 2022 alone, Nigeria can TWICE complete over 6,000 old projects and over 11,000 new projects cutting across water, health, education, road, power and electricity, etc.

Corruption undermines the effectiveness and efficiency of public institutions, including government agencies, ministries, and local authorities. Bureaucratic processes are often marred by corrupt practices, such as bribery, embezzlement and nepotism. This results in a lack of public trust in these institutions and a decline in their capacity to deliver essential services such as healthcare, education, and infrastructure development.

Correspondingly, corruption erodes the trust citizens have in their government and public officials. This is evidenced by another report released by HEDA Resource Centre in 2023, titled: “Botched hope: a report of people's assessment of President Muhammadu Buhari Administration 2015 – 2023,” where most of the respondents across all states of the federation gave a low rating to the Federal Government in key indices such as health and education.

When citizens perceive that those in power are corrupt, they become disillusioned and cynical about the state's ability to serve their interests. This erosion of trust can lead to social unrest, political instability, and a loss of confidence in democratic processes.

The negative impact of corruption is often felt most acutely by the vulnerable populations – women, young people and Persons With Disabilities (PWDs). Resources intended for poverty alleviation programs, healthcare, education, and social welfare are siphoned through corrupt practices. This diversion of funds exacerbates poverty and inequality, as it prevents these resources from reaching those who need them the most. It is therefore not surprising that in 2018, Nigeria took over from India to become the poverty capital of the world with over 80million extremely poor people despite its globally acknowledged oil fortunes spanning decades.





# #3

## **LEADING THE ONSLAUGHT AGAINST CORRUPTION: WHY THE PRESIDENCY AND THE FEDERAL MINISTRY OF JUSTICE (FMOJ)?**

The significance of the Presidency and by extension the Ministry of Justice, in leading the fight against corruption in Nigeria cannot be overstated. This partnership between the highest executive authority and the institution responsible for upholding the rule of law is essential for several compelling reasons.

First is that the Presidency symbolizes the highest echelon of leadership in Nigeria. When the President and the Ministry of Justice actively champion anti-corruption efforts, it sends a powerful message of commitment and accountability. This moral authority sets the tone for the entire government, instilling a culture of integrity and ethics.

The President possesses executive oversight over all government agencies, including anti-corruption bodies. This authority allows the President to ensure that these agencies have the necessary resources, autonomy, and support to carry out their mandates effectively. No doubt, the power of the president is enormous and can move mountains with just a body language, let alone a clear statement or decisive action.

The Ministry of Justice, as a key legal advisor to the government, can play a critical role in shaping policies and strategies to combat corruption. Historical antecedents has consistently proved beyond doubt that whether or not the country will make progress in administration of justice and the fight against corruption is dependent on the joint efforts of the presidency and the justice Ministry.

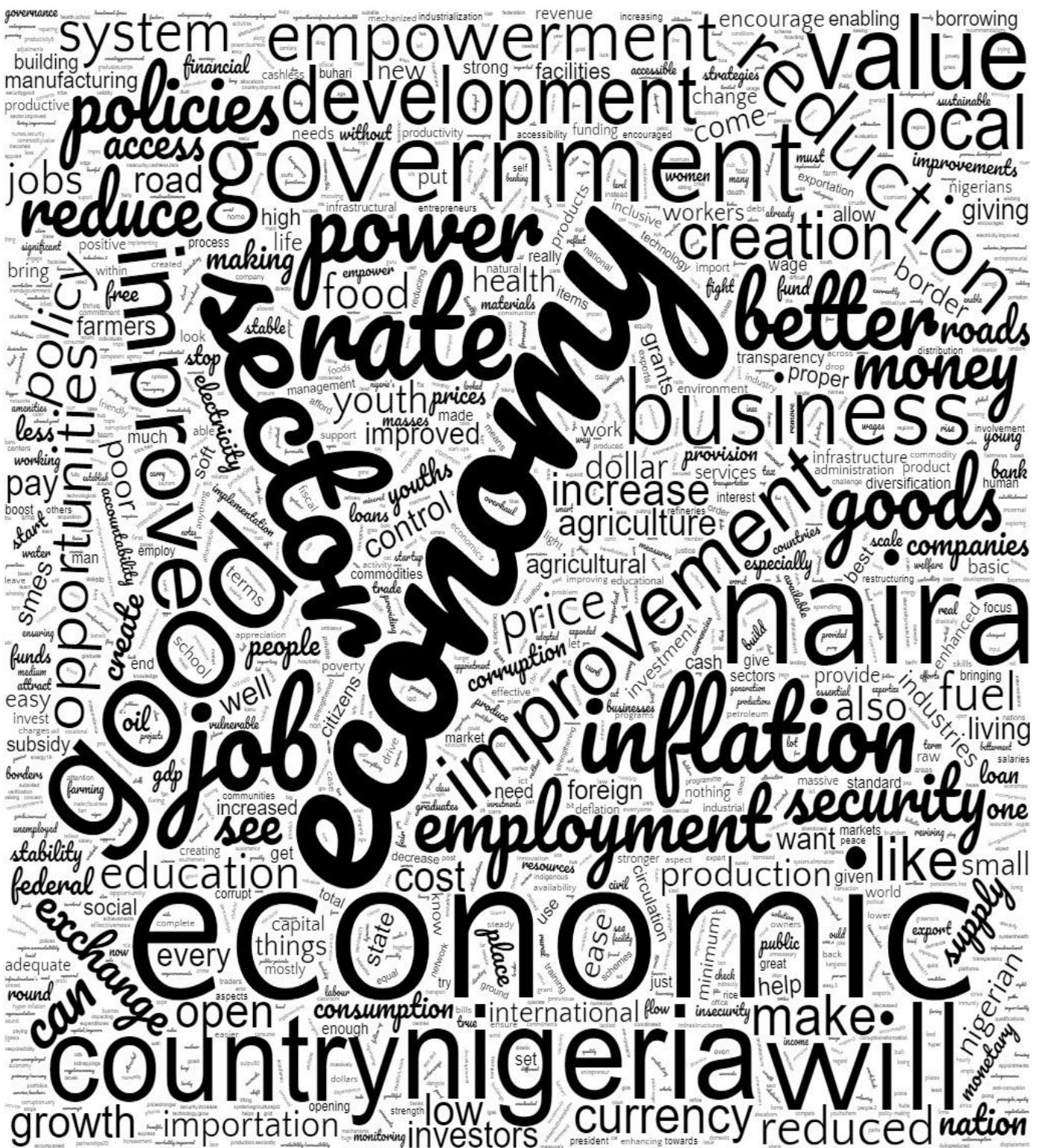
This also highlights the significant of having the right Attorney General of the Federation (AGF). A wrong choice of AGF will guarantee failure in the fight against corruption even if the President is a saint.

This is a testament of history from virtually all the past governments since Nigeria's return to democracy in 1999.

Effective anti-corruption efforts often require legislative reforms and the enactment of new laws. The Presidency's influence and the Ministry of Justice's legal expertise are vital in working with the National Assembly to draft, pass, and implement legislation that addresses the evolving nature of corruption and closes legal loopholes.

Corruption thrives in environments where institutions are weak and susceptible to external influence. The Presidency and the Ministry of Justice can collaborate to strengthen public institutions by ensuring transparent recruitment processes, merit-based appointments, and rigorous oversight mechanisms. This strengthens the capacity of these institutions to resist corruption. The international community plays a significant role in supporting anti-corruption efforts. The Presidency, through diplomatic channels, can foster partnerships with other nations and international organizations to share best practices, access technical assistance, and repatriate stolen assets. No doubt, the Ministry of Justice remains the key factor in navigating the legal aspects of these partnerships, bilateral and multilateral agreements and instruments.

Finally, the Presidency's public visibility and communication channels remains the most potent force to raise awareness about the detrimental effects of corruption and the government's commitment to eradicating it with a view to getting the citizens' buy-ins and sending clear signal to all stakeholders.



# #4

## CHALLENGES OF THE FIGHT AGAINST CORRUPTION: PRESIDENCY AND FMOJ IN CONTEXT

The fight against corruption in Nigeria faces a myriad of challenges and obstacles, many of which are deeply entrenched in the country's political, social, and economic fabric. Understanding these challenges is crucial to developing effective strategies to combat corruption. Nigeria has a deeply ingrained culture of corruption that spans generations. This culture has normalized corrupt practices, making it challenging to shift societal attitudes and behaviours towards transparency and accountability.

One of the biggest challenges to the fight against corruption is the issue of interagency cooperation. As we have seen in the recent past, the supremacy battles between the Office of the AGF and the Anti-Corruption Agencies (ACAs) presents an unhealthy rivalry which sets the pace aback and weakens the onslaught against corruption. This challenge must be recognized and coping strategies put in place to address it if there will be progress made.

There is a thin line between exercising executive supervision and indulging in political interference. While the President is expected to ensure independence of the ACAs, it also cannot afford to fold its arms. According to history, finding a balance between this has always been tough. Presidents have often become either overbearing on the ACAs or apathetical, both of which had negative impacts on the fight against corruption. This challenge also requires a conscious review for balance in the fight against corruption.

The FMOJ, specifically the AGF, by virtue of the office wields so much powers including the decision to determine which case Nigeria will pursue and which it won't as well as which one the country will withdraw from its prosecution. This power has been subject to debates in recent times as the justification for the exercise of nolle prosequi (the formal withdrawal of a prosecutor from a case) has been a debate with public rhetoric questioning whether there were national interests or personal interests involved in taking those decisions. There has been cases where Nigeria would have spent so much money to investigate a case before instituting a suit, only for the AGF to move for nolle prosequi. The challenge of measuring national interest remains one to be defined.

No doubt, there is apathy among the citizens as a result of years of disappointments from governments. This makes efforts of government either unnoticed or unfairly judged. Where this happens, it is difficult for the people to recognize progress and this make harder the already hard job of governance. Recognizing this fact can help a lot in designing coping strategies as the new government engage the fight against corruption.

# #5

## ACTION POINTS

### **Appointing Individuals with integrity as Attorney General**

The Attorney General is often described as the 'guardian of the rule of law'. Appointing someone with integrity to this position ensures that the highest legal officer in the country is dedicated to upholding the principles of justice, fairness, and the rule of law. Individuals with integrity are more likely to remain impartial and objective in their legal decisions and actions. They are less susceptible to political pressure or external influences that may compromise the pursuit of justice. Therefore, appointing an Attorney General known for their integrity enhances the credibility of the justice system and the government as a whole. This credibility is essential for maintaining public trust and confidence in the legal system. The Presidency should not lose sight of this fact in order to be successful in the fight against corruption.

### **Activation of Article 21 of the African Charter on Human and Peoples Rights**

Activating Article 21 of the African Charter on Human and Peoples' Rights (commonly referred to as the Banjul Charter) can have significant effects on the fight against corruption in Nigeria. Article 21 of the Charter deals with the right to freely participate in government, which includes the right to access public service and the right to equal access to public property and services. Activating this article in the context of Nigeria's fight against corruption can lead to several positive outcomes. For instance, it emphasizes the importance of transparency and accountability in government.

It underscores the right of citizens to access public information, including details related to government expenditures, contracts, and public procurement. This promotes transparency in government operations and reduces opportunities for corrupt practices. Also, the activation of this Article by the Presidency would bolster whistle-blower protection mechanisms. Individuals who expose corruption or unethical behaviour within the government would have legal recourse if they face retaliation or threats, thereby encouraging more whistle-blowers to come forward with valuable information. .

### **Commensurate Exercise of the AGF Powers and the feedback mechanism**

The Presidency should help to address the image and power crisis that is often associated with the FMOJ and the office of the AGF by getting actively involved in the feedback mechanisms. No doubt, past AGFs have abused *nolle prosequi*. The level of abuse of the office by some of the past AGF is also evidence by the fact that a number of them are also facing corruption charges.

The presidency can minimise this through an advisory committee and adequate engagement of the civil society. This would provide the timely information needed by the Presidency to engage the AGF or mediate in a timely manner the challenges that might be hindering a successful fight against corruption.

### **Creation of specialised anti-corruption courts**

The creation of specialised anti-corruption courts is a strategic approach that can significantly enhance the effectiveness of the fight against corruption in Nigeria. These specialized courts are designed to exclusively handle corruption-related cases, and their establishment can lead to several positive effects because the courts are staffed with judges, prosecutors, and defence attorneys who have expertise in corruption cases. This expertise allows for more efficient and expedited trials, reducing the backlog of corruption cases in the regular judicial system.

Also, specialized courts dedicated to fighting corruption would enhance public trust in the judicial system. The President and the AGF should look into this more critically. Citizens are more likely to have confidence in a legal system that demonstrates its commitment to addressing corruption effectively.

### **Vibrant and accountable civil service**

A vibrant and accountable civil service is a crucial mechanism for fighting corruption in any country, including Nigeria. A civil service that operates transparently and is held accountable for its actions can serve as a model for ethical behaviour. Transparent processes in recruitment, promotion, procurement, and decision-making reduce opportunities for corrupt practices.

Also, establishing a merit-based system for civil service recruitment ensures that individuals are hired and promoted based on their qualifications, skills, and experience rather than through nepotism or bribery. This reduces the potential for corruption in the hiring process. Implementing and enforcing a comprehensive code of conduct and ethics for civil servants sets clear expectations for their behaviour. This includes guidelines on avoiding conflicts of interest, disclosing financial interests, and reporting corrupt activities.

### **Effective Implementation of Anti-Corruption Frameworks**

The National Anti-Corruption Strategy (NACS), the Freedom of Information (FOI) Act, the Open Government Partnership (OGP) Nigeria, the Administration of Criminal Justice Act (ACJA), the Proceeds of Crime Act, etc, just to mention a few are key transparency and accountability and anti-corruption frameworks that must be effectively implemented to ensure a successful and inclusive fight against corruption. The President wields so much authority and influence that if activated will go a long way in advancing the fight against corruption.

### **Passage of whistle-blower act**

The continued victimisation of journalists and activists who are exposing corruption remains an undebatable negative score for the fight against corruption. Corruption cannot be fought by the state actors alone. An effective whistle-blower act can help to address this gap to reasonable extent. The Presidency and the FMOJ needs to put this atop the agenda if indeed there is political will to launch an all-inclusive fight against corruption.

# ABOUT HEDA RESOURCE CENTRE

The Human and Environmental Development Agenda (HEDA Resource Centre) is a prominent Nigerian organization committed to promoting good governance, combating corruption, and advocating for environmental justice. Founded in 2001 and officially incorporated as a non-governmental organization in 2004, HEDA conducts research, policy advocacy, training, and citizens' awareness campaigns in various areas such as anti-corruption, food security, climate change, human rights, public sector accountability, and electoral reform.

## VISION & MISSION

HEDA's vision is an Africa where all persons regardless of locations and situation have the freedom and ability to enjoy the benefits of good governance, and respect for human dignity in a sustainable environment. Its mission is serve as a policy and campaign centre for research, training and advocacy on the environment, good governance, and human rights.

## PARTNERSHIPS AND RECOGNITION

HEDA is a member of the United Nations Convention Against Corruption (UNCAC) Coalition, a global network of over 350 CSOs and 100 individual members in more than 100 countries. HEDA has observer status with the UN Economic and Social Council (ECOSOC), the UN Framework Convention on Climate Change (UNFCCC), and the Green Climate Fund.

## CONTRIBUTION TO TRANSPARENCY AND ACCOUNTABILITY

HEDA has made significant contributions to transparency and accountability in Nigeria through extensive research and advocacy efforts.

The organisation's "A Compendium of 100 High Profile Corruption Cases in Nigeria" has garnered attention from local and international partners, including the UK's National Crimes Agency (NCA). This publication has served as a basis for investigations on illicit asset tracing and recovery.

HEDA's transparency and anti-corruption campaigns, along with its media engagement, have exposed scandals such as the Malabu Oil Deal (OPL245), leading to the suspension of the mining lease. The Organization also published: "Corrupt Practices in Nigeria's Oil Industry: OPL245 Case Study" and this has attracted a refund of \$85 million to Nigeria from the United Kingdom. The organisation and its partners blew the whistle on a private jet belonging to former Petroleum Minister, Dan Etete, believed to be a proceed of the OPL245 deal and the Nigerian Government had it seized when it was moved out of Dubai to Canada.

In a continual effort to promote transparency and accountability, also published a collection of corruption cases not investigated by the EFCC, ICPC, Senate and House Committees of the Nigerian law-making body- The National assembly between year 1999 till 2022 in a published article titled; 'Impunity Galore: A Chronicle of Some Unresolved High Profile Corruption Cases in Nigeria (1999-2022)'. HEDA's activism in the judiciary also earned it recognition, as it became part of the National Judicial Council's Committee on the Monitoring of Trials of Financial Crimes and Corruption Cases in Nigeria.

## LEADERSHIP AND COLLABORATION

HEDA has played leadership roles in various civil society collaborations, both locally and internationally. It hosts the secretariat of the Civil Society Network Against Corruption (CSNAC), a network of over 150 anti-corruption organizations and individuals in Nigeria. HEDA is also an active member of the Procurement Monitoring Working Group (PPMWG) and the Anti-corruption thematic working group of the Open Government Partnership (OGP) Nigeria. The organization continues to collaborate with critical stakeholders, such as Integrity International Institute (III), to advocate for the establishment of an International Anti-Corruption Court (IACC).

## WHISTLE-BLOWERS AND ANTI-CORRUPTION TOLL FREE LINE

HEDA has a whistle-blowers toll free line: 08004332277, which has received hundreds of phone calls from members of the public on sundry issues of corruption, human rights abuses, transparency and accountability. Some of the cases have been taken forward through petitions, Freedom of Information (FOI) requests and public interest litigation.

# ABOUT CEFTIW

The Centre for Fiscal Transparency and Integrity Watch (CEFTIW) is an NGO established in 2016 with the aim of promoting accountability, transparency within the public sector, and ensuring good governance at all levels. While it promotes open governance at national and sub-national levels, it also serves as a credible hub for resources related to criminal justice such as crime, compliance, asset recovery and illicit financial flows.

The Center has over time worked with both government and CSOs to implement programs and interventions aimed at strengthening democracy and improving governance in Nigeria.





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