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A Code for Public Prosecutors in the Nigerian Criminal Justice System: Anecessity or A Nuisance?

By Gloria Shajobi-Ibikunle & Mercy Emetejife Onoriode
Kampala International University

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Keywords: prosecutor, code of conduct, police, attorney- general, criminal justice system, fair trial, accused.

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A Code for Public Prosecutors in the Nigerian Criminal Justice System: Anecessity or a Nuisance ?

Gloria Shajobi-Ibikunle [α] & Mercy Emetejife Onoriode [σ]

Abstract- The general supervisory power and control over criminal prosecution is vested in the Attorney- General of a State under section 211and in the Attorney - General of the Federation under section 174 of the 1999 Constitution of the Federal Republic of Nigeria (as amended) however the Nigerian Police Act and other entities such as the anti-graft agencies have powers of prosecution subject, however, to the power of the Attorney General. Though there is an operational Code of Conduct for Prosecutors its universal reach in the country and efficiency of supervision and sanction of errant prosecutors has been a major concern for stakeholders in the administration of justice. This paper examined the preserve of the prosecutors in criminal trials and analysed the Code of Conduct for Prosecutors (CCP) in Nigeria drawing from the provisions the Prosecutors' Code of selected jurisdictions. The study revealed that the CCP, which is meant to apply to all prosecutors; public and private and has sanctions for a breach of the rules, is hardly seen to be observed by both the practitioners and the regulator – the Attorneys General. It recommended that a body of prosecutors on a state wide level distinct from the meetings of Attorneys- General be set up to enhance cooperation among prosecutors. It further recommended that the Nigerian Police Force be excluded from prosecution and that they be solely engaged in law enforcement duties.

Keywords: prosecutor, code of conduct, police, attorney-general, criminal justice system, fair trial, accused.

I. Introduction

Aside from prosecutors in the State and Federal Ministries of Justice, officers of the Nigeria Police Force also do prosecute. Moreover, specialised agencies such as the Economic and Financial Crimes Commission(EFCC),[1]Independent Corrupt Practices and Other Related Offences Commission (ICPC),[2]National Drug and Law Enforcement Agency (NDLEA),[3]National Agency for Prohibition of Trafficking in Persons (NAPTIP)[4] not only prosecute but also engage the services of private legal practitioners who prosecute on their behalf. In all of this, one major concern should be the standard required of a prosecutor.

II. Criminal Proceedings

Criminal trials under the Nigerian criminal justice system is modeled after the common law system and is basically accusatorial in nature.[5]Once the Police conclude investigation and a case is deemed established, the justice process gets underway. It should be mentioned that an accused person is presumed innocent until proven guilty,[6]and the burden of proof in criminal trials rests on the prosecution. It is to prove all the elements of the offence charged as defined by law and the case must fail if it cannot do so.[7] This rule is fundamental for a system where conduct is only criminal when so defined in a written law and punishment thereby prescribed. The standard of proof for a criminal trial is that the prosecution must prove the guilt of the accused person beyond reasonable doubt.[8]The Nigerian criminal law recognizes the rights of an accused[9] and therefore treats accused persons as suspects, the gravity of the offence notwithstanding.[10]

Author α: PH. D Senior Lecturer, School of Law, Kampala International University, Uganda. e-mail: shajobig@yahoo.com
Author σ: LL. M Deputy Director (Academic), Head of Property Law Practice, Nigerian Law School, Abuja. e-mail: jilonoriode@yahoo.com

[1] See Economic and Financial Crimes Commission (Establishment etc.) Act 2004.
[2] See Corrupt Practices and Other Related Offences Act 2000.
[3] See National Drug Law Enforcement Agency Act, Cap N30 LFN 2004,
[4] See Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2003.
[5] Okonkwo C.O. and Naish, *Criminal Law In Nigeria*, Ibadan, Spectrum Law Publishing, 2nd Edition, 2000, p 44.
[6] Section 36(5) of 1999 Constitution(as amended)
[7] Areh v C.O. P (1959) W.N.L.R. 230, a conviction under S.249(d) of the Criminal Code was squashed because the prospection failed to prove that the place where the alleged offence occurred-warri General hospital-was a public place, except for certain facts for which the court must take judicial notice sections 72-73 of Evidence Act-Judicial notice of a Policeman's duties under the Police Act. See s. 4 & the case of *Garba v I.G.P.* (1956) N.R.L.R. 32.
[8] *Woolmington v DPP* (1935) A.C. 462 unlike in civil trials where a person asserting a legal right in liability exisst has to prove it-see s. 131 of Evidence Act 2011. The exceptions to this are limited instances of insanity or facts within the knowledge of the accused person in which case the burden of proof would lie on the accused person. See also *Uso v The Police* (1972) U.S.C. p 37 & *Okoro v State* (1988)2NWLR Pt 78, p 602.
[9] Briefly these include; The Right to silence-s. 35(2) 1999 Constitution, Right to be brought to court within a reasonable time-s.35(4) 1999 Constitution, Right to Bail-s.35(4) 1999 Constitution, Right to Dignity of

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a) *The Prosecutor*

In order to understand the obligations of a prosecutor in any given situation or at any particular stage of the trial process, it is necessary to define the role of the prosecutor. The exercise has been attempted on numerous occasions by various commentators. There are many and varied definitions of a prosecutor, nevertheless, they have one central focus and purpose; that is one of conducting prosecution against alleged criminals. A prosecutor is defined as a legal officer who represents the state or federal government in criminal proceedings[11].The American Bar Association (ABA) defines a prosecutor as an administrator of justice, an advocate, and an officer of the court[12].The role is usually expressed in terms such as "a minister of justice" or "an officer of the court". It may be more easily understood in terms of what it is not. It is not about winning or losing where convictions are wins and acquittals are losses. A conviction obtained on insufficient or doubtful evidence should be regarded as a loss just as much as a failure to obtain a conviction on a strong credible prosecution case.[13]Again it is a matter of striking a balance. Some quotations from commentators may assist in defining the role of the prosecutor:

"It cannot be over emphasised that the purpose [cf expectation] of a criminal prosecution is not to obtain a conviction: it is to lay before a jury what the Crown considers to be credible evidence relevant to what is alleged to be a crime. Counsel have a duty to see that all available legal proof of the facts is presented; it should be done firmly and pressed to its legitimate strength, but it must also be done fairly. The role of prosecutor excludes any notion of winning or losing: 'His function is a matter of public duty than which in civil life there can be none charged with greater personal responsibility. It is to be efficiently performed with an ingrained sense of the dignity, the seriousness and the justness of judicial proceedings."
(per Rand J in Boucher v R.[14]

The great jurist, Lord Devlin also stated thus:

> "Finally there is or has been a tendency for Counsel for the prosecution not to prosecute firmly enough. The last half century has seen a welcome transition in the role of a prosecuting counsel from a persecuting advocate into a minister of justice, but in some places the pendulum has swung so far and the ministry has moved so close to the opposition that the prosecution's case is not adequately presented and Counsel, frightened of being accused of excessive fervour tend to do little except talk of reasonable doubt and leave the final speech on the facts to the Judge. The result of the deficiency is that the duty of seeing that the prosecution's case is effectively put to the jury is sometimes transferred to the Judge and thus balance of the trial is upset." (Lord Devlin)[15]

But in the end it may come back to the words of Christmas Humphreys QC:

> "It is the duty of prosecuting counsel to prosecute, and he need not rise to his feet and apologise for so doing. It is not unfair to prosecute.[16]

And again, "Always the principle holds that Crown counsel is concerned with justice first, justice second and conviction a very bad third".[17]

Going by these definitions, it becomes quite obvious that a prosecutor is usually a public officer empowered to institute and prosecute criminal cases against persons alleged to have offended the law. Such a person is therefore expected to exercise sound discretion in the performance of his or her functions. A prosecutor should not be a persecutor.[18]It must be stated and clearly too, that aside from the prosecutor, others also have a role to play in ensuring fair trial, probity and justice in criminal trial. The Trial Judge who presides is important. The sole duty of any judge in any country which upholds the rule of law is the attainment of Justice in every given case[19].

St. Augustine once said '...remove justice and what are kingdoms but a gang of criminals on large scale'[20]. The Supreme Court adopted the Latin maxim "*fiat justiciaetruatcaelum*" "meaning let justice be done though the heavens may fall'[21].The defense counsel also plays a critical role in defense of his client. A defense counsel should pursue his client's case with utmost diligence. To this end, the Nigerian Bar Association has rules guiding conduct of counsel both in criminal, civil trial and even solicitors practice.[22]

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the human person-section 34(1)1999 Constitution. s. 35 (12) of the 1999 Constitution(as amended).

[10] Obaje E,"The Concept of Crime and the Human Rights of an Accused person under the Nigerian Criminal Justice Administration," *Human Rights Review,* Vol. 3, Feb 2012, ABU, pg 309. See *also State v Ajie* (2000) FWLR(ptl6) 2831

[11] *Black's Law Dictionary*, Bryan A. Garner, Eighth Edition, Thomson West, St Paul, MN 55164-0526, p1258.

[12] Standard 3-1.2 (b) "The Function of a Prosecutor, PART 1, http://www.abanet.org last accessed April 2013- Copyright American Bar Association. http://www.abanet.org.

[13] prosecutions_policy_guidelines_south Australia. Last accessed 23rd February 2017

[14] Boucher v R (1954) 110 CCC 263 at 270)

[15] Lord Devlin, Trial by Jury p.122-123.

[16] (1955) Crim LR 739 at 741

[17] Ibid p746

[18] *Bello v The State* (1966) 1 All NLR 223

[19] Aderemi P.O, '*The Role of a Judge in the Administration of Justice in Nigeria, "Essays in Honour Of Hon. Justice Muhammad Lawal Uwais*, ed by J.A. Yakubu, Lagos, Malthouse Press Ltd, 2000. Pg 79-121 at p 79.

[20] ibid pg 95

[21] *National Insurance Corporation of Nigeria v Power and Industrial Engineering Company Ltd* (1986) 1 NWLR (Pt. 14) 1.

[22] At its meeting of 20th Nov 2005, the General Council of the Nigerian Bar approved the new Rules of Professional Conduct for Legal Practitioners as statutory Instruments, (s.1) No 6, Federal

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b) The Police Prosecutor

The Nigeria Police Force is empowered to prosecute criminal cases under the nation's justice system.[23.] These legislations were affirmed by the decision in *Olusemo v CO*[24] that the police could prosecute criminal cases in the High Court of the Federal Capital Territory and this was further confirmed by the Supreme Court in *Osahon v FRN*[25]and extended to all courts in Nigeria. Learned author, Onoriode had posited that the power of the police to prosecute criminal cases in courts in Nigeria was informed by the paucity of trained legal practitioners at the time of the enactment of the Police Act in 1943 and this is buttressed by the fact that even lay magistrates sat over criminal proceedings.[26]This exercise of the power of the Force to prosecute was traditionally limited to criminal cases in the lower courts until the decision in *Osahon*[27]*.*The duties of the Nigerian Police Force are as follows:

The police shall be employed for the prevention and detection of crime; the apprehension of offenders; the preservation of law and order; the protection of life and property and due enforcement of all laws and regulation with which they are directly charged; and shall and shall perform such military duties within or without Nigeria as may be required of them by or under the authority of, this or any other Act'[28].

An overview of the functions of the police reveals clearly that primarily, the police force is an institution established to maintain law and order. This includes apprehension and investigation of crime. Thus, it has been argued and we strongly align our views with this that allowing the Nigeria police to conduct criminal prosecution in court is detrimental to the criminal justice system[29]. The power of the police to prosecute is beset with the following challenges which in our view is inimical to the cause of justice:

a. Not being lawyers, the police are oftentimes outwitted by experienced legal practitioners. The Nigeria police force is trained specifically to maintain law and order via apprehension and investigation of crime, thus, they are skilled in their area of specialisation and not in prosecution.
b. In the Magistrate courts, over 90 % of criminal cases are prosecuted by the police and may not be handled with the expertise required making easy for the police prosecutor to be outwitted by legal practitioners representing the defence. The submission made here is that it is imprudent to expect that a police officer without legal training in the nuances of the legal profession cannot withstand a legal practitioner in the prosecution of cases before the court. The procedure adopted in the lower courts is that of summary trial devoid of technicalities and easily understood by a layman unlike prosecution in the high courts, as such the police prosecutor cannot grapple with the technicalities involved in prosecution, and delivery of justice suffers.
c. Incessant transfer of police officers often leads to stagnation of prosecution of criminal cases. The law prescribes that the prosecutor like the defence counsel must be in court throughout the trial. Thus, where police officers are frequently transferred, prosecution of criminal cases suffer serious setback in the administration of criminal justice.
d. There is an inherent conflict of interest when any agency assumes the position of investigator and prosecutor as the Nigerian Police Force finds itself[30].
e. The dangers of conflict of interest often manifest which lead to poor prosecution meant to frustrate a criminal action. Fundamentally, the police officers who prosecute criminal casesare performing dual functions, one as police officers and two as prosecutors.[31]The proper understanding of the nature of the working relationship between the police and the prosecutor may best be stated thus:

The police and other investigators are responsible for conducting enquiries into any alleged crime and for deciding how to deploy their resources. This includes decisions to start or continue an investigation and on the scope of the investigation. Prosecutors often advise the police and other investigators about possible lines of inquiry and evidential requirements, and assist with pre-charge procedures. In large scale investigations the prosecutor may be asked to advise on the overall investigation strategy, including decisions to refine or narrow the scope of the criminal conduct and the number of suspects under investigation. This is to assist the police and other investigators to complete the investigation within a reasonable period of time and to build the most

Republic of Nigeria Official Gazette No 11 Vol. 94 of 24th Jan 2007. Commencement was 2nd Jan. 2007.

[23] S 23 of the Nigerian Police Act, Cap P19.LFN 2004.See also s. 98 (1) of the High Court of the Federal Capital Territory Act where police officers are listed among those who may represent the state or a public officer in the prosecution of criminal cases in court. s. 81 (1) High Court Law of Lagos State is *in parimateria* with s. 98 (1) above.

[24] (1998) 11 NWLR (Pt. 575) 547.

[25] (2006) 5 NWLR (Pt. 973) 361.

[26] Onoriode, M.E., University of Ibadan Journal of Public and International Law, Vol. 3 (2013), p 126.

[27] See also the dictum per Musdapher, JSC in FRN v Osahon. supra.

[28] S 4, Police Act, Cap P19.LFN 2004.

[29] Opara, V. N. *Police Right of Audience in Nigeria Courts. Olusemo v The Commissioner of Police Revisited*, Nigerian Law and Practice Journal, Vol. 4, No. 2 (2000) 92 at p97-98

[30] *Op. cit.* 80.

[31] Nasiru Tijani, *The Power of Prosecution by Police Officers in Superior Courts in Nigeria*, The Justice Journal: A Journal of Contemporary Legal Issues, (2010), Vol. 2, 79.Tijani Nasiru p79

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effective prosecution case. However, prosecutors cannot direct the police or other investigators.[32]

From the foregoing, the police play a fundamental role of conducting inquiries into alleged crimes and deciding how best to deploy their resources. The prosecutor also advises the police on evidential requirements to enable prosecution succeed.In other jurisdictions, such as Britain, USA, Canada, Germany and South Africa the duty of the police is similar. In these other jurisdictions, such as Britain, USA, Canada, Germany and South Africa the duty of the police is similar. In these jurisdictions, the police force is established merely to investigate crime and not to otherwise prosecute criminal cases. Thus, the duty of the police to assist the criminal justice system by apprehending alleged offenders as well as investigate crime produces well defined functions for the police distinct from that of the prosecutors.

When the functions of the police and the public prosecutor are specific and well defined, that prosecution of criminal cases becomes increasingly easier and more effective. What this translates into is that the police will be confined to carrying out what can be referred to as the substructure of the criminal justice system while the prosecutors build on the substructure to achieve the superstructure of the criminal justice system.

It is the humble submission of the writers that a more effective criminal justice system will emerge in Nigeria where the work of investigating crime is disconnected from that of prosecuting. Let us assume without conceding to the fact that the police may prosecute criminal cases in courts; to which standards then should the police prosecutor subscribe and be held accountable to in the event of a breach? As prosecutors, should they be subjected to demands of prosecutorial code of conduct? It is arguable whether the police prosecutor is currently operating under the dictates of the prosecutorial code. The title of the prosecutorial code is: *'Code of Conduct for Prosecutors'.* This is a blanket title which can be argued covers all. Furthermore, section 7, Part B of the CCP states that in the event of a breach of the provisions of the Code, disciplinary measures would be taken against erring prosecutors thus:

section 7(1) The prosecutor who breaches any of the provisions in this Code maybe proceeded against by the Officer of the Attorney General for misconduct and where the prosecutor is a:

(a) law officer, disciplinary measures under the Public Service Rules shall apply:
(b) private legal practitioner, in addition to a withdrawal of any Fiat or authority to prosecute conferred by the Attorney General, the matter shall be referred to the Legal Practitioners Disciplinary Committee; or
(c) non-legal practitioner, disciplinary proceedings by his organization.

Thus, it is submitted that section 7(1)(c) has taken cognizance of the class of police prosecutors.

State Prosecutors

There exists in the Ministry of Justice at state level and Federal level the department of Public prosecutions.As the name implies, the department of public prosecution handles criminal prosecutions, renders legal advice and deals with extraditions and matters relating to mutual legal assistance[33]. Prosecutors are located in this department and are constitutionally mandated to act on behalf of the AG as may be instructed[33]. The department is headed by a Director of Public Prosecutions (DPP). It is important that on a state level, there should be coordination of the prosecutorial policies like in other jurisdictions. In the USA, there exists a requirement for coordination of local prosecution offices on a state level in order to improve the administration of justice and to guarantee maximum practicable uniformity in the enforcement of the criminal law throughout the state. Furthermore, the ABA stipulates that a State Association of Prosecutors should be established in every state. No such body exists presently.

c) Director of Public Prosecutions (DPP)

The office of the Director of Public Prosecutions exists in other jurisdictions as well especially with the common law background. Under the Nigerian justice system, there has been a gradual erosion of the place and importance of the office of the DPP with attendant negative effect in the coordination of prosecutorial capacity of the Ministry. The office of the DPP was established in the 1963 constitution and was located in the department of government for which responsibility was assigned to the Attorney General of the Federation[34].It also provided that the powers of the HAGF in sub section (2) be exercised in person or through the DPP or through officers in the office of the DPP[35].Section 138 (1) of the 1979 constitution established the office of the Attorney- General of the Federation and the qualification thereto[36]. Although section 160 is titled 'Public Prosecutions' but the section refers to the powers of the Attorney General for public prosecutions. There is no reference to the office of the DPP in the section or anywhere in the 1979 constitution.

[32] Paragraph 3.2 of the England Code.

[33] Abdullahi Ahmed Yola, (Solicitor General of the Federal and Permanent Secretary), *Overview of all the Departments in the Federal Ministry of Justice,* The Justice Journal: A Journal of Contemporary Legal Issues, (2012), Volume 4, p3.

[34] s.104 of 1963 Constitution.

[35] s104 (1) of the Act 20, 1963 Constitution of Nigeria.

[36] sub section (3)

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At best, it states that the powers conferred on him may be exercised by him in person or through officers of his department[37] effectively silencing the voice &office of the DPP to just another position in the Ministry. Similar provisions exist for the AG of a state[38].

The same provisions were imported into the 1999 constitution[39]. It should be stated that the office of the Attorney General is political and thus there have been loud calls for separation of the office of Attorney General who will objectively superintend prosecutions without fear or favor of the ruling party or its cronies and the office of the Minister of Justice at the federal level or the Commissioner of Justice at the state level. The positions are fused together presently. In England and Wales, the principal public prosecution agency is the Crown Prosecution Service[40] (CPS). The CPS is headed by the Director of Public Prosecutions who operates independently, under the superintendence of the Attorney General who is responsible to Parliament for the department.

d) The Attorney- General

General supervisory power over federal criminal proceedings is vested in the Attorney General of the Federation by virtue of section 174 whilst that of a state in Nigeria is vested in the Attorney - General of the State by virtue of section 211 of the 1999 Constitution. The powers of the Attorney General are spelt out in the Constitution thus:

174.(1) The Attorney-General of the Federation shall have power -

(a) to institute and undertake criminal proceedings against any person before any court of law in Nigeria, other than a court-martial, in respect of any offence created by or under any Act of the National Assembly;
(b) to take over and continue any such criminal proceedings that may have been instituted by any other authority or person; and
(c) to discontinue at any stage before judgement is delivered any such criminal proceedings instituted or undertaken by him or any other authority or person.
(d) The powers conferred upon the Attorney-General of the Federation under subsection (1) of this section may be exercised by him in person or through officers of his department.
(e) In exercising his powers under this section, the Attorney-General of the Federation shall have regard to the public interest, the interest of justice and the need to prevent abuse of legal process.

The body of Attorneys-General of the States hold regular meetings along with the Attorney General of the Federation and Minister of Justice usually in attendance even though it is not a statutory body. It is this body that has drawn up a Code of Conduct for Prosecutors (CCP) to regulate the conduct of prosecutors in criminal prosecutions. The enactment of the CCP is to ensure that the prosecution of criminal cases is not undermined. Thus, prosecution of criminal cases by the prosecutor should be conscientiously conducted; with unswerving support for justice void of indictment sentiments.

e) Private Legal Practitioners as Prosecutors

There exists several specialised agencies in the nation's criminal justice system which engage in prosecutorial functions. These agencies include the EFCC, ICPC, NAPTIP and NDLEA, to mention but a few. Quite a number of these agencies engage the services of private legal practitioners in the prosecution of alleged criminal suspects especially for corruption cases involving high profile persons. The reasons adduced for the engagement of private legal practitioners are usually inadequate legal officers to prosecute criminal cases and lack of experience in prosecution by in -house legal officers.Under the ABA code, it is categorically stated that whenever feasible, the offices of chief prosecutor and staff should be full-time occupation[41].Private prosecutors are on part time unlike state counsels or in-house counsel of the agencies who are on full time. In the light of this, the practice of engaging private legal practitioners to handle criminal briefs on behalf of government exposes them to possibility of conflict of interest or divided loyalty. From the examination of CCP's[42]title and section 7, sub-section (b) of Part B which lists sanctions to be applied to erring prosecutors thus:

> (b)private legal practitioner, in addition to a withdrawal of any Fiat or authority to prosecute conferred by the Attorney General, the matter shall be referred to the Legal Practitioners Disciplinary Committee;

Also the preamble which goes thus:

III. Code of Conduct for Prosecutors

PREAMBLE
WHEREAS:
The Body of Attorneys-General is concerned that public prosecution should be carried out with the highest

[37] s.138, sub-section 2. He must be at least of ten years standing at the bar.
[38] s. 176, subsection (2)
[39] s. 174(1) & (2)
[40] s. 174 for AGF and section 211for A-G of a state under the 1999 constitution as amended.
[41] section ……ABA Code.
[42] Title of the Code and section 7, sub-section (b) of Part B.

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ethical standards, hereby issues this Code for the guidance of all prosecutors in Nigeria to ensure:……

It can be safely concluded that the CCP is binding on this class of prosecutors.

a) Code of Conduct for Prosecutors (CCP)

Tuyo & Ibikunle have submitted that the nation's justice system is overdue for a Prosecutorial Code of Conduct[43]. An instance to support this assertion was the report of the Corruption And Financial Crimes Cases Trial Monitoring Committee (COTRIMCO.[44]) The Chief Justice of Nigeria, Justice On nonoghen his capacity as the chairman of the National Judicial Council (NJC) inaugurated the Justice Suleiman Galadima CFR Led CORRUPTION AND FINANCIAL CRIMES CASES TRIAL MONITORING COMMITTEE (COTRIMCO) on Nov 1st2017 mandating it to among others identify the causes of delays in corruption and financial crimes proceedings and recommend solutions. As at Nov 26th, 2017 COTRIMCO had received details of 2,306 cases which fell under the committee's mandate. The committee detailed the report based on discussions with Heads of courts and observations made from the surprise visits of members to courts handling corruption and financial crimes cases in parts of the country. The report stated:

'The prosecution is responsible for the delays in many ways, including lack of requisite experience and competence, reliance on irrelevant documentary evidence, multiplicity of charges, collusion of prosecutors with defense lawyers, non-adherence to court rules and procedures, it also identified poor prosecution, absence of counsel for parties in court and amendment of charges after commencement of trial'[45]

According to COTRIMCO, poor prosecution is when 'offenders are charged to court before proper investigations of the charges are done, and afterwards, expecting the court to detain such alleged offenders till conclusion of their investigations, inadequate prosecuting personnel at the prosecuting agencies, lack of requisite experience to prosecute corruption cases which invariably lead to poor handling of such cases. It also identified lack of commitment on the part of some prosecutors.

Prosecutors code have been issued in several other jurisdictions. This has been done in jurisdictions like England[46], USA[47]and Northern Australia.[48]The ABA defined the Prosecutors Code as a guide to professional conduct and performance[49].They are not intended to be used as criteria for the judicial evaluation of alleged misconduct of the prosecutor to determine the validity of a conviction although they may be relevant in such judicial evaluation, depending on all the circumstances. They argued that its many benefits would include providing not just a guide for prosecutors but an objective standard of assessment of the ethics and skill deployed. In South Africa, there is a Code of Conduct for the members of the National Prosecuting Authority of South Africa[50]. In it's preamble, the Code acknowledges the crucial role of prosecutors in the administration of criminal justice and emphasizes the essential need for prosecutors to be fair and just and to act without fear or favour[51]. It is to ensure that justice is done that a code of conduct is imperative and needful. In South Australia, the Prosecution Policy was first issued upon the establishment of the Office in 1992 and since that time has been reviewed regularly[52]. Further guidance is provided to staff in the form of guidelines for their important decision making processes and to maintain the highest ethical standards. In Ghana, there exists a code for prosecutors, first published in 2001[53]. Aside from this, is the Guidelines for Prosecutors published in 2001 and it works along with the code[54].

The aim & objectives of the Code though not so stated explicitly is stated to be for the guidance of all prosecutors. It states thus[55]:

i. Public confidence in the integrity of the criminal justice system;
ii. That all prosecutors play a crucial role in the administration of criminal justice;

[43] Tuyo, Olayinka & Shajobi-Ibikunle, Gloria. 'The Role of the Bar & Bench In Assuring A Fair Trial For the Offender in the Nigerian Criminal Justice System', Port –Harcourt Law Journal, Rivers State University of Science & Technology, 2017, Vol 6, p256-257

[44] CJN Panel Blames Prosecutors, Others For Corruption Trial Delays, Ade Adesomoju, The Punch, Monday 21st May 2018, p12 & 13

[45] ibid

[46] The Code for Crown Prosecutors issued by the Director Of Public Prosecutions under section 10 of the Prosecutions of Offences Act, 1985, 7th Edition. See http:www.cps.gov.Uk /publications/docs/code_2013. Last accessed 3rd February 2015.

[47] The American Bar Association(ABA) House of Delegates approved In February 1992, the "black letter" standards later known as the ABA Standards for Criminal Justice: Prosecutors and Defense Functions. See http://www.abanet.org. Last accessed 10th February 2015.

[48] Roles and Duties of Prosecutors for Northern Territory, Australia. See http;//www. Nt.gov.au/justice/dpp/index.shtml. Last accessed 4th February, 2015.

[49] Standard 3-1.1 "The Function of the Standards", GENERAL STANDARDS PART 1, http://www.abanet.org. Last accessed April 2015.

[50] Code of Conduct for SA prosecutors, http://constitutionally speaking.co.za/code-of –conduct for-sa-prosecutors. Last accessed 20th February 2015.

[51] section 22(6) of the National Prosecuting Authority Act, 1998.

[52] www. prosecutions_policy_guidelines_south Australia. Lat accessed 23rd October, 2017

[53] https://www.modernghana.com/news/273353/code-of conduct-for-prosecutors.html.Accessed 28th May 2018.

[54] http//www.dppireland/…/Guidelines_For_Prosecutors_(Revised_October 2007. Accessed 27th April 2018.

[55] Preamble to the Code of Conduct for Prosecutors, 2016. In *Ochor v Ojo* (2008) 13 NWLR (Pt. 1105) 524 at 538, the court held that justice is a double carriage way in a judicial process and that traffic must flow both ways. Thus one party should not put obstacles on the part of the other. Consequently, the prosecutor should never be seen to put

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iii. That the degree of involvement, if any, of prosecutors at the investigative stage varies from one case to another;
iv. That the responsibility entailed in the exercise of prosecutorial discretion is consistent with personal rights, sensitive to the need not to re-victimize victims and should be conducted in an objective and impartial manner; and
v. Observance of applicable professional codes/rules governing the conduct of lawyers and public servants.

These goals are commendable especially sub-paragraph iv.

b) Functions of A Prosecutor

The functions of a prosecutor are quite crucial. These functions are imperative for the reinforcement of the administration of criminal justice. However, where these functions are trifled with, justice is trampled upon and thus denied. These functions include:

c) The Duty to Seek Justice

The CCP in its preamble categorically stated that a prosecutor plays a crucial role in the administration of criminal justice.[56]The principal function of the prosecutor is to seek justice and not merely to seek conviction. It is far from the intention of the law to punish anybody who is alleged to have committed an offence but rather to ensure the conviction of only those who are guilty of any offence. To seek justice transcends mere speculations; however, in the face of seeking justice, justice must be done to all the parties involved in a criminal trial[57]. Part of the duty to seek justice to all concerned, i.e. the victim, state and accused is the burden on the prosecutor to respect the defendant's right to a fair trial, and in particular ensure that evidence favour able to the defendant is disclosed in accordance with law[58].This is critical as prosecutors are to put forward all evidence relevant in a trial whether or not it is prejudicial to the state interests or exculpating of the accused person.

IV. Furthermore, a Prosecutor is to

(7)In accordance with laws or the principles of fair trial, seek to ensure that all necessary and reasonable enquires are made and the result disclosed, whether that points towards the guilt or the innocence of the suspect or defendant;

(8)Always search for truth and assist the court to arrive at the truth and to do justice between the State, the victim and the offender according to law and the dictates of fairness[59].

Similarly, section 2.4 of the England and WalesCode states that prosecutors must always act in the interest of justice and not solely for the purpose of obtaining a conviction. This point was stated as far back as the early nineteenth century in the decision of the Supreme Court of the United States of America in *Berger United States*[60] thus:

'The [prosecutor] is the representative not of the ordinary party to a controversy but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all, and whose interest, therefore, in a criminal prosecution is not that it should win a case, but that justice should be done. As such, he is in a peculiar and very definite sense the servant of the law, the twofold aim of which is that the guilty shall not escape or the innocent suffer. He may prosecute with earnestness and vigor--indeed, he should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one.'

Nothing can be truer than theabove scholarly exposition of the function of the prosecutor to seek justice.The cornerstone of this function is that those entrusted to seek justice must conscientiously seek it at all cost by ensuring that no injustice is occasioned. At this point, it is proper to state that a call to duty for prosecutor is a call to seek justice. As a matter of fact, seeking justice is the bedrock of the administration of criminal justice.

i. Duty To Ensure Proper Functioning of the Administration of Criminal Justice.The prosecutor plays a fundamental role in the proper running of prosecution process.

When inadequacies or injustices in the substantive[61]or procedural law[62] come to the notice of the prosecutor, concerted efforts towards aremedial action are expedient. Article 4 of the CCP is instructive thus:

obstacle on the part of the defence no matter the gravity of the alleged offence.

[56] See *Usen v State* (2015) LPELR, 40247.
[57] Part A, Article3, sub-section (8) CCP.
[58] Part A, Article 1, sub-section 6, CCP
[59] sub-sections 6 & 7, section3, CCP
[60] *Berger v United States*, 295 U.S. 78 (1935).
[61] When constitutional provisions for human rights of citizens are abused in the guise of prosecuting alleged offenders, it is the duty of the prosecutor to ensure protection of the rights. See *Suleman v COP* (2008) 8 NWLR (Pt. 1089) 299 as an instance of inordinate amount of time for the detention of accused persons without charging them to court.
[62] In *Onu v State* (1981) 2 NCLR 420 at 422, it was emphasised that the reason for grant of bail is to allow those who might be wrongly accused to escape punishment which any period of imprisonment would inflict. Where the procedure for the grant of bail is cumbersome resulting in denial of bail, the prosecutor is expected to be proactive in such instances.

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V. Role Incriminal Proceedings

1. The prosecutor shall perform his duties in accordance with the law and prosecutorial policy and guidelines.
2. The prosecutor shall perform an active role in criminal proceedings as follows:

(a) Where authorized by law or practice to participate in the investigation of crime, or to exercise supervision over the police or other investigators he shall do so objectively, impartially and professionally;
(b) While supervising the investigation of crime, he shall ensure that the investigator respects legal precepts and fundamental human rights;
(c) The prosecutor shall when giving advice, do so impartially and objectively;
(d) In the institution of criminal proceedings, the prosecutor shall proceed only where there is *prima facie* evidence and shall not continue with the prosecution in the absence of such evidence;
(e) Throughout the course of the proceedings, the case shall be firmly and fairly prosecuted and not beyond what is indicated by the evidence;
(f) Where the prosecutor exercises a supervisory function in relation to the execution of a court decision or performs other non-prosecutorial functions, he shall act in the public interest and in the interest of justice.

i. Duty of Fairness

Additionally, another fundamental duty of the prosecutor is fairness[63]. Fairness in this context includes the duty to bring to the knowledge of the court all material facts or pieces of evidence that may even be adverse to the prosecutor's case[64].The Rules of Professional Conduct for Legal Practitioners 2007 (RPC) place a high standard of fairness on parties in the conduct of criminal cases brought before the courts[65].

The prosecutor is not a persecutor[66].He is required to place before the court all evidence submitted by the Police. He is not on a mission to convict but to help impartially in the administration of justice[67].Thus, it is unprofessional to suppress facts or secret a witness capable of establishing the innocence of the accused person[68]. In order to ensure the fairness and effectiveness of prosecution, the prosecutor shall[69]:

1) Co-operate with the police, the courts, defence counsel, public defenders and other agencies, whether nationally or internationally; and
2) Render assistance to the prosecution services and colleagues of other jurisdictions, in accordance with the law and in the spirit of mutual co-operation within defined limits as maybe set-out by the Attorney General of the Federation.

Therefore, the CCP has widened the ambit of fairness requirement to include the prosecutor's interaction with other agencies relevant to the proper execution of the job. While seeking to ensure that guilty does not escape and the innocent suffer[70], it is imperative that a prosecutor should disclose all material evidence at his disposal[71]. At no time should the prosecutor conceal any unfavourable facts or evidence from the defence or the court. Adegoke submits that the prosecution is required to make all legitimate disclosure to the defence. Any misleading deception stands criticised. In all trial cases, to do justice is the focal point of all concerned, hence the objective must be to ascertain the truth. Hence, the prosecutor is expected to properly pursue and conscientiously prosecute his case whilst ensuring fairness irrespective of the final verdict.

ii. Duty To Desist From Indiscriminate Prosecution

The prosecutor is also under obligation to desist from indiscriminate prosecution. In the determination on whether or not to prosecute a criminal case, it is incumbent on the prosecutor to scrutinise the facts constituting the offence. It is not sufficient that a suspect is alleged to have committed an offence.

Napley stated that the successful outcome of a case must never be achieved by the chicanery of the advocate on whose integrity and assistance the court must at all times feel able to depend[72].In *Suleman v COP*[73] , the Supreme Court noted with regret that where the prosecution merely parades to court the word murder, it was insufficient for detention of the accused person without properly charging them to court. The crucial question is whether the facts reveal a *prima facie* case against the defendant or the facts constituting the alleged offence are supported by law. The prosecutor is

[63] See *Ogudo v State* (2011) 18 NWLR (Pt 1278) 1 at 52-53.
[64] The point is succinctly stated in Part A (Ethical Obligation) in the CCP thus: *The prosecutor shall respect the defendant's right to a fair trial and in particular ensure that evidence favourable to the defendant is disclosed in accordance with law.*
[65] Rule 32 (2) (a) RPC.
[66] Agaba *Op. cit.* pg 27
[67] *Atanda v Attorney-General W. N.* (1965)NMLR 225 at 232. See Rule 37(4)
[68] Rules 37(6) Rules of Professional Conduct(RPC). See also *Odofin Bello v State* (1967) (NMLR) 9
[69] Article 5,titled 'Co-operation', CCP
[70] In a plethora of cases particularly *Aikhadueki v State* (2014) 15 NWLR (Pt. 1431) 530 at 551, the court held that the two-fold aim of criminal justice is that the guilty should not escape and the innocent cannot be allowed to suffer injustice.
[71] Adegoke, O. A., et al, Law in Practice, Professional Responsibilities and Lawyering Skills in Nigeria (2014), University of Jos, Nigeria, 184.
[72] Napley, David, *The Technique of Persuasion,* (1991) Fourth Edition, Sweet and Maxwell, London, p 68.
[73] *Suleman v COP,*

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a minister of justice *par excellence* and adjudged a faithful servant of the Ministry of Justice, a ministry constituted and established to promote, protect and preserve justice. The constitutional mandate is that prior to the trial of an alleged offender, the offence must be written and penalty duly prescribed by the law[74]. The decision to prosecute must be without bias and prejudice and not in any way influence by public opinion. Worrey opined[75]

'The decision whether or not to prosecute a suspected person is not one that is lightly or casually made. It ought not to be a whimsical or arbitrary decision or one made without due and careful study of the facts or tied to the personal prejudices or mood of the appropriate officer. Nor should it be the result of a cowardly capitulation to public opinion.'

The prosecutor has discretion to prosecute. The decision to prosecute is a weighty exercise to be carried out with utmost circumspection. It has been said that the primary determinant is the pursuit of justice and the avoidance of the abuse of criminal process[76]. A prosecutor should eschew being stampeded by public pressure. Public sentiment should not override timeless judicial precedents and clear requirements of relevant statutes[77]. It should be noted that the law exists to serve the common good of society and not the other way around[78].

Political considerations also weigh heavily on the mind of prosecutors. Arthur-Worrey submits that criminal prosecution should be directed at acts of evil which threaten the foundations of society rather than acts which amount to no more than a strong difference of opinion with constituted authority. Where criminal prosecution is based on a political perspective or a class difference rather than the need to seek justice, the basis of prosecution is defeated. Where criminal prosecution is based on a political perspective or a class difference rather than the need to seek justice, the basis of prosecution is defeated. Article 3, sub-section 3 of the CCP requires a prosecutor to remain unaffected by individual or sectional interests and public or media pressures: and to have regard only to the law and public interest.

In England and Wales, the decision to prosecute is mandatorily based on whether the facts of the case pass the evidential test followed by the public interest test[79]. The prosecutor must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction against each suspect on each charge. They must consider what the defense case may be, and how it is likely to affect the prospects of conviction. A case which does not pass the evidential stage must not proceed, no matter how grievous or sensitive it may be. The finding that there is a realistic prospect of conviction is based on the prosecutor's objective assessment of the evidence, including the impact of any defense and any other information that the suspect has put forward or on which he or she might rely[80]. In every case where there is sufficient evidence to justify a prosecution, prosecutors must go on to consider whether or not a prosecution is required in the public interest. In other words, a prosecutor should be independent and be independent minded to take decisions to prosecute. The CCP provides for independence of the prosecutor[81]. It states that in exercising prosecutorial discretion, the prosecutor shall act independently without bias and be free from any form of interference. It has never been the rule that prosecution will automatically take place once the evidential requirement is met. A prosecution usually takes place only after the prosecutor is satisfied that there are public interest factors tending towards prosecution.

In some cases however, the prosecutor may be satisfied that the public interest can be properly served by offering the offender the opportunity to have the matter decided by an out-of-court disposal rather than bringing a prosecution[82].

iii. Duty To Know and Be Properly Guided By the Standards Of Professional Conduct.

It is the duty of the prosecutor to know and be properly guided by the standards of professional conduct as defined by applicable professional ethics, ethical codes, and law in the prosecutor's jurisdiction. Clearly, the CCP[83] provides for the ethical obligations of a prosecutor to include:

1. Maintenance of honour and dignity of the profession;
2. Conducting himself professionally, in accordance with the law, rules and ethics of the profession;
3. Exercising the highest standards of integrity;
4. Keeping himself well-informed and abreast of relevant legal developments;
5. Striving to be and to be seen to be consistent, independent and impartial;

[74] Section 36 (12) CFRN (as amended)
[75] Arthur-Wurrey, F, *The Prosecutor in Public Prosecution,* (2000) Josadeen Nigeria Ltd, Lagos State Ministry of Justice Law Review Series, Lagos,p 20. Arthur –Worrey was former DPP, Miistry of Justice, Lagos State.
[76] ibid p61
[77] Ibid p63
[78] Paragraph 4. 5, Prosecutors Code England & Wales
[79] Paragraph 4. 5, Prosecutors Code England & Wales.
[80] ABA Code *op cit* Standard 3 -2. 2 (d).
[81] Article 2 titled 'Independence', CCP.
[82] Paragraph 6.1-6. 3. See also s. 14(2) of the EFCC Act where the Commission is empowered to compound any offence punishable under the Act and accept such money as it deems fit without charging such offender to court.
[83] Part A, Article 1(sub –section1-7), CCP, titled 'Ethical Obligations.

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6. Respect the defendant's right to a fair trial, and in particular ensure that evidence favourable to the defendant is disclosed in accordance with law;
7. Serve public interest, respect, protect and uphold universal concept of human dignity and human rights, and decisions in the course of prosecution are.

To buttress this point, transparency, consistency with law and in accordance with the policy and guideline for prosecutors are key ethical considerations.One of the constraints of prosecutors in the State or Federal Ministries of Justice and specialised agencies in Nigeria however is the paucity of supporting facilities which has undermined the effective performance of their duties. This constraint has negative impact on the course of justice. Therefore, the prosecutor in Nigeria is compelled to rely on the police exclusively for evidence and intelligence to prosecute. More often than not, this does not meet the end of justice as all that is required to secure a non-conviction is poor investigation and evidence in a matter. On selection of Charges, Prosecutors are obliged to select charges which firstly reflect the gravity of the offence supported by the evidence. Secondly, the charges shouldgive the court adequate powers to sentence and to impose appropriate post-conviction orders and thirdly, enable the case to be presented in a clear and simple manner. This means that prosecutors may not always choose or proceed with the most serious charge where there is a choice. Prosecutors should never go ahead with more charges than are necessary just to encourage a defendant to plead guilty to a few. In the same vein, they should never go ahead with a more serious charge just to encourage a defendant to plead guilty to a less serious one.

v. Duty To Avoid Conflict of Interest

In accordance with the ABA code for prosecutors, as a prosecutor, every appearance of conflict of interest with respect to official duties should be avoided[84].This is imperative as it borders on the most fundamental and overriding duty of a prosecutor to the administration of criminal justice in particular and the state in general to which his or her loyalty lies at all times. Article 3 of the CCP enjoins the prosecutor to be impartial in the conduct of his functions[85]. More particularly, it states that:

VI. Impartiality

The prosecutor shall perform his duties without fear, favour or prejudice. In particular he shall:
Carry out his functions impartially;

a) Not engage in conduct that would give rise to a reasonable inference that the prosecutor's impartially, integrity, reputation or the reputation of the institution that he serves has been compromised;
b) Remain unaffected by individual or sectional interests and public or media pressures and shall have regard only to the law and public interest;
c) Act with objectivity;
d) Take special care to ensure that prosecutorial duties are unaffected by improper considerations or corrupt motives such as;

   a. financial gains or personal benefit; or
   b. benefits to family or friends.

Disciplinary measures are enshrined in Part B, Article 7 of the CCP and cover categories of prosecutors in the Nigerian criminal justice system. It states thus:

VII. Part B – Sanctions

Disciplinary Measures

(a) The prosecutor who breaches any of the provisions in this Code may be proceeded against by the Officer of the Attorney General for misconduct and where the prosecutor is a:
(b) law officer, disciplinary measures under the Public Service Rules shall apply:
(c) private legal practitioner, in addition to a withdrawal of any Fiat or authority to prosecute conferred by the Attorney General, the matter shall be referred to the Legal Practitioners Disciplinary Committee; or
(d) non-legal practitioner, disciplinary proceedings by his organization.

The above disciplinary measures are without prejudice to instituting an action or prosecution where the conduct of the prosecutor amounts to a civil wrong or criminal offence.

These provisos are adequate as a sanction because it is not exhaustive. Secondly, it is flexible in that it hands back to the organization with power to discipline such prosecutor.

VIII. Recommendations

a) Nigeria Police Force

It is our submission that the Nigerian Police Force should be divested of prosecutorial functions. In other words, the role of the police in criminal cases should be confined strictly to investigation only. This is in line with international best practices. In a jurisdiction whereby there is gross under policing resulting from shortage of personnel, inadequate facilities and under-training as is the case of Nigeria, it stretches resources too thin to deploy officers to prosecution even if they are qualified legal practitioners. The situation is dire as the nation grapples with rising security challenges[86]. A

[84] Standard 3-1. 3 (a) ABA Code.
[85] Part A, Article 3 of the CCP.
[86] The Boko haram insurgency in the North East, killer herdsmen murders in the north central states and roving cattle rustlers in Zamfara state, kidnappers etc are security challenges in Nigeria today.

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police officer who is also a legal practitioner should act in advisory capacity with respect to crime investigations. It is imperative that a central pool of supporting resource personnel, including crime scene units, investigators, forensic accountants and other experts relevant to police investigation be put in place. A budgetary allocation for such expenditure should be maintained. Without any doubt, prosecution is made increasingly easier in the nation's criminal justice system by thedirect input of the police, therefore they should be given due recognition and fittingly remunerated. It is worthy of note that while there are lapses in the police as far as prosecution is concerned and public and private prosecutors are not exactly above board, some police officers have distinguished themselves in the discharge of their prosecutorial duties.As stated earlier, even though, there is no code of conduct for police prosecutors, distinct from the CCP, it is submitted that as there is a CCP, policeprosecutors are bound to abide by it. This applies to private prosecutors as well.

b) Federal/State Counsels

It is importantthat on a state level, there should be coordination of the prosecutorial policies as obtains in other jurisdictions. In the USA, there exists a requirement for coordination of local prosecution offices on a state level in order to improve the administration of justice and to guarantee maximum practicable uniformity in the enforcement of the criminal law throughout a state. Furthermore, the ABA stipulates that a State Association of Prosecutors should be established in every state. This is desirable. In Nigeria, there exists presently a body of all State Attorneys General and the Federal Attorney General who meet regularly which may be said to play this role. However, actual prosecution is done by officers in the DPP and other specialized agencies of government. Thus, for effective networking and improvement of prosecuting skills, it is advised such a body be set up as an informal network distinct of meetings of Attorneys General. The CCP stipulates that a prosecutor should keep himself well-informed and abreast of relevant legal developments[87].Pprofessionalcompetence rather than regular administrative posting within the ministries of justice should be the basis for selection and prosecutorial posting as AB Acode stipulate[88].

c) Effective Reward System

In all the States and Federal Ministries of Justice, prosecutors in the office of the DPP are placed on the same salary scale as other legal officers. Meanwhile, private legal practitioners charge and are paid huge sums of money running into millions of Naira for the cases they handle on behalf of government especially cases of high profile accused persons or corruption cases.

This expectedly affects the morale of legal officers in the office of the DPP. Under the American jurisdiction, in order to accomplish the objective of professionalism and to encourage the aspiration of competent lawyers to such offices, compensation for prosecutors and their staff is commensurate with the magnitude of responsibility and comparable to what is accruable to their colleagues in the private sector[89]. While this may not be feasible in Nigeria nevertheless, it is submitted that enhanced or special allowances attached to those in the office of the DPP be pursued. This will serve as a booster and also hopefully distract them from corruption. Sometimes, the public may not be in support of this, but some form of incentive for a prosecutor especially in corruption cases is needful.

d) CCP

The Prosecutors Code in its current format is rather sparse though it endeavors to cover basic issues. However, it should be made more detailed or a separate document detailing procedural steps to be taken by a state attorney in response to trial issues like response to writ of *Habeas Corpus*, Request For Bail etc be developed to go alongside the Code. An example is the Ghana Code of Conduct for prosecutors drafted in 2010 by the then Attorney–General[90].In addition, a Standard Operating Procedure guidelines was rolled out to be used together with the Code[91]. The guidelines provide for detailed procedure in a step by step manner to guide state attorney on specific matters. This is a noteworthy example.

The Code is silent on duty of the state to protect prosecutors and their families where personal safety is required[92]. This is critical especially in drug related, corruption, trafficking etc trials. Furthermore, violations of the Code must be met with stiff sanctions. This way, the essence of the creation of the code for public prosecutors in the proper administration of criminal justice rather than constitute a nuisance, will indeed and truly be a necessity.

IX. Conclusion

'It is not sufficient to have laws. We need to also have reform centered minds to make progress. The bar must therefore change its conventional approach to criminal justice, one of which is the attitude of the

[87] Part A, Article 1, sub section (4) CCP

[88] Standard 3-2. 3(a-e), Assuring High Standards of Professional Skills.

[89] Standard 3-2. 2 substandard C, subsection (e) ABA Code.

[90] Code of Conduct for prosecutors-modern Ghana, https://www.mode.ghana.com/news//273353 code-of-conduct-for-prosecutors. Last accessed 29 May 2018.

[91] www. mojagd. gov. ghana standard operating proceedings division attorney. Last accessed 27th May 2018.

[92] Rec No. R(2000) 19 *On the Role of Public Prosecutors in the Criminal Justice System*. http://www.legislationline.org.documents. Last accessed 20 June 2018.

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prosecutors who regard themselves as purely advocates of the rights of the state, which they represent, and thus seek to make the criminal law as effective a weapon as possible in securing convictions of persons whom they adjudge to be guilty of a crime[93'].The above comment by the honorable Chief Judge strikes at the heart of the matter. Criminal justice is a complex system, administered at all levels of government and shaped by a range of actors. As such, other tiers and arms of government must be ready to play their part by providing the necessary funding and making adequate provisions for manpower especially in agencies that are charged with investigations and prosecution[94].Indeed, total commitment to ensuring justice delivery must be the avowed responsibility of all prosecutors. Furthermore, the function of public prosecution requires highly developed professional skills. This objective can best be achieved by promoting continuity of service and broad experience in all phases of the prosecution function[95].To ensure high standard of professional skill in the conduct of criminal cases, the prosecutor must be exposed to training. The Guidelines on Role of Prosecutors adopted by the 8th United Nations Congress on Prevention of Crime & Treatment of Offenders[96] as well as Recommendation No R (2000)19of Committee of Ministers of the Council of Europe on the Role of Public Prosecutors to member states both emphasise the importance of the role of prosecutors in criminal trials[97]. The preamble in the latter resolution further stated that the essential role of the public prosecutor also ensures security and liberty of thought of European society, no doubt a lofty ideal. This is equally applicable to the nascent democracy in Nigeria. Thus, to accomplish this in the Nigerian criminal justice system, the Code for Public Prosecutors should be a guide to assist in ensuring probity, sterling character and moral rectitude with highest standard of professional

To this end, the enactment of the CCP is a welcome development and a necessity to an orderly development of the Nigerian criminal justice system.

[93] Keynote Address by I.U Bello, Chief Judge, Federal Capital Territory, at the 5th Nigeria Bar Association Criminal Justice Reform Conference,p33, 24-27 April, 2018, Asaba, Delta State.
[94] ibid p35. An example is the EFCC, ICPC, NDLEA , NAPTTP.
[95] Standard 3-2.2 substandard C, subsection (e) ABA Code.
[96] *OHCHR, Guidelines On the Role of Prosecutors*, https://www.ohchr.org. last accessed 20th June 2018.
[97] *Role of The Public Prosecutor In A Democratic Society Governed By the Rule of Law*.www.assembly.coe.int.xmlsxRef-Doc9776of 24/4/2003. In the preamble, it was stated that the aim of the Council of Ministers was not to provide a single model-te idea of harmonization would have been premature.But to reflect a European consensus on the issue.

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