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The campaign against Nasir El-Rufai and the  
degeneration of progress in Nigeria

**By Robert Amsterdam**

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## **PREFACE FROM THE AUTHOR**

I made one of my first trips to Lagos, Nigeria, as an overly curious teenage student from Canada in the 1970s. The experience, while both sad and beautiful, was powerfully motivating to me in my future career in international law, not least for the impressive people I met there – including a family which had practically adopted me into their home. I believed then as I believe now that no nation which contains such brilliant human resources should ever be consigned by fate to underdevelopment. In other words, I share the view of many Nigerians that there is no “cultural excuse” for the plague of corruption, and that a better government can and should be built.

I first met Mallam Nasir El-Rufai through a friend some years ago, and quickly discovered that he not only held ambitious dreams for Nigeria’s future, but also had shown his ability to work towards these goals. When the new government of Umaru Yar’Adua began its rapid retreat away from the previous administration’s reforms and anti-corruption efforts, and the campaigns of persecution against Nasir and the other reformers began, I felt proud to formally join their international defence effort.

The story of El-Rufai in Nigeria raises many parallels which I have seen in my other cases, ranging from Venezuela to Russia to Singapore, in which we see state actors in control of state institutions begin to use them for personal and even criminal purposes. The main problem in the international community is that we have a tendency to presume the regularity of such institutions – that if a government official in Moscow or Abuja or Tehran tells us that a certain popular opposition politician is a criminal, then it must be true. I am proudly working with Nasir to make sure that no one takes these accusations against him at face value.

I have authored the following White Paper to accomplish several goals: 1) to present Nasir El-Rufai and his accomplishments to the world, 2) to summarize the motives behind the attack on his reputation, 3) provide ample evidence to prove his innocence of all these libel and slander, and 4) make it clearly understood that this case is much larger than just one person – that this fits into a historical pattern of the Nigerian pendulum which swings in one moment toward reform, before plummeting back to the status quo. Clearly my suggestion is that we should no longer be confused about which way the pendulum is swinging.

In summary, all the main attacks on Nasir are groundless and without evidence, manufactured by a hardworking scandal factory otherwise known as the Presidential Administration of Umaru Yar’Adua. He is being accused of improper allocation of a plot of land by a private development firm called Rosehill from years ago, but even these individuals have twice sought settlement for the damages caused by their false accusations, and then changed their minds (the government is thus chasing phantom crimes). Others have attempted to smear him with an invention of a massive N32 Billion embezzlement, when in fact the reputable accounting firm Deloitte delivered an audit disproving it, while no name or source has ever been attached to the accusation. The Legislature has been deployed to ruthlessly pursue El-Rufai to appear time and time again before politically packed committees of corrupt politicians who hold grievances against him for having enforced the law and revoked their illegally held properties. Though he has never been convicted of any crime, the Foreign Ministry refuses to renew his passport, and openly refers to him as “a menace.” This is all being done out of fear of Nasir’s political appeal, and the fear that one of the country’s true reformers could someday put an end to the material benefits of office and widespread graft of a certain section of the elite.

We must pay close attention not just to the frivolity of the charges against El-Rufai (the State isn’t even trying that hard to make a case), but also the methodology being deployed against the

reformers of Nigeria. They could have invented any variety of crime to fake against El-Rufai, but of course they had to choose corruption. They could have used any instrument of power or threat to go after him, but of course they transformed the Economic and Financial Crimes Commission (EFCC), once headed by the greatest corruption fighter of Africa, Nuhu Ribadu, and began to use this very institution to go after the reformers of the previous government. Perhaps the most telling change that has come under the Yar'Adua government is that the EFCC under Farida Waziri now pursues at best a dozen cases – under Ribadu the institution was prosecuting hundreds of Nigeria's most corrupt and powerful leaders, while recouping hundreds of billions stolen from the Nigerian people.

In a conversation I once had with the Russian journalist Anna Politkovskaya, who was tragically killed in the line of duty in 2006, she described this type of process as the "döppelganger effect." Whether it is Lagos or Moscow, the corrupt work in the same ways – it is imperative that the reformers are tainted with the very crimes that they themselves fight against. A corrupt and criminal state is permanently at war with ideas of justice and rule of law, weaving narratives to support their waning legitimacy, and shore up false credibility. In point of fact, the mantra of the Yar'Adua administration is "rule of law". Their trials are not about justice or evidence or facts or wrongdoing, but about reputation, media, and public beliefs in manufactured myths.

For many readers, this White Paper may be too long and detailed to consume in its entirety, while others may study it in detail. If the reader takes away only one message, it should be that the accusations against Nasir El-Rufai cannot be taken at face value. His strength of character and career accomplishments deserves our consideration. A wide variety of individuals have pledged their support to his cause, from Nuhu Ribadu<sup>1</sup> to Oby Ezekwesili<sup>2</sup>, to Nasir's former liaisons in the IMF, World Bank, and U.S. government, to his former employers and colleagues at AT&T and Motorola. Anyone who is familiar with the details of this case will agree that it is politically motivated persecution. For anyone who disagrees, this White Paper marks the formal announcement that we are open and willing to defend Nasir on any platform available with all the facts in front of us. That is much more than we can say about those who oppose us.

***-Robert Amsterdam, December 1, 2009***

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<sup>1</sup> Nuhu Ribadu was a career police officer who was appointed the chairman of the Economic and Financial Crimes Commission in 2003. He worked closely with Nasir between 2003 and 2007 in various anti-corruption initiatives.

<sup>2</sup> Oby Ezekwesili was founding director of Transparency International - the global corruption watchdog, who served in various positions in the Nigerian government with Nasir from 1999 to 2007. She is now Vice President (Africa Region) of the World Bank.

## **FOREWORD BY THE HON. KANU G. AGABI, FORMER ATTORNEY GENERAL OF NIGERIA**

I thank Robert Amsterdam for making known, through this book, the sacrifices of my friend Nasir El-Rufai for the emancipation of our dear country. He was my friend before the present controversies. That friendship was founded partly on his courage, vision for our country, his resilience and his patriotism. Since these controversies arose I have found no reason to reconsider my feelings towards him. On the contrary, if there ever was need to stand by him, it is now. I can say of him that he is God's gift to our country. I appeal to those who will be opportuned to read this book by Robert Amsterdam to do so dispassionately. The things that El-Rufai has had to do for the nation are difficult things. He has had to tread upon hard and difficult ground and to step on many and often very big toes. When he had to take difficult decisions, he did not hesitate and his courage never failed him. He is a fair-minded, hardworking and unrelenting man. His great humility is beclouded by his rigid opposition to evil. El-Rufai is a man it behooves us to strive to understand.

God has ordained that whenever there is work to be done there should be somebody to do it. I regard El-Rufai and Nuhu Ribadu as those agents of God who laid the modern foundations of the rule of law in Nigeria. Being human, it is to be expected that works of such monumental proportions as they had to do might be attended here and there with errors. We cannot fail to act just because we are afraid that we might err. The emphasis ought to be, not on what went wrong, but on the good that was done. The human vessels that God himself has used have never been perfect. God uses those who possess the required qualities and who are prepared to do his will. Such a man is El-Rufai.

In assessing the contributions of El-Rufai to the establishment of law and order in our country, we should bear in mind that during the dictatorship which lasted for nearly three decades, the judiciary and the police were neglected with the result that these institutions became very weak and ineffective. Law and order were maintained by the military. And whenever they found it convenient they ousted the jurisdiction of the courts. As a result corruption permeated every department of our national life. Strictly speaking, we were not a nation under law. The nation was stigmatized and despised. That was very briefly, the state of the nation when civil rule was introduced in 1999.

With the advent of civil rule the pendulum swung from one extreme of dictatorship to the extreme of liberalism. Corruption and violence became even more rife. Elections were attended by various malpractices. At one time, the nation was ranked as the second most corrupt in the world. In the various States and Local Government Areas, the structures for accountability were destroyed and the governors seemed above the law. The master-plan of the Federal Capital Territory was grossly distorted and land allocations were attended by all sorts of scandals, abuses and malpractices. One of the earliest actions of President Obasanjo's administration was to examine the federal capital territory, Abuja, with a view to correcting the distortions of the master-plan. In the end the conclusion of the federal government was apparently that the damage was beyond repair. And indeed for nearly four years after that examination nothing was done to repair the damage.

All hope seemed lost when, early in his second term the President appointed Mallam El-Rufai as Minister of the Federal Capital Territory. He proceeded immediately to do what seemed impossible – to restore the master-plan of the Federal Capital Territory. This entailed the demolition of houses which had been erected along sewage lines and the restoration of parks which had been parceled out and allocated to men and women of rank. Land allocation in the Federal Capital Territory was streamlined and impostors were arrested and charged to court. Naturally, this led to all sorts of controversies and resentment by those whose actions had led to the distortion of the master-plan. The vast majority of Nigerians commended the efforts of the minister and have remained grateful to him to this day. I am one of those Nigerians.

At the time that El-Rufai assumed office as minister of the Federal Capital Territory, I had left Office as Attorney-General and Minister of Justice and was serving as special adviser to the president on ethics and good governance and also Nigeria's human rights adviser (HEURIST). I can attest to the fact that his tenure as minister coupled with the work of Mallam Nuhu Ribadu at the Economic and Financial Crimes Commission marked the true beginning of the restoration of the rule of law in Nigeria. Prior to that we had merely paid lip-service to the concept of the rule of law. The hope which we now entertain that there shall be no further distortions to the master-plan of the Federal Capital Territory is owed to the courage and sacrifices of Mallam El-Rufai. By his works he has immortalized himself and will never be forgotten when the history of this country comes to be written.

KANU G. AGABI, (CON)

FORMER ATTORNEY-GENERAL AND MINISTER OF JUSTICE OF THE FEDERAL REPUBLIC OF NIGERIA,  
SPECIAL ADVISER TO THE PRESIDENT ON ETHICS AND GOOD GOVERNANCE AND NIGERIA'S HUMAN  
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## EXECUTIVE SUMMARY

It is an unwritten rule of Nigerian politics that the presidency is “rotated” between the North and the South of the country. It is common knowledge that one person from the North stood out as the one of the most experienced, serious, and accomplished political office-holder by 2007: the former head of the Federal Capital Territory of Abuja, Mallam Nasir El-Rufai. This White Paper tells the story of how a fearful government is attempting to destroy a successful political career through false charges. Their goal is to destroy the country’s class of reformers, maintain a state of corruption and impunity, and most importantly, barring a popular leader from political contention.

The El-Rufai saga has deep roots. In April of 2003, as Olusegun Obasanjo was re-elected president of Nigeria with more than 61 per cent of the vote, the political economy of Nigeria was showing several signs of hope. The on-again, off-again nature of Nigeria’s approach to reform since independence was on the upswing toward greater transparency at many levels of government and society. Independent bodies had been established to crack down on corruption and financial crimes, a global oil boom was once again bringing economic prosperity to the country, and democratic institutions were in the process of consolidation.

In keeping with this momentum, President Obasanjo immediately nominated Nasir El-Rufai, the country’s privatization czar for the previous four years who had a reputation for no-nonsense work-a-holism, to head the Federal Capital Territory (FCT) Administration. The position is part of the president’s cabinet and carries as one of its responsibilities the oversight of far-reaching reforms in the nation’s capital, Abuja.

For El-Rufai, the appointment was merely the logical next step in a career defined by battling the ruling elite to change a notoriously corrupt system of governance in Nigeria driven by a political culture of patronage. One of El-Rufai’s first actions as the new FCT chief was to bring to light the revelation that the Nigerian Senate’s deputy majority leader and deputy senate president solicited from him a 54 million naira bribe (US\$414,000) in exchange for a speedy confirmation to his new post. When the ensuing uproar subsided, the Senate voted to dismiss El-Rufai’s accusations and he remained in the position, but the Nigerian Senate as an institution, never forgot or forgave him. The fact that the day Nasir El-Rufai brought his bribery accusations to the Senate floor – October 7, 2003 – was coincidentally the very day Transparency International named Nigeria the second most corrupt country in the world out of 133 countries surveyed underlines the gravity of Nigeria’s situation.

This episode is just one of many examples of the difficulties El-Rufai and other proponents of reform encounter when attempting to improve Nigeria’s political environment. Beginning with his role advising the transitional government of General Abdulsalami Abubakar following General Sani Abacha’s death, to his tenure as director general of the Bureau of Public Enterprises (BPE) and then as Minister of the Federal Capital Territory of Abuja (FCT), El-Rufai has consistently acted in favour of transparent governance, even in situations in which there was enormous political pressure to conform with the status quo. Throughout its young history as an independent nation, efforts to reform the politics of corruption in Nigeria are often met with fierce resistance, and the accompanying accusations and charges against El-Rufai during this time fit into this larger pattern.

This document seeks to clear Nasir El-Rufai’s name and reputation. It will begin with a review of his career in public service, including his role in the transitional government of General Abdulsalami Abubakar, his tenure in the BPE, and then Minister of the FCT. The various charges brought against El-Rufai are summarized, as well as the subsequent rebuttals and lawsuits he filed in his defence to

counter the falsehoods of the accusations. The persecution of El-Rufai has occurred within the context of Nigeria's political culture, underscoring a familiar and disappointing trend of the leadership threatening to reverse the country's tentative steps toward reform back the status quo, and in the process, the government has spread unacceptable lies to its citizens and the international community.

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## **I. Nasir El-Rufai – The Accidental Public Servant**

Nasir El-Rufai was born in Daudawa of the Faskari Local Government Area in the northern state of Katsina. From 2003 to 2007, he served as Minister of the Federal Capital Territory (FCT) of Abuja, and as a member of the Federal Executive Council, the highest decision making body in Nigeria.

El-Rufai holds degrees and certificates from several international institutions, including Ahmadu Bello University, Zaria, Nigeria, University of London, Harvard Business School, Arthur D. Little School of Management in Massachusetts, Georgetown University School of Foreign Service in Washington, D.C. and the John F. Kennedy School of Government, Harvard University. He holds a first class honours degree in Quantity Surveying (1980), a Masters Degree in Business Administration (1984), a Postgraduate Diploma in Computer Science (1985), a Bachelor of Laws (2008), Master of Public Administration (2009), and has attended several programs on Privatization and Leadership.

In 1982, he founded a consulting practice in quantity surveying, El-Rufai & Partners, which he managed until 1998. He has also held management positions with two international telecommunications companies, AT&T Network Systems International BV and Motorola, Inc. In October 2001, he was conferred a national honour, OFR (Officer of the Order of the Federal Republic of Nigeria) by the Federal Government while serving as the Director General of the Bureau of Public Enterprises (BPE) and the Secretary of the National Council of Privatisation, where he spearheaded the privatisation of many government owned companies. In 2005, he was conferred D.Sc (*honoris causa*) by the University of Abuja, Nigeria for contributions to the Nigerian construction industry. He is happily married with children.

### **El-Rufai and the Transitional Government of General Abubakar, 1998-1999**

When former military ruler General Sani Abacha was found dead in June 1998, he still had not nominated a successor to his Chief of General Staff, whom he had arrested months before on charges of treason. The presidency therefore fell to the third in command, General Abdulsalami Abubakar, who was at the time the Chief of Defence Staff and one of the highest ranking military officers in the country.

General Abubakar had actually achieved his high rank in the military specifically because of avoidance of politics, and as such, he immediately sought to recruit talented managers to run the state's public affairs and help Nigeria shed its pariah status. One of the first initiatives he undertook was establishing an advisory committee called the Programme Implementation and Monitoring Committee (PIMCO), informally known as the president's private "think tank."

Among the six original people named to the committee was Nasir El-Rufai, who had made a strong impression on Abubakar during their first meeting, when, surprisingly, he challenged him on the problematic role of the military within Nigeria's government. Though this was an audacious move for someone from the private sector to criticize a powerful general, Abubakar nominated El-Rufai to PIMCO because he saw someone who would not be afraid to voice his opinion in the face of opposition. Going forward, PIMCO became the last stop for policy review before reaching the president for approval and implementation, making the think tank one of the most influential centres of the government. El-Rufai's participation in PIMCO launched his career in public policy and provided his first introduction to the next President of Nigeria, Olusegun Obasanjo.

During the transition period, El-Rufai was the government's central liaison with critical international institutions, working mainly on economic issues in coordination with the Finance Minister and the International Monetary Fund (IMF), creating a staff monitored programme, drafting a letter of intent

for IMF engagement and drafting the privatisation decree for the next government to implement. He also worked closely with the chairman of the electoral commission to set the budget for the 1999 elections. Of all the tasks which El-Rufai worked on during this period, it was the privatisation decree which would prove most integral to his continued involvement in government.

The interim government of Abubakar pursued a more technocratic approach to the administration of public affairs, seeking to repair the country's reputation from the Abacha regime and open a new door for Nigeria's future. After years under the previous dictatorship's tight (and often bloody) grip, Abubakar knew the imperative of national reconciliation required a political programme with democratic restoration as its goal. Despite difficulties, by the end of the transitional period he had succeeded in the adoption of a new constitution which paved the way forward for multiparty elections.

Between Olusegun Obasanjo's election victory in February 1999 and his swearing in as president on 29 May 1999, PIMCO led the briefing for the President-elect, bringing the new administration up to date on the status of negotiations and engagement with the IMF, World Bank, and other key international institutions. During this time Obasanjo became acquainted with El-Rufai, and decided to offer him a role in the new government. Following his inauguration, the two eventually agreed that El-Rufai would continue the privatisation effort as the Director General of the Bureau of Public Enterprises (BPE). He formerly assumed the position in November 1999.

### **El-Rufai as Director General of the Bureau of Public Enterprises, 1999 – 2003**

When Nasir El-Rufai was appointed Director General of the Bureau of Public Enterprises (BPE), the agency was severely disorganized, structurally deficient, and suffering from years of neglect. Historically, the Nigerian government had held a strongly statist orientation toward the economy, controlling large business sectors with great inefficiency. State-run enterprises were clearly not working nearly as efficiently as privately owned businesses, and the BPE had a considerable political challenge in convincing members of government of the need to take action. Culturally, this statist configuration had instilled in the political elite an attitude of entitlement – that their office included the privilege of tapping into revenue streams and patronage structures of the state-owned firms. Thus El-Rufai, charged with overseeing the economic deregulation and privatisation of state-run companies, had his work cut out for him from the beginning.

During his tenure at the BPE, El-Rufai established a reputation of working long hours and leaving no detail unheeded when it came to the deliverable tasks and communications for which the agency was responsible. Part of this vigilance derived from the agency's operating philosophy that for the programme to succeed, it must itself personify a private sector orientation. Thus, long hours became the norm and achievement-based goal setting set the pace for accountability at all levels of the agency.<sup>3</sup>

By the time President Obasanjo was re-elected in 2003, the success of the privatisation programme under El-Rufai's charge was evident: of the 35 transactions brought forth in the first and second phases of the programme, 25 were successfully completed, raising 40-50 billion naira in revenues and removing them from government budget as the new owners assumed leadership of those enterprises; six transactions were not concluded for various reasons and the remainder were due to conclude once the necessary approvals were obtained.<sup>4</sup>

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<sup>3</sup> "Nasir Ahmad El-Rufa'i: An Embodiment of Pragmatism," Ajayi Olatunji Olowo, Ta'Alim Limited, Kaduna: 2007

<sup>4</sup> Performance Assessment of Privatised Enterprises - Final Report (2008) prepared for the Bureau of Public Enterprises and Department for International Development - DFID, by IBTICI Consortium, [www.ibtici.com](http://www.ibtici.com)

One of the more telling examples of the 25 companies successfully privatised is Unipetrol, a gasoline marketing company originally 40 percent-owned by the government, which has since changed its name to Oando (Ocean and Oil). At the time of privatisation, the company's shares were priced on the Nigerian stock exchange at 13 naira per share; they have since reached 250 naira per share and are now cross-listed on the Johannesburg Stock Exchange, paying steady dividends for a decade now.<sup>5</sup>

Among the six transactions that have not been concluded, one of the more instructive examples of the reform challenge faced by El-Rufai and his successors has been the ongoing saga surrounding the privatisation of NITEL, the state-owned telecommunications company. The government drew up initial plans in 2001 to sell a majority stake to an international consortium of investors which also included some prominent Nigerians. Since that initiative's failure, the company has gone through several more failed attempts to privatise which finally came to fruition in 2006 with a majority stake sale to the Transnational Corporation. Since then, the company has wandered through a maze of mismanagement, fraud and lack of sufficient investment, culminating most recently in the government retaking control of the company. Observers in the media have characterized NITEL as "synonymous with controversy" in a process which is headed toward "another round of failure and by extension short changing the Nigerian people."<sup>6</sup>

Part of what has prolonged the NITEL saga, making it a central example of the reform challenge, is that after oil, telecommunications is the second biggest revenue generator and source of patronage for corrupt members of government. Given how accustomed Nigeria's political elites had become to the NITEL patronage system, El-Rufai entering the picture and suggesting it be put up for sale made him an instant target of entrenched interests who benefited from the status quo. At the same time, the government was gradually opening up the telecom market to outside competition, making privatisation or at the very least drastic streamlining within NITEL all the more vital to its survival. The uneven nature of NITEL's management since the beginning of the decade is proof of the reform effort's inability to take hold once and for all in the privatisation process.

Throughout El-Rufai's stewardship of the BPE and afterwards, groups of political elites have made several attempts to pin the mismanagement of this transaction and, subsequently, the deterioration of NITEL itself due to competition and its continuing failure to adapt thereto, on El-Rufai, at times even resorting to groundless accusations and false propaganda. The first such attempt – in March 2002 – posed an unprecedented challenge to the boundaries of the powers of the Legislature in the Nigerian Constitution and role of the Nigerian judicial system in reviewing its decisions and actions. The Speaker of the Nigeria's House of Representatives at the time brought a defamation suit against El-Rufai as a response to El-Rufai's criticism of the Speaker's proposal on what to do with NITEL. On June 2, 2003 the Court of Appeal<sup>7</sup> handed down a judgment that defined and limited the powers of the legislature, saying that the only two cases that the legislature can pursue are investigations of corruption and mispending of public funds.

Another attempt to blame El-Rufai for the inchoate privatization of NITEL and its subsequent placement under Dutch management was by way of public hearings by the House Committee on Communications - long after he had assumed office as Minister of the Federal Capital Territory. The outcome of the hearings was a pronouncement on 25<sup>th</sup> of May, 2005 from the House of Representatives that sought to ban El-Rufai from public office for life. In the ensuing review of the case, the Federal High Court, Abuja, delivered a judgment in favour of El-Rufai on the 24<sup>th</sup> of July,

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<sup>5</sup> The company's success is well documented. <http://www.oandopl.com/>

<sup>6</sup> "Nitel Privatization – the Politics, the Crisis," Daily Trust, July 27, 2009

<sup>7</sup> See the Nigerian Court of Appeal Judgment in *El-Rufai v. House of Representatives of the Federal Republic of Nigeria (2003) 46, WFN 70-105, CA*

2006 – the second court ruling against the Nigerian parliament in El-Rufai’s favour. As documented by Ajayi Olatunji Olowo<sup>8</sup>:

“Justice Anwuri Chikere in her judgment said the sanction was a gross violation of the provision of sections 88 and 89 of the 1999 Constitution. The court also said that the process of passing the resolution by the House was an infringement on the right to fair hearing of the minister. The court therefore granted an order of certiorari quashing the proceedings and the resolution of the House for being a nullity, a flagrant abuse of provisions of the 1999 Constitution and a violation of El-Rufai’s right to fair hearing. Specifically, the court held that the House of Representatives acted ultra vires in its constitutional powers by imposing penalty on El-Rufai in negation of the Principle of Separation of Powers.”

These are just the most demonstrative beginning examples of the established political class taking aim at El-Rufai. The very people who facilitated the campaign against him from the beginning wound up in the news again with some of the more high-profile bribery cases that have come from Nigeria, including those involving Siemens and Halliburton. But these cases still had many years to come. In the meantime, larger challenges loomed ahead. El-Rufai’s record overseeing the BPE eventually earned him a new position. In June of 2003, President Obasanjo nominated El-Rufai to the cabinet position of Minister of the Federal Capital Territory.

### **The Federal Capital Territory as of 2003**

Nasir El-Rufai’s appointment in 2003 as Minister of the Federal Capital Territory of Abuja (FCT) came at a crucial moment in the development of Nigeria’s capital city. The decision to relocate the capital from Lagos to Abuja, taken in 1976 by the Murtala-Obasanjo regime, foresaw an optimal population of three million people by the turn of the millennium. Abuja was envisioned as a planned metropolis with clearly defined residential, commercial and recreational areas and up-to-date transportation, flood control, and water and waste management systems. The environment was to be secure, safe and inclusive for all Nigerians while seeking to minimize ethnic conflicts.

Abuja came to be considered by the Obasanjo administration as the “pilot state” which would be on the leading edge of economic and political reforms. As the territory solely controlled by the federal government, and as a demographic microcosm of the rest of the country, the leadership set out to demonstrate that the Abuja model could be applied nationally.

The FCT was intentionally selected as the laboratory and vanguard of Nigeria’s socio-economic and political reforms.<sup>9</sup> The starting point for reforms was to develop a streamlined government marked by fiscal responsibility, improved governance and anti-corruption measures, privatization and deregulation of the economy and civil service reforms. Within this agenda, land reform linked together all policy priorities and became a central focus.

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<sup>8</sup> “Nasir Ahmad El-Rufa’i: An Embodiment of Pragmatism,” Ajayi Olatunji Olowo, Ta’Alim Limited, Kaduna: 2007 (pp.128) summarizing the judgment of Chikere, J of the Federal High Court suit **FHC/ABJ/M/308/05** on 24th July, 2006 in ***El-Rufai v. House of Representatives of the Federal Republic of Nigeria (Unreported)***

<sup>9</sup> In testimony before the Senate on May 6, 2008, El-Rufai stated: “The imperative for reforms in FCT have national and global contexts. In 1999, Nigeria was almost a failed state. The experience of slow growth accompanying tentative reforms was therefore unacceptable and as such Nigeria needed to learn what other nations did to succeed and stop whatever we were doing that was inimical growth. Abuja was however chosen by President Obasanjo to be the arrowhead and laboratory for bold, decisive reforms in his second term as President of Nigeria. The challenges of reforms in Abuja – as a microcosm of the Nigerian nation – had broad infrastructural, structural and socio-economic dimensions.”

By the time El-Rufai assumed the duties of FCT Minister, Abuja was not at the stage of development originally planned. The city had become vastly overpopulated and surrounded by polluted, unplanned squatter settlements, and the city faced serious challenges with respect to land reform, infrastructure development and maintenance, sanitation, social services, and broader economic development.

### **The Land Use Act**

Ownership of real estate in Nigeria is governed by the Land Use Act, first enacted in 1978, and incorporated by reference into the Nigerian Constitution. This law provides that title to all land in Nigeria is vested in the governor of each state. All land in Abuja is vested in the minister of the FCT, a cabinet-level position appointed by the president and carrying responsibility for all aspects of governance and management of the FCT.

The governor of each state – and, in the FCT, the minister – has discretionary powers to allocate government lands within their jurisdiction to whatever public or private entities the governor wishes, for whatever purpose is legislated or otherwise deemed appropriate. The FCT minister's power is subject to review by the courts to ensure the minister exercised his discretion correctly. Typically land allocations are given in the form of 99-year leases, with title reverting to the governor upon expiration of the leasehold interest. Further, all private transfers or any dealing involving allocated land must have the prior written consent of the governor of the state in which the land is located or, in Abuja, by the FCT minister.

Allocation of government lands in Nigeria is generally tied to certain prerequisites and conditions. In Abuja, any adult Nigerian is entitled to apply for and be allocated at least a plot of land upon the payment of all fees and charges. A one-time payment (application fees, premium and development levies) to the government is typically required, based upon pre-established tariffs, although payment is sometimes staggered over time. Annual assessments (ground rents) are also levied for the right to use the land. Additionally, leaseholds are usually conditioned upon development of the land within two years and for specific uses.

### **El-Rufai's Mandate**

When President Obasanjo<sup>10</sup> assigned El-Rufai to the FCT, the Minister was mandated to clean up one of the greatest sources of rent-seeking and other corruption in the federal government. In a letter to El-Rufai within a week of assuming office, President Obasanjo's priorities for the FCT minister to focus on were spelt out:

- Reducing corruption in public administration
- Computerizing the land registry
- Enforcing the Abuja Master Plan for urban development
- Policing development standards
- Controlling and eliminating squatter settlements
- Improving sanitary systems and greening
- Increasing participation of the private sector in development
- Improving funding and performance of schools

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<sup>10</sup> Olusegun Obasanjo (2003): Agenda for the FCT - Letter to the Minister of the FCT, reference PRES/83 dated 17th July, 2003.

- An aggressive campaign to fight the HIV/AIDS pandemic.

El-Rufai undertook these initiatives within the constitutional and statutory frameworks of the Land Use Act and the Federal Capital Territory Act, and sought to do so in full accordance with the law. The challenges his administration faced were considerable:

- A few powerful Nigerians, particularly within the political and military elites, had been allocated prime real estate in Abuja which remained undeveloped for years, hindering the FCT's economic growth goals.
- While grant terms required development of land within two years (absent physical or technical hindrances) many title-holders held on to these Abuja plots beyond this period, and later selling them at a significant mark up.
- While title-holders held on to these undeveloped plots, more than 85,000 applicants for land remained waitlisted. (*See Report of the Ministerial Committee on Land Use in the FCT – April 2003, and Hand-Over Notes by the Outgoing Minister of FCT – June 2003*)
- Abuja's physical development stalled, rental levels soared higher than those in Lagos and a handful of connected people became enormously wealthy. Meanwhile, most speculators did not even pay their annual ground rents, which payment was a condition for continued retention of their titles.
- Many government departments and agencies have been concurrently involved in dealings in land, often in an uncoordinated and unrecorded process which disregard the provisions under the Land Use Act delegating such responsibilities only to the Minister of FCT in Abuja.
- Government staff consistently diverted allocations, hid files to facilitate multiple re-allocations of the same plot of land to more than one person, and allocated plots intended for government use to individuals and companies. Federal civil servants lobbied and bribed officials in the Office of the Head of Civil Service of the Federation to be posted to jobs with authority over land allocation, and those who were successful often returned favours by facilitating allocations to the officials who helped them secure their jobs. (*Report of Ministerial Committee on the Computerisation of Land Records in the FCT – March 2004*).
- Some of these land allocations (leaseholds) found their way into a de facto black market inside the Federal Capital Territory Administration in which these property titles were traded.

#### **El-Rufai as Minister of FCT: 2003-2007**

El-Rufai implemented a Strategic Development Plan designed to halt and reverse the "Lagosification" of Abuja. The plan addressed the priority areas that had been defined in the President's letter of July 2003. One key goal was to achieve certain "quick wins" in order to signal the new territory-wide change in orientation. In this respect, El-Rufai took aggressive measures on debt issues, overdue pension arrears, and public administration reforms, including staff audits to remove "ghost workers" from payrolls.

His administration sought to streamline the bloated bureaucracy that had developed in the FCT, deploying modern information technology across an administration that initially had 400 computer workstations for over 20,000 staff. El-Rufai reorganized civil service compensation from a manual system rife with corrupt practices to a rigorously controlled and transparent system benefiting from information technologies.

With strong support from the President and leading members of the Administration, El-Rufai took immediate action toward sustainable, longer-term solutions<sup>11</sup>:

- Setting up several expert committees to study the problems noted above and to make recommendations.
- Seeking assistance from the Police, Independent Corrupt Practices and Other Related Offences Commission (ICPC) and the Economic and Financial Crimes Commission (EFCC) to investigate cases of corruption in land matters. The FCT became one of the first federal government agencies to have a resident EFCC branch to handle such matters.
- Centralising land allocation administration under one office, the Abuja Geographic Information System (AGIS), and abolishing disparate and confusing departmental discretions over land deals.
- Mandating a task force to computerise the land registry and all land-related records. During the first ten months of computerisation, new land grants were suspended, except for critically urgent commercial or public building needs.
- Reviewing development control regulations, ground rents, compensation rates and other land use charges which had remained unchanged since the early 1990s.
- Reviewing the planning of satellite towns and resettlement policies.
- Pursuing private participation in the development of urban infrastructure and outlying areas as well as a mass housing programme.
- Allocating funds gained from reduced overhead expenditures to pay down debts owed to more than 500 small and medium sized contractors, owed less than N10 million.
- Implementing urban improvements from postal addressing standards to measures for speedier traffic flow, new public transportation infrastructure and better waste management
- Securing foreign direct investment of \$20 million for the mining of tantalite in FCT with state-owned Abuja Investment Company Limited as junior partner and facilitator.
- Hastening the provision of needed infrastructure for the permanent site of the University of Abuja, and collaborating with the Nelson Mandela Institute to establish the first campus of the African Institute of Science and Technology in Abuja.

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<sup>11</sup> Federal Capital Territory Administration (2007) - Hand Over Report of the Minister of the Federal Capital Territory to the President-Elect, Umaru Yar'Adua (April 2007).

- Accelerating development of parks and recreational facilities throughout the FCT.

### **The Accelerated Development Programme**

With land reform viewed as a key driver of development, in 2004 El-Rufai created and began implementation of the Accelerated Development Programme (ADP). The ADP was designed to fast track development and completion of buildings in phase 1 and parts of phase 2 of the FCT. Investors were invited and encouraged via adverts in all national newspapers to participate in the programme. Unlike previous allocation processes, the ADP set specific objective criteria for developing and allocating land. When the programme began, hundreds of entities held land allocations but had failed to fulfill their obligations to develop the properties. Title owners had the opportunity to demonstrate compliance with the rules, and the bidding was also opened to the general public. Non-compliant entities had their land revoked and re-allocated to successful applicants under the ADP.

With the participation of more than 4,000 entities, the ADP was a success. It developed previously idle lands in accordance with a Master Plan, spurring growth in Abuja. Perhaps even more importantly, the ADP provided an opportunity for ordinary citizens of Nigeria and companies without political connections to qualify for land use benefits on the basis of objective criteria rather than arbitrariness and corruption. The transparency and openness of the ADP typified the approach adopted by El-Rufai in all land allocation matters considered during his tenure as FCT Minister, signifying a radical departure from the past.

### **Elite Anger with El-Rufai's Land Reform**

El-Rufai's management of the FCT's land reform rules was in many ways unprecedented. A number of the country's elites had become accustomed to favouritism in the application of such guidelines, in which the well connected were allowed to bend the rules, and develop or sublease land on the basis of fraudulent documentation while the government looked the other way. His administration was strictly instructed to enforce the rules of revocation without favouritism or privilege, an example proven by the fact that El-Rufai's own plot of land in Asokoro, allocated to him by then-FCT Minister General Mamman Kontagora in 1998, was approved for revocation. It was soon clear that the new Minister of the FCT didn't play under the old rules, and this provoked the anger of some large landholding elites.

Through his stewardship of the land reform process in Abuja, El-Rufai worked toward the key issues to improve transparency, including the reduction of discretion of government officials. In many areas of public affairs in the Nigerian political model, corruption is often a by-product of discretion, while the nearly absolute discretion exercised by the presidency is the Achilles heel of the country. Under the extant Land laws of Nigeria, the Minister or Governor of a state enjoys virtually absolute discretion in the allocation of land. Even in the case where Governors are obliged under the law to set up Land Use Committees to advise on land matters to the governor, that provision does not reduce the powers of the governor to make discretionary allocation, which often leads to favoritism toward related parties and other cases of corruption.

In the FCT, El-Rufai took the unprecedented step of working with his cabinet in the Federal Executive Council to enact delegated legislation to guide land administration. Among other policies, he recommended a modification of the absolute discretion of the FCT Minister in land allocation by



limiting his discretionary allocation from 100% to 20%. The FEC approved allocation of land in the FCT based on defined criteria and limited discretion as follows<sup>12</sup>:

- Every Nigerian citizen above 21 years/company with Directors above 18 years is qualified for at least ONE plot.
- Valid and subsisting application with payment of charges.
- For residential land the criteria shall be:
  - Equality of States: 60%
  - Population: 10%
  - Public Servants in FCT: 10%
  - Ministerial Discretion: 20%
- Equality of States is not equality of allocation but dependent on applications received.
- Capacity to develop is the key criterion as Abuja needs to be developed rapidly.
- City and Satellite Town allocations are dependent on financial capacity evidenced by income levels.
- Non-residential allocations shall be based on need and capacity to develop.

It is the practice for public servants and high-ranking government officials to exercise the discretions under the powers of their office to enrich themselves through the use of front companies, fake names and names of close associates and even deceased family members. It is the refusal to do this but to comply with the criteria approved above that became the kernel of the elite anger against El-Rufai - one of the charges against El-Rufai, as will be evident later.

El-Rufai therefore oversaw the implementation of a fair and organised process to handle land allocations and development permits. Upon transmission of revocation notices, appeals for reconsideration were received and assessed. An appeals committee was established to receive revocation appeals, undertake field verifications and to make recommendations to the minister – through which nearly 400 titles were reinstated.

Revocations could result from a variety of violations: failure to pay rent, utilities, or to develop the property within two years. But titles were also revoked for more serious causes as well. Numerous plots were held under fictitious names. The FCT discovered that many senior public officials held undeclared properties; while other titles were found by the local EFCC branch to be used for money laundering purposes.

When the FCT began to root out these problems through a **title recertification process**<sup>13</sup>, some 6,000 plots went unclaimed. Most of those who declined to come forward were believed to have fallen within the categories described above. There were also legitimate reasons, such as lost certificates, deaths of title holders, estate issues, and similar problems, which were considered on a case-by-case basis after the expiration of the deadlines.

The benefits to Abuja from this FCT program were immediate, including more investment, a boost in employment in construction and related services, fewer fraud problems, more affordable rents for citizens and businesses, and stronger property rights. However, the number of disgruntled elites

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<sup>12</sup> See for example the Federal Capital Territory Land Use Regulations 2004, FCT Change of Land Use and Density Regulations 2007, and the policy positions in the **FEC Memo EC(2004)138 of 19<sup>th</sup> July 2004 and FEC Conclusions** arising therefrom.

<sup>13</sup> On the completion of the Computerization of the Land Register, the FCT Administration launched the Recertification Process. This required all title holders in FCT to present their documents for recertification in order to fish out several suspected forged title documents. The process went on for 12 months and was free of cost to title holders. It was time-bound to enable fraudulent title holders to be identified.

who had had their illegal properties taken away grew in number, and they began to organize their influence in government against the reform process.

## **II. Backsliding Under the Yar'Adua Administration**

### **The Attack against El-Rufai Begins**

On May 29<sup>th</sup>, 2007, the Governor of Katsina Umaru Yar'Adua assumed the office of the presidency after Obasanjo stepped down from his attempts to run for a third term. Almost immediately after the Yar'Adua administration took power, authorities began targeting certain former Obasanjo officials, with El-Rufai at the top of the list along with other leading reformers. Among the incidents that the former Minister of the FCT has had to confront, explained in greater detail later in the paper, are the following:

- **Invasion and Intimidation.** In June 2007, police surrounded and invaded El-Rufai's house without any legal cause, in the first of many attempts to intimidate and threaten El-Rufai, his family and former staff. The authorities eventually withdrew, and El-Rufai filed a lawsuit<sup>14</sup> alleging violation of his fundamental rights. The suit is still in court.
- **Blame for Litigations against FCT.** El-Rufai's successor at the FCT alleged that the more than 600 outstanding litigation cases against the FCT that he inherited were proof of El-Rufai's negligence and malfeasance as head of the FCT. In fact, a large majority of these cases pertained to disputes predating El-Rufai's tenure<sup>15</sup>.
- **Pendam Dam.** In July 2007, the Pendam Dam land matter was the object of a bizarre attempt at populism by the new Yar'Adua government, which announced the decision of the cabinet to approve the revocation of 45 plots which had already been revoked during El-Rufai's tenure as Minister of the FCT. The revoked plots were owned by prominent citizens, including President Yar'Adua and several former governors. El-Rufai revoked the plots because they were located on the flood plains of the Pendam Dam – which was a considerable public safety issue in case of an accident. The repeated revocations were meant to portray the new president as someone unafraid to move against his own interests. However his assets declaration statement of June 2007 did not list his Pendam plot, a clear indication that he knew it had already been revoked and replaced with a new plot elsewhere in Abuja.
- **Senate Committee Hearings.** The Senate joint committee on the FCT and Housing conducted investigative public hearings into the affairs of the FCT. Although the probe was advertised as covering the period of 1999-2007, correspondence between the Senate Committee and the new FCT authorities reveal that the committee was solely interested in probing the El-Rufai years at the FCT, that is 2003-2007.<sup>16</sup> The hearings were characterized by hostility from the committee and statements that indicated that they had made up their minds against him. The committee recommended that El-Rufai be barred from holding public office, and that he be made to account for N32 billion allegedly missing from the proceeds of the sale of Federal Government houses. The full Senate approved the recommendations but ruled that only the courts have powers to disqualify anybody from

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<sup>14</sup> *El-Rufai v. EFCC, Attorney-General of the Federation, and Others* - Suit No. **FHC/ABJ/CS/669/08**. Ongoing.

<sup>15</sup> In a curious turn of events, the number of lawsuits against the FCT has now reportedly increased to over 2,000 by the end of June 2009, according to the Chief Judge of the FCT in his annual report of judicial activities for 2008-2009.

<sup>16</sup> See p.10, *Sunday Tribune*, 6 April 2008; p.8, *Thisday*, 6 April 2008 and p.13, *Sunday Punch*, 6 April 2008.

holding office. The Senate debated the committee's report despite the pendency of a suit challenging it. The Yar'Adua government was quick to latch on to the report as a basis to continue the persecution of El-Rufai. The entire proceedings were accompanied by a coordinated media campaign intended to damage El-Rufai's reputation on television, and in the broader press before any individual had even given testimony.

### **Yar'Adua's Embrace of Indicted Politicians**

The state's campaign of persecution against El-Rufai and the other reformers was one thing, but the clearest sign to emerge from the Yar'Adua Administration confirming return to the culture of corruption was the President's protective embrace of indicted persons.

It is a well-known fact in Nigeria that some former governors, many with pending criminal cases, remain powerful confidants of the president. For instance, the arrest and arraignment of former governor James Ibori, in December 2007, is known to have been the trigger for the firing of Nuhu Ribadu, the internationally renowned head of the EFCC.<sup>17</sup> The government of Nigeria, through its attorney-general, Michael Aondoakaa, has done everything within its power to frustrate Ibori's UK prosecution for money-laundering by the London Metropolitan Police. Ibori remains one of the most influential persons in the current government, and has installed David Edevbie (his former commissioner for finance who is implicated in one of his several money-laundering cases) as the principal secretary to the president, a position in which he functions as the virtual chief of staff to the president of Nigeria.<sup>18</sup> Ibori also secured the appointment of Lulu Enaboifo<sup>19</sup>, a convicted fugitive from US justice as head of Nigeria's joint commission with Sao Tome, a body that manages the vast hydrocarbon reserves in that part of the Gulf of Guinea.

In an interview on 30th April 2009 with the Guardian newspaper of Lagos<sup>20</sup>, President Yar'Adua defended his ties to these persons, explaining that he could not turn his back on his former governor colleagues:

*"It is not about them being close to my government. Not my government. It is between me and them, the ex-governors. You see, these former governors are my colleagues. We had worked together for eight years. Because I am the President, I cannot just jettison people I know. I am always very careful to separate my personal relationship with people from my state duties. What people usually perceive of the leadership does not determine the way I do things, both officially and personally."*

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<sup>17</sup> "Nigeria Reassigns Top Corruption Fighter," New York Times, Dec. 29, 2007

<http://www.nytimes.com/2007/12/29/world/africa/29nigeria.html?scp=2&sq=nuhu%20ribadu%20efcc&st=cse>

<sup>18</sup> David Edevbie has now been named as co-defendant in a fresh case in London Crown Court - of money laundering involving two former Governors from Niger Delta – James Ibori and Victor Attah. See "David Edevbie Wanted for Trial in London" in [http://www.saharareporters.com/index.php?option=com\\_content&view=article&id=3699:-david-edebvie-wanted-for-trial-in-london-saharareporters-stands-by-its-story&catid=1:latest-news&Itemid=18](http://www.saharareporters.com/index.php?option=com_content&view=article&id=3699:-david-edebvie-wanted-for-trial-in-london-saharareporters-stands-by-its-story&catid=1:latest-news&Itemid=18), accessed October 12, 2009

<sup>19</sup> "Fugitive Fraudster Enaboifo Becomes Executive Director of Nigeria-Sao Tome Joint Venture" as reported [http://www.saharareporters.com/index.php?option=com\\_content&view=article&id=639:fugitive-fraudster-enaboifo-becomes-executive-director-of-nigeria-sao-tome-joint-venture&catid=1:latest-news&Itemid=18](http://www.saharareporters.com/index.php?option=com_content&view=article&id=639:fugitive-fraudster-enaboifo-becomes-executive-director-of-nigeria-sao-tome-joint-venture&catid=1:latest-news&Itemid=18)

<sup>20</sup> "Yar'Adua: Between me, my friends and the fight against corruption," The Guardian, 30 April 2009, [http://www.nguardiannews.com/focus\\_record/article01//focus\\_record/article01/300409](http://www.nguardiannews.com/focus_record/article01//focus_record/article01/300409)

## **Reversal of Land Reforms in FCT**

In what would be an unfortunate reversal of El-Rufai's achievements, his successors have made title recertification a continuous exercise. Illegal under current regulations and counterintuitive from a policy standpoint seeking to entrench land rights, such a development would benefit the many remaining fraudulent title-holders in governmental and other societal elites. With the recertification of land titles operating on a rolling basis, there would be new opportunities for speculation and laundering of illegal titles.

These opportunities would no doubt be accompanied by an onslaught of conflict and litigation between the authorities and current holders of valid and subsisting titles. Other measures implemented by El-Rufai's successors include the reinstatement of plots revoked in districts with no infrastructure, the reinstatement of certain plots subject to the payment of levies, and the reinstatement of revoked titles and payment of compensation to people who commenced development of plots after revocation. Such measures now signify a broad rollback of many of the successes of El-Rufai's tenure.

### **The Rosehill – NIPOST Episode**

The attacks against El-Rufai took another course in October 2008 when the EFCC sent a written demand that El-Rufai appear before the Commission to explain his treatment of two parcels of land during his tenure as FCT Minister – one allocated to the Nigerian Postal Service (NIPOST), and the other to the Power Holding Company of Nigeria (PHCN). The NIPOST land had been the subject of complaint years earlier in 2005 by Rosehill Group Limited ("Rosehill"), a local real estate developer, which believed it had been slighted in the allocation process.

At that time, the Nigerian authorities correctly recognized the lack of merit in Rosehill's complaints, but when the current government took power and began to safeguard against any possible resurgence of the reform movement, the new leadership at the EFCC resurrected Rosehill's allegations and began to use them as a justification to pursue a criminal prosecution against El-Rufai after a determined search failed to find a scandal.

An examination of the facts of the case shows that Rosehill's allegations against El-Rufai are groundless. To begin with, Rosehill had no title whatsoever to the land in question. The land (Plot 3352 A06) was allocated to NIPOST on the 23<sup>rd</sup> of August 1994 with specific conditions that the land shall be (i) used exclusively for District Post Office and no other use, and (ii) developed within 2 years of acceptance of grant. Furthermore, being an allocation in favour of a Federal Government parastatal, the customary application fee, development levy and annual ground rents were waived. Only for Rosehill to claim to have entered into a joint venture agreement with NIPOST almost 10 years later and purportedly obtained a 'Development Permit' in June of 2004 to build blocks of flats on the same land. It is instructive to note that the Development Permit was allegedly obtained at a time when El-Rufai was charged with the mandate to restore and preserve the Abuja Master Plan and no record of the Development Permit could be found in the relevant or any department of FCT when the matter was first investigated.

### **The Criminal Charges Against El-Rufai**

After nearly two years of endless investigations culminating in the "Senate Report," the government filed charges against El-Rufai. The charges on the basis of which the government claims to seek extradition (see attached copies of the charge sheet and Rosehill letter in the Appendices), EFCC

reopened the Rosehill complaint under the guise of a corruption inquiry. The result is an eight-count charge alleging abuse of office and conferring "corrupt benefit" of approving the allocation of plots of land - to *underserved persons* - an offence under Nigeria's anti-corruption laws.<sup>21</sup> The criminal charge itself is indeed curious, primarily because under Nigerian law, civil courts are deemed the appropriate venues for redress on land claims – a precedent firmly set by the fact that both Rosehill and NIPOST are pursuing claims in the civil system<sup>22</sup>.

There are also questionable grounds for the government's use of a politically motivated Senate Report as the abnormal underpinning of the criminal charge, which poses a gross abuse of due process. Not only does such an incident violate the executive-legislative separation of powers, but also because the so-called Senate Report<sup>23</sup> is being challenged in Court as an illegal product of a hearing that violated the fundamental principle of justice – *nemo judex in causa sua*: no one sits in judgment on a case in which he has an interest. The evidence of bias and conflict of interest on the part of some of the members of the senate committee that conducted the hearing is freely and publicly available.<sup>24</sup> Thus, the EFCC action is at best *sub judice* if not *sub juris*. This is a clear manifestation of persecution rather than prosecution from a government that prides itself on the 'Rule of Law'.

Furthermore, Mr. Olurotimi Akeredolu, president of the Nigerian Bar Association and El-Rufai's lead counsel in this case, has already dismissed the charges. In a statement released to the Nigerian press on April 16, 2009, Mr. Akeredolu said that "on a cursory look at the charges, it is crystal clear that it is a desperate move on the part of the Government to nail Mallam Nasir El-Rufai and stifle alternative opinion in the land. It is a known fact that all the beneficiaries of the alleged allocations of land in the FCT are ordinary Nigerians constitutionally entitled to a parcel of land in the FCT."<sup>25</sup>

While these cases are going slowly through the legal system, what has also occurred in the courts of law and public opinion has vindicated El-Rufai's policies and decisions.<sup>26</sup> The State Governor of Anambra, Peter Obi lost his plot of land due to failure to develop within the statutory time frame. He challenged El-Rufai's decision in an Abuja High Court. The Court ruled that the revocation was properly done and Governor Obi lost<sup>27</sup>. Former Minister of Aviation Chief Oluwale Adeosun had a plot revoked due to non-development over 10 years after allocation. He sued El-Rufai personally when he was no longer Minister for improper exercise of power and sought damages. The Abuja High Court gave judgment against Chief Adeosun<sup>28</sup>.

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<sup>21</sup> See **Federal Republic of Nigeria v. El-Rufai and 2 Ors.** Federal High Court, Abuja.

<sup>22</sup> See Suit No. **FCT/HC/2736/07: NIPOST, Rosehill Group Ltd, and Madeira Properties Ltd. v. Minister of FCT and Systems Property Development Consortium Ltd.**

<sup>23</sup> See **El-Rufai V. Senate of the National Assembly of Nigeria and 5 Ors.** (Federal High Court, Abuja) - Judgment reserved for September 30, 2009 but twice postponed to December 2009.

<sup>24</sup> For example three of the most vociferous anti-El Rufai members of the Senate Committee - Sen. Sodangi (the chairman) lost four 'corner shops', Sen. Adeyemi had two of his plots revoked for non-development and Sen. Okechukwu Obiorah lost a plot he acquired in Asokoro that had forged title documents. These interest were not declared as required by the Standing Rules of the Senate.

<sup>25</sup> "Nigeria: El-Rufai - I'm Not Seeking Asylum", *This Day*, p. 1, 6; Kingsley Nwezeh, 17 April 2009, <http://allafrica.com/stories/200904170007.html>; the statement was also published on the same date in two other major Nigerian newspapers *Punch*, p.8 and *The Nation*, p.11.

<sup>26</sup> See for instance the judgment of Talba, J and reported in *The Nation* of 6th February, 2009 - "El-Rufai: Court upholds sale of Abuja plots" on [www.nationonlineng.com/print.asp?PrintId=76515&menu=](http://www.nationonlineng.com/print.asp?PrintId=76515&menu=) accessed on February 2, 2009.

<sup>27</sup> As per Senchi, J and reported in the *Daily Trust* of November 17, 2008 - "FCT Minister Wins Case over Gov Obi's Land".

<sup>28</sup> Suit No. **FCT/HC/CV/631/09 - Chief Oluwale A. Adeosun v. Nasir El-Rufai** - judgment given on October 7, 2009 (Unreported).

## Alleged Disappearance of N32 Billion

Along with the Rosehill-NIPOST affair, there have been other attempts by the state to attack El-Rufai's reputation, including the allegation that when he left his position as Minister of the FCT, that N32 billion "was unaccounted for" - implying that the sum had gone missing, allegedly embezzled from the sale of Federal Government houses in Abuja. As in the previous episodes, the accusation is without foundation, groundless and mendacious.

The government is well aware that when El-Rufai stepped down from his position at the FCT, all accounts were audited by respected accounting firms (Deloitte and Aminu Ibrahim)<sup>29</sup> and not a penny was reported missing. This fact was attested to by Mr. Remi Babalola, Minister of State for Finance, in November 2008 when he announced the retrieval of N46 billion from the banks in which they had been deposited by El-Rufai's successor, Aliyu Modibbo<sup>30</sup>. The fact, as detailed below, is that the FCT dutifully accounted for the proceeds of the sale of government houses.

The committee for the sale of FGN Houses in the FCT functioned under El-Rufai's chairmanship between 2005 and May 2007. The sales processes were handled by public servants and all the proceeds of sale were collected by the Chairmen of the Ad-Hoc Committee (Dr. Abdu Mukhtar and Mr. Abbas Umar – who are still in the service of the FCTA). The FCT Director of Treasury, Mr. Ibrahim Ibrahim Habu Sule handled all financial matters relating to the proceeds of sale. He was still in the service of the FCTA at the time of the allegations, but was never requested for his views.

The gross receipt as at May, 2007 stood at N55.88 Billion<sup>31</sup>, from the seven rounds of public biddings. Walk in sales was also conducted in May, 2007. These accounts were jointly audited by Akintola Williams, Deloitte, Touche and Aminu Ibrahim & Co., and submitted to the Incoming Administration<sup>32</sup>.

It seems that the genesis of the alleged missing N32 Billion stems from the report of FCT Senate Committee that conducted public hearings on FCT Administrations (1999 – 2007). On page 44 of its report the committee claimed that:

*"also on sale of FGN Houses, the total receipt is N96.7 Billion and deductions were N34.2 Billion and the balance was given as N62.198B The Bank statements show only N29 Billion, leaving a balance sum of N32 Billion unaccounted for despite all demands from him Nasir Ahmed El-Rufai and his officers."*

These statements are false, and El-Rufai has challenged the validity, fairness and legality of the entire report, in the Federal High Court.<sup>33</sup> No one ever requested the officers named above (still in FCTA's service, and not "El-Rufai and his officers") to provide any information which was not furnished.

<sup>29</sup> See Deloitte, Akintola Williams & Co., and Aminu Ibrahim & Co. (July 2007): Joint Audit Report on the Sale of Federal Government Houses in FCT as at 31st March, 2007.

<sup>30</sup> See for instance: *The Guardian* of 24th November, 2008 - "**Govt Recovers N46b from sale of FCT Houses**" by Mathias Okwe, on [www.ngrguardiannews.com/news/article03//indexn2\\_html?pddate](http://www.ngrguardiannews.com/news/article03//indexn2_html?pddate) - accessed on October 12, 2009. This was also reported by several national newspapers on the same date - including *Thisday*, *The Punch*, *Leadership* and *Vanguard*.

<sup>31</sup> See "Hand-Over (Status) Report of the Ad-Hoc Committee on the Sale of Non-Essential Federal Government Houses in Abuja, FCT" dated 21 May 2007 (FCTA, Abuja)

<sup>32</sup> See Deloitte, Akintola Williams & Co., and Aminu Ibrahim & Co. (July 2007): Joint Audit Report on the Sale of Federal Government Houses in FCT as at 31st March, 2007.

<sup>33</sup> Suit No. **FHC/ABJ/69/08 - El-Rufai v. EFCC and 12 Ors**. This suit seeks a declaratory judgment that not a penny of the N32 billion purportedly "unaccounted for" is missing, but was actually fully accounted for and audited. The Defendants include the Joint Auditors, the Central Bank of Nigeria, Accountant-General of the Federation and the Minister of Finance.

It is clear that the Senate Committee reached its conclusion based on a submission of the FCT Ad-hoc Committee on sale of Government Houses, containing updated records of transactions up to April 2008. By this submission, total receipts have grown from about N55 billion to N96.74 Billion, over 73% from the situation in March, 2007. Most of these collections were made in the nearly one year that Nasir Ahmad El-Rufai was no longer Minister of FCT.

Neither the Senate Committee nor the EFCC, or any other body requested El-Rufai to clarify or explain any issue relating to proceeds of sales of FGN houses at any time before, during or after the public hearings. Even if they had, he could have only accounted for what happened when he was the minister, and certainly not thereafter.

The submission of the FCT Ad-hoc Committee on sale of FGN houses to the Senate Committee clearly accounted for the N96.7 Billion received at April, 2008 (and El-Rufai has nothing to do with collections beyond May, 2007) as the following data shows:

S/No.	Item		Amount
	Deductions		
1	Total Receipts		<u>96,736,323,257.76</u>
2	Transfer to CBN (75%)	19,145,104,978.97	
3	Transfer to FCT (25%)	6,381,701,659.66	
4	Expenses	1,819,889,739.02	
5	Refunds (to 2,191 persons)	6,734,636,354.26	
6	Returned Drafts and Bank Charges	214,423,222.66	
7	Total Deductions		34,295,755,954.58
8	<u>Available Balance</u>		
	a) General Accounts	45,410,268,273.50	
	b) Facility Accounts	17,019,170,447.53	
	c) Un-banked Drafts	57,910,800.00	
	Sub Total	62,487,349,521.03	
	d) Application Fees	11,128,582.15	
			62,498,478,103.18
	Grand Total		N96,736,323,257.76

*Source: Interim Report of the Senate Committee on the FCT (2008) - Unpublished*

It is clear that there was no basis for the Senate Committee to declare N32 Billion “unaccounted for”, and even if there are explanations to be made, it is for those in charge after May 2007 to do so. In the face of this evidence, one can reasonably assume that the knowingly false accusation against Nasir El-Rufai for any disappearance of state funds is part of an attempt to smear his reputation, not pursue any real crime.

What is weird here is that after the above draft "Interim Report" was leaked to the media and this information and allegations attracted a lot of media attention and El-Rufai painted as involved in embezzlement - the entire section and numbers were completely omitted from the "Final Report" presented to the Senate plenary. By then of course, El-Rufai had filed his suit and the Committee knew it had no case, but had achieved its objective - smear El-Rufai in the media and the public's mind - without regard to facts, logic or truth.

No further evidence of this smear is needed other than the fact that to date, neither the EFCC nor the Attorney-General of the Federation have filed any charges alleging that a single penny of the proceeds of the sale of houses is missing. Instead, the Nigerian authorities have continued to

anonymously repeat the allegations in the print media - always citing "reliable sources" but never attributing to an official who can be impeached or sued for defamation. This Gobbelsian style of trial by repeated innuendo and falsehood has become Yar'Adua administration's interpretation of commitment to the "rule of law".

### **A Multi-front Attack**

An interesting feature of the diverse, multi-front attack campaign against El-Rufai is that all of the actions share a common point of origin: the manufacture of false scandals emanating from the presidential administration and its representatives in the Senate. Take for example the allegations brought by Rosehill, which although they were disregarded by the Nigerian authorities when they were made, the current administration in Nigeria sees them as a useful tool in its campaign to tarnish El-Rufai's reputation.

The process of the manufactured scandal has unfolded in a truly Kafka-esque fashion. In June 2008, officials of the EFCC visited El-Rufai at his home in Abuja and interrogated him regarding the NIPOST and PHCN land allocations. They gave El-Rufai a questionnaire, which he completed. By the following October, the EFCC demanded that El-Rufai personally appear to answer further questions about his decision regarding the NIPOST land allocations. El-Rufai – who at the time was attending a Masters program at Harvard University – requested that the EFCC state its concerns in writing, to which he offered to respond promptly. The EFCC's answer came in the form of a simple ultimatum that he appear in person within two weeks or be declared a wanted man.

In advance of the EFCC's deadline, El-Rufai filed a lawsuit against the EFCC<sup>34</sup>, asserting that decisions regarding land use in the FCT are solely under the purview of the FCT Minister, and that the EFCC lacks jurisdiction over the subject. Among other things, the lawsuit requested that the EFCC be enjoined from proceeding against El-Rufai. However, the very next day, before the court could decide the issue, the EFCC declared El-Rufai wanted with great media fanfare.

This public statement by the EFCC was marked by a significant tactical adjustment. Instead of basing its claim on the NIPOST or PHCN land allocations – the issues for which it had demanded El-Rufai's appearance – the EFCC's public statement claimed that El-Rufai was wanted for an alleged misappropriation of proceeds from the sale of government housing in the FCT. This amount was allegedly some 32 billion naira (about \$246 million). He had never been summoned on this issue by the EFCC. This sudden public declaration by the Commission is as absurd as the previous assertions against El-Rufai. As explained above, all proceeds from the sale of government housing during El-Rufai's tenure were fully accounted for through independent auditing conducted by the two separate accounting firms of Akintola, Deloitte and Aminu Ibrahim & Co.

After he was declared wanted, El-Rufai sought a court-issued declaration that the EFCC's action declaring him wanted was a legal nullity because it violated the common law doctrine of *sub juris* (the matter was subject to a pending court action). El-Rufai also filed a motion for an interlocutory injunction to enjoin the EFCC from enforcing, arresting, or further harassing him in connection with its declaration that he is wanted, until the court case is decided.

Additionally, in September 2008, El-Rufai filed a lawsuit against Rosehill<sup>35</sup> and related parties for defamation. El-Rufai filed action for declaratory relief concerning the EFCC's public declaration that

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<sup>34</sup> Suit No. **FHC/ABJ/CS/669/08 *El-Rufai v. EFCC and Attorney General of the Federation***.

<sup>35</sup> Suit No. **FCT/HC/CV/35/08 - *El-Rufai v. Rosehill Group Ltd.*** - libel suit which has begun in earnest on October 13, 2009 after months of preliminary objections and delays by the Defendant.



he is wanted in connection with the alleged misappropriation of 32 billion Naira<sup>36</sup>. The action will seek a declaration that the funds are not in fact missing. Public accounting records demonstrate that there is no basis for any alleged shortfall in funds attributable to El-Rufai – and indeed any shortfall that exists would have developed after El-Rufai was out of office and the relevant accounts were under the control of his successors.

The most important development in El-Rufai's suit against Rosehill came in late July, 2009, when the defendant came forward in open court, and approached the plaintiff's counsel offering an out-of-court settlement. Though Rosehill has withdrawn the approach for the second time, the initial move indicates beyond the shadow of a doubt that not even Rosehill believes in the criminal complaint, which has been hijacked by the government to pursue El-Rufai.

### **Sale of Former Guests Houses of the Vice President**

One of the recommendations of the Senate Committee on the FCT was to revoke the sale of 3 former Guest Houses of the Vice President approved by both Obasanjo and Yar'Adua for El-Rufai and two other political office holders. Although El-Rufai presided over the sale of over 32,000 Federal Government Houses under the Sale of Government Houses program, he is being persecuted for buying one house. El-Rufai and the others have filed cases in court against to stop the FCT and others from repossessing the houses.<sup>37</sup>

### **Assailing the Reformers**

As mentioned in other parts of this White Paper, Nasir El-Rufai is far from the only reformer to become a target of the government. Other prominent members of the reform team that drove policy in Obasanjo's second term have also been subjected to systematic attacks and harassment, such as Ngozi Okonjo-Iweala, former finance minister, and Oby Ezekwesili, also a former minister and pioneer head of the due process office. Both have had to endure efforts to besmirch their reputations, especially during the House of Representative's hearings on the power sector. Nuhu Ribadu, widely regarded as a national hero, was hounded out of his position at the EFCC, shortly after former Governor James Ibori, the president's confidant, was arrested and charged for corruption and money laundering. Ribadu was ordered to proceed to the policy institute in Kuru for further studies, contrary to the provisions of the EFCC Act. A substantive replacement was appointed while he was on study leave, and he was eventually disallowed from graduating at Kuru. Ribadu was later demoted two ranks and dismissed from the police. He fled Nigeria after surviving a second assassination attempt.

Members of the reform team were much acclaimed for their performance in office, and were indeed expected to remain visible in the post-Obasanjo era. That credibility constituted them as a viable alternative and was to render them anathema to the Yar'Adua circle, and none more so than El-Rufai. The government has subjected him to a whispering campaign, accusing him of wanting to be president, threatening the system and not being morally superior to the current rulers of the roost.

Michael Aondoakaa, the attorney-general and minister of justice, summed up the views of the Yar'Adua regime on El-Rufai:

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<sup>36</sup> Suit No. **FHC/ABJ/69/08 - El-Rufai v. EFCC and 12 Ors.** already referred to before.

<sup>37</sup> Suit No. **FCT/HC/CV/1080, 1081, 1075/09 - El-Rufai v. FCTA and 6 Ors., Tijjani Abdullahi v. FCT Minister and 6 Ors.** Suits adjourned till October 27, 2009.

(El-Rufai) "is just looking for cheap attention. But I believe that he has something in mind. Nasir is somebody who thinks he is intellectually above everybody and that is a reason he is bringing that. Nasir is likely to be charged to court on allegation of abuse of office and corruption, which was established by a committee of the Senate. It was live and everybody knows...

"He is aiming at something. He is trying to get political asylum by trying to criticise government that eventually when we charge him to court and make a request from that government for his extradition, he will say it is because he is criticising the government. He is a bit late and he is clever by half. I think that corruption does not mean actually what you think; the worst form of corruption is to distort the system and try to create yourself as God. He tried to create himself as a God. He has no moral standing to criticise Mr. President. **He wanted to be Mr. President, to be President himself.** He has no moral standing to go behind the back and cripple the system and turn round to accuse anybody. He was only playing to the gallery. **He and his cohorts have contributed to ruining the country. I can't see any single individual, even in the market square, once you create an empire to live above the law, that is simply what they did.**"<sup>38</sup>

Aondoakaa himself has recently come under severe criticism from observers for the political favoritism he has exercised through his powers as Attorney General. On Friday, Sept. 25, 2009, the media reported on a statement from the Nigerian Bar Association, which characterized Aondoakaa's persecution of the reformers as "a monumental embarrassment to the legal profession." Mr. Oluwarotimi Akeredolu, in his capacity as President of the NBA, stated the following:

"The NBA views the current controversy and cycles of conflicting statements and denials between the office of AGF and EFCC as embarrassing. It can only serve the purpose of those through whose sordid deeds the country lies prostrate. We cannot on one hand be seen to be protecting the kleptocratic elite for whom corruption is a way of life and on the other hand claim we are unequivocal in the fight against corruption. The NBA feels it is time to rethink this war against corruption and combat the scourge headlong."

"It is in view of these that the bar considers the current controversies surrounding the prosecution of certain former public office-holders under this present government and the roles ascribed to the AGF as embarrassing. "It is unfortunate that governance in Nigeria has been reduced to such a level that government leaders who should know better do not seem to realise that conflicting statements between one department of government and the other do not present Nigeria in a good light before the international community".<sup>39</sup>

Beyond the interference in the legal and law enforcement spheres, the government's attacks have also roiled the country's diplomatic community. Over the course of 2009, the State's campaign of persecution against El-Rufai manifested itself in an openly discriminate and personal fashion, culminating with a series of events in September and October. In early September, El-Rufai applied online, as required by the Immigration service, to the High Commission for Nigeria in London, United Kingdom to renew his passport, and additionally held a meeting with Mr. Garba Zakari, head of the Immigration section, on September 10 to discuss his application. Four days later El-Rufai was informed that Zakari had referred his passport application to the Nigerian Intelligence Agency

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<sup>38</sup> *The Guardian*, 16 April 2009 See for instance:

[http://www.nguardiannews.com/news/article01//indexn2\\_html?pdate=160409&ptitle=Govt%20to%20raise%20panel%20over%20Halliburton%20scam](http://www.nguardiannews.com/news/article01//indexn2_html?pdate=160409&ptitle=Govt%20to%20raise%20panel%20over%20Halliburton%20scam)

<sup>39</sup> "Aondoakaa, A Disgrace – NBA," by George Agba, *Leadership Nigeria*, Sept. 25, 2009.

<http://www.leadershipnigeria.com/index.php/news/cover-stories/6389-aondoakaa-a-disgrace--nba>

(where he formerly worked as a station chief), and that a high-ranking security officer referred the matter directly to President Yar'Adua, who personally issued instructions to the High Commissioner in London that no passport renewal was to be issued to El-Rufai under any circumstances.

Included in Appendix VI is a copy of a signed directive from the Nigerian Ministry of Foreign Affairs and telegram instructing all missions to arbitrarily deny consular services and rights to both Nasir El-Rufai and Nuhu Ribadu. The document states that El-Rufai was behind an "unyielding campaign of calumny" in reference to his criticism of the leadership<sup>40</sup>, and indicates that the decision was made "at the highest level" of government.

The government's refusal to renew El-Rufai's passport represented violations of his rights under the International Covenant on Civil and Political Rights, Universal Declaration of Human Rights, African Charter for Human and People's Rights, ECOWAS law, and Nigerian law. Defense counsel representing El-Rufai sent a letter vigorously asserting his right to consular services as a Nigerian citizen to the United Nations Human Rights Committee, dated Oct. 6, 2009.<sup>41</sup> Under mounting pressure, the government reversed their decision and re-issued El-Rufai's passport on Oct. 20, and then fired the Director General of the Nigerian Intelligence Agency, Emmanuel Imohe, as a face-saving measure.<sup>42</sup>

However, before the passport situation was resolved, a separate incident occurred which sent a strong message about the government's intentions. On September 28, El-Rufai's wife and three children were flying home to Nigeria via the Lagos International Airport from Dubai, when upon arrival the authorities detained them, seized their passports, and held them against their will without explanation in a clear gesture of intimidation.<sup>43</sup>

These incidents of prejudicial consular interference and harassment of family (including young children) are just two examples of the ugly tactics used by this government in their campaign to dissuade El-Rufai from returning to Nigeria. It is clear from this that the motivation behind the attacks on El-Rufai<sup>44</sup> (and the other members of the reform team) is because the current president views any previous 'ambition' and the future political prospects of any individual or group as crimes against the State. And anyone remotely suspected of being a political competitor must be attacked, smeared and destroyed without regard to truth, logic or reality.

El-Rufai and the reform team represent the best hope for Nigeria to be back on the trajectory of good governance, development and justice for the benefit of a majority of the people. The failure of the Yar'Adua administration to deliver on these expectations since coming into office in 2007 has exacerbated its sense of insecurity while intensifying the attacks on those that are seen as credible alternatives. That is the story of El-Rufai.

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<sup>40</sup> Many observers point to the widely circulated article authored by El-Rufai entitled "Yar'Adua: Great Expectation, Disappointing Outcome" which prompted much of the current political persecution. The article can be found on [www.el-rufai.org](http://www.el-rufai.org).

<sup>41</sup> *The Daily Trust* published an editorial supporting El-Rufai's right to a passport, which summarizes much of this information. <http://allafrica.com/stories/200911060144.html>

<sup>42</sup> "El-Rufai renews passport, savours reward of protest," by Idris Akinbajo, *NEXT Newspaper*, Oct. 21, 2009. <http://234next.com/csp/cms/sites/Next/Home/5472549-146/story.csp>

<sup>43</sup> "El-Rufai's Wife, Children Held at Lagos Airport," by Charles Ajunwa, *This Day*, Sept. 29, 2009. <http://allafrica.com/stories/200909290209.html>

<sup>44</sup> See more recently *Tell Magazine* No. 40, October 5, 2009 - "Nigeria - The Making of a Failed State", pp 20-22 which stated - "El-Rufai's offence is that he was likely to be a presidential candidate in 2007 because he was close to Obasanjo." [www.telling.com](http://www.telling.com)

### III. Conclusion

This white paper presents robust evidence to demonstrate that the systematic character assassination carried out against Nasir El-Rufai is not only unfounded and baseless, but rooted in a political culture of patronage, the same pervasive grand corruption which for decades has damaged the nation's reputation, and held back Nigeria on the bottom rung of developing nations despite its considerable wealth. The current process against El-Rufai and the reformers can be viewed in the broader context of the Nigerian trend of one government swinging toward reform, while the next regresses toward the status quo.

Nigeria's continuing tendency to stifle reform efforts with a regression to the status quo makes it less and less likely that it will ever put itself onto a permanent path of growth. As if to underline exactly this point, Nuhu Ribadu, the former EFCC chief who is another Obasanjo official now being targeted, recently testified to the following before the U.S. House of Representatives Financial Services Committee:

*"As resources are stolen, confidence not just in democratic governance but in the idea of just leadership ebbs away. As the lines of authority with the government erode, so too do traditional authority structures. In the worst cases, eventually all that is left to hold society together is the idea that someday it may be your day to get yours. This does little to build credible, accountable institutions of governance or put the right policies in place."*<sup>45</sup>

As Ribadu also states during this very testimony, however, "corruption is not native to any country." The next section will survey the growing list of independent watchdog groups around the world, describe what it is that each one measures, and attempt to assess just how dire Nigeria's environment is relative to some of its peers.

There is clear evidence that the government of Umaru Yar'Adua has reversed, removed, or inhibited a wide variety of anti-corruption policies which El-Rufai and his reform colleagues had spearheaded, which have had an exacerbating impact on the root causes of the country's weakness. In his interview with the Guardian, President Yar'Adua explicitly stated that, "It is more challenging to face the task at hand than to waste my time trying to investigate what others have done." It is the most direct expression of his government's disinterest in fighting corruption.

Contrary to some arguments by the pro-government propaganda, these reform efforts were widely popular with the Nigerian public, driven by intense frustration and fuelled by generations of overwhelming corruption. While Nigeria's foremost reformers – El-Rufai, former EFCC head Nuhu Ribadu and others – are no longer in positions of authority, the public rejection of corruption is still alive and well. This dynamic makes every public face associated with the fight for reform a potential political threat to any government that wishes to preserve the traditional methods of wealth acquisition in Nigeria.

We are now witnessing the result: using overt executive manipulation, the corrupt accuse the reformers of corruption, turning their very institutions and instruments (EFCC and Senate) into weapons of persecution. Several instances are mentioned throughout this document and are organized more cleanly in the forthcoming timeline section, detailing the manoeuvres that succeeded in removing Ribadu from the EFCC (and the second assassination attempt which forced him to leave the country), and the many steps taken by the legislature and the executive to breach Nasir El-Rufai's rights. In the aforementioned Guardian interview, President Yar'Adua explains his

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<sup>45</sup> Testimony declared by Nuhu Ribadu before the U.S. Congress on May 19, 2009.  
[http://www.house.gov/apps/list/hearing/financialsvcs\\_dem/ribadu\\_testimony.pdf](http://www.house.gov/apps/list/hearing/financialsvcs_dem/ribadu_testimony.pdf)

involvement in the campaign against Ribadu while insisting that his government is only acting against El-Rufai based on the Senate recommendations.

One must also consider the kind of discouraging impact this high-profile persecution must have on other young reformers of Nigeria – a living lesson of what happens when you attempt to fight corruption in a corrupt country. Technocrats desiring to effect real change in Nigeria are no doubt taking note of the backlash both men have endured, and would not be considered unreasonable for reconsidering accepting public office if the experience of Nasir El-Rufai is any indication of what lies in store for them. The withdrawal of such talent would further deplete the pool of Nigerians with the required skills and integrity to set Nigeria on a permanent course of reform. That is perhaps one of the greatest shames of what has happened under the Yar'Adua administration.

The culture of clientelism riddling Nigeria's history is a logical response to the weakness of the state, but it has also produced a complex web of political patronage networks supported by oil revenues. This economic structure is closer to that perpetuated by the proliferation of quasi-mafia organisations than to that intended by a free enterprise system. Apart from the obvious obstacles this creates for the state's general ability to manoeuvre; it also makes even more difficult the already challenging task of revenue collection. As a result, it puts a brake on the introduction of social policies and reduces the macroeconomic effectiveness of budgetary tools.<sup>46</sup>

In conclusion, the publishing of this white paper aims to clear the good name of Mallam Nasir El-Rufai, and announce that we will pursue all legal means within the country's national laws to dismiss the unfounded, politically motivated charges against him. To the international community, we make a clear and simple appeal: Do not take the charges against El-Rufai at face value, but rather consider the evidence in support of his strong and hard earned career against the trajectory toward which the Yar'Adua administration has piloted Nigeria. A renewed foreign policy approach on behalf of respective members of the international community must take comprehensive stock of Nigeria's major malaises and provide all of the encouragement, pressure and support possible in order to influence positive change.

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<sup>46</sup> "Nigeria: Is the End of Mafia Politics in Sight?" Jerome Spinoza and Olivier Vallee, Egmont Papers 19, Royal Institute for International Relations, supra note 1, p. 3.

## **Appendix I: Timeline of Nasir El-Rufai**

<b>Date</b>	<b>Event</b>
<b>1976</b>	The Murtala-Obasanjo administration decreed the relocation of Nigeria's capital from Lagos to Abuja to create a modern, planned metropolis
<b>1990</b>	Power Holding Co of Nigeria (PHCN) allocated 2.5 hectares of land to construct a power substation.
<b>1991</b>	President Babangida relocates Nigeria's capital from Lagos to Abuja
<b>1994</b>	NIPOST granted land allocation to build a district post office in Abuja
<b>8 June 1998</b>	General Sani Abacha found dead.
<b>9 June 1998</b>	General Abdulsalami Abubakar sworn in as president.
<b>10 June 1998</b>	El-Rufai appointed to PIMCO (Program Implementation and Monitoring Committee).
<b>Late 1998</b>	El-Rufai allocated land in Asokoro by then-FCT Minister General Mamman Kontagora
<b>Feb 1999</b>	Olusegun Obasanjo elected to lead Nigeria's first civilian government in 15 years.
<b>29 May 1999</b>	Olusegun Obasanjo sworn in as President of Nigeria.
<b>Nov 1999</b>	El-Rufai appointed Director General of the Bureau of Public Enterprises and the Secretary of the National Council of Privatization
<b>14 Dec 2002</b>	Under pressure from the Financial Action Task Force arm of the OECD, Nigeria creates the Economic and Financial Crimes Commission (EFCC) and passes anti-money laundering laws.
<b>June 2003</b>	El-Rufai leaves BPE; nominated to head Federal Capital Territory Administration
<b>July 2003</b>	Obasanjo swears in El-Rufai as Minister of the Federal Capital Territory Administration (FCT).
<b>Aug 2003</b>	El-Rufai accuses Deputy Senate Majority Leader Jonathan Zwingina and Deputy Senate President Ibrahim Mantu of asking him for 54 million Naira (US\$414,000) in bribes in exchange for his FCT confirmation.
<b>7 Oct 2003</b>	Senate conducts public hearings of El-Rufai's bribery accusations.
<b>7 Oct 2003</b>	Transparency International names Nigeria as the second most corrupt country of 133 countries surveyed around the world
<b>9 Oct 2003</b>	Senate votes to dismiss El-Rufai's accusations against Senators Zwingina and Mantu
<b>2004-07</b>	El-Rufai creates the Abuja Geographic Information Systems (AGIS) and begins implementing the Accelerated Development Programme, which sets specific objective criteria to develop and allocate land in the FCT.
<b>2005</b>	Federal Capital Development Authority (FCDA) takes charge of undeveloped PHCN land.

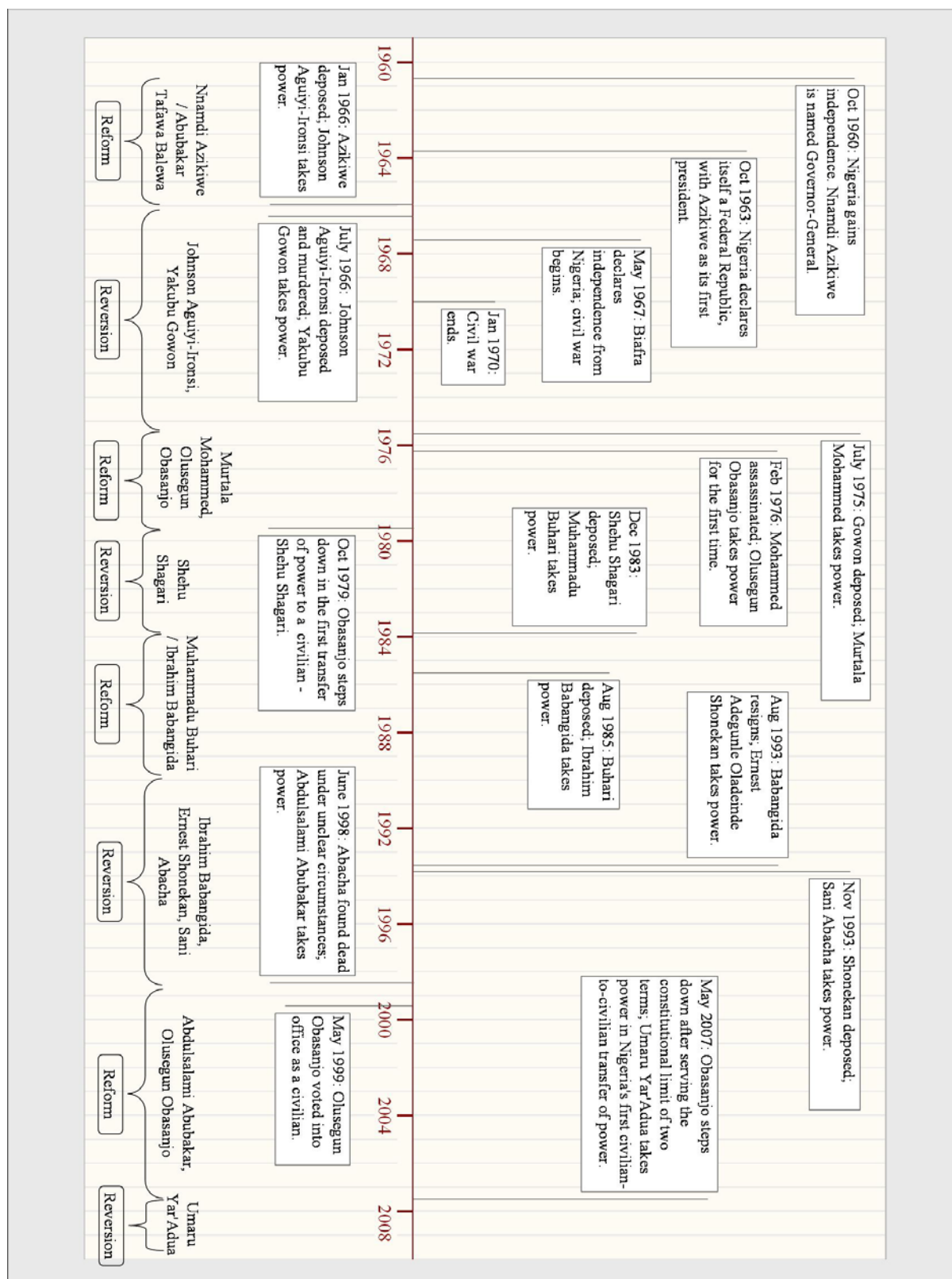
<b>2003-2005</b>	Rosehill Group Ltd requests a 25-year sublease from NIPOST to build residential housing on its land, heretofore undeveloped. NIPOST consents. El-Rufai denies approval on the grounds that the land is not meant for residential uses.
<b>2005</b>	El-Rufai revokes NIPOST land and folds it into the ADP alongside hundreds of other dormant property allocations.
<b>Feb 2006</b>	Rosehill petitions EFCC to launch a criminal investigation of El-Rufai and the Systems Property Development Consortium (SPDC), who won the bid for NIPOST land. EFCC head Nuhu Ribadu reviews it and concludes it is a civil matter.
<b>Feb 2006</b>	Rosehill and NIPOST file a civil lawsuit against El-Rufai and SPDC, alleging El-Rufai to be a "known associate" of SPDC. El-Rufai and SPDC counterclaim for damages caused by construction delay due to suit. Decision expected in 2009.
<b>Sep 2006</b>	EFCC chair Nuhu Ribadu announces that 31 of Nigeria's 36 governors are being investigated for graft and 15 of them will be charged in the coming weeks.
<b>April 2007</b>	Umaru Yar'Adua elected president.
<b>May 2007</b>	El-Rufai steps down from FCT; Yar'Adua sworn in as president.
<b>June 2007</b>	Police detachment from the Presidential Villa surrounds and invades El-Rufai's house, preventing entry and exit for four hours without explanation.
<b>7 Aug 2007</b>	Attorney General Mike Aondoakaa moves to take over all EFCC prosecutions. Yar'Adua approves, but is forced to backtrack after public outrage.
<b>Sep 2007</b>	President Yar'Adua appoints El-Rufai as a part-time member of the National Energy Council
<b>30 Nov 2007</b>	Rosehill seeks another investigation into the NIPOST land, this time from the Justice Ministry, alleging graft between El-Rufai and SPDC. Justice Ministry declines to pursue further after an initial investigation.
<b>Dec 2007</b>	Nuhu Ribadu steps down from EFCC on instructions of police to attend a 9-month course at the National Institute for Policy & Strategic Studies (NIPSS).
<b>Jan 2008</b>	Ibrahim Lamorde named acting chairman of the EFCC as Ribadu enrolls in NIPSS. Government publicly promises Ribadu will resume EFCC post after his studies.
<b>April 2008</b>	Senate Committee on the FCT begins investigative public hearings into the affairs of the FCT. The probe was advertised as covering 1999-2007, but correspondence between the committee and the new FCT authorities show the committee was solely interested in probing the El-Rufai years at the FCT, 2003-2007.
<b>25 Apr 2008</b>	El-Rufai files separate lawsuit alleging violation of his rights during police harassment in his home in June 2007.
<b>30 Apr 2008</b>	El-Rufai testifies before senate committee on Federal Capital Territory
<b>7 May 2008</b>	El-Rufai testifies before senate committee on Federal Capital Territory
<b>June 2008</b>	El-Rufai resigns appointment to National Energy Council

<b>June 2008</b>	Farida Waziri sworn in as new chair of EFCC.
<b>22 June 2008</b>	EFCC officials visit El-Rufai at his home in Abuja to inquire about the NIPOST and PHCN land allocations.
<b>July 2008</b>	Senate Committee on the FCT submits interim report of investigative hearings, recommends that El-Rufai account for ‘missing’ N32 billion proceeds from the sale of government houses, and that he be barred from holding public office.
<b>July 2008</b>	El-Rufai begins Mason Fellowship and MPA degree program at Harvard Kennedy School of Government.
<b>Aug 2008</b>	Federal High Court in Abuja rules that El-Rufai had shown a prima facie case for the enforcement of his fundamental rights against the Senate Committee on the FCT, and accordingly granted him leave to enforce his rights. The court also granted leave to effect service of the court process on the Senate and its key officials. El-Rufai asks the court to declare the committee’s report unconstitutional. Senate committee members respond that no court can stop its report from being debated since there is separation of powers.
<b>Sep 2008</b>	The Punch reports that police and other security agencies were planning to search the homes of El-Rufai and Ribadu on the grounds that both men might be involved in subversive activities.
<b>19 Sep 2008</b>	El-Rufai files lawsuit against Rosehill and related parties for defamation. Defendants counterclaim.
<b>Oct 2008</b>	EFCC sends a written demand that El-Rufai appear before the commission to further explain his treatment of two parcels of land during his tenure as FCT minister (NIPOST AND PHCN).
<b>Oct 2008</b>	El-Rufai requests EFCC to state its concerns in writing.
<b>Oct 2008</b>	El-Rufai files lawsuit against the EFCC, asserting that EFCC lacks jurisdiction over FCT purview
<b>Nov 2008</b>	EFCC issues two-week ultimatum for El-Rufai to appear or be declared wanted.
<b>22 Nov 2008</b>	Ribadu is prevented from graduating NIPSS. Security agencies removed him from the event and confined him to his chalet while the event proceeded without him.
<b>24 Nov 2008</b>	The government denies any role in the events at NIPSS, and orders the institute to award Ribadu his certificate.
<b>Dec 2008</b>	EFCC declares El-Rufai a wanted man for allegedly misappropriating 32billion Naira (\$246 million) from the sale of government housing while at the FCT - the first mention by the EFCC of this issue to date.
<b>Dec 2008</b>	El-Rufai asks Federal High Court for declaratory reliefs and an injunction to restrain the EFCC from declaring him wanted or arresting him pending the case’s conclusion. EFCC declares El-Rufai wanted despite being served court papers, claiming he is wanted for the N32 billion ‘missing’ proceeds from the sale of government houses, a matter on which he was never solicited nor interviewed.
<b>Jan 2009</b>	EFCC announces that it had contacted Interpol to assist in securing El-Rufai’s arrest and extradition.
<b>April 2009</b>	El-Rufai is interviewed by the <i>Sunday Punch</i> , <i>The Guardian</i> (Nigeria), the <i>Nigerian Tribune</i> and <i>Leadership</i> Newspapers.



<b>19 May 2009</b>	Nuhu Ribadu testifies before the US House of Representatives House Financial Services Committee on corruption.
<b>29 May 2009</b>	El-Rufai releases an essay entitled, “Umaru Yar’Adua: Great Expectation, Disappointing Outcome” which is picked up by several media outlets across Western Africa.
<b>15 September 2009</b>	El-Rufai’s application for a new passport is denied by the Nigerian High Commission in London, citing orders from above.
<b>28 September 2009</b>	Returning from Dubai, El-Rufai's wife and children are arbitrarily detained by immigration agents for hours at Lagos International Airport in a gesture of intimidation.
<b>6 October 2009</b>	El-Rufai files petition before United Nations Human Rights Commission on the government’s passport renewal denial.
<b>12 October 2009</b>	Media reports on leaked Presidential directives sent from the Foreign Ministry to all Nigerian embassies, consulates, and missions to refuse the renewal of passports and with-hold all consular assistance to El-Rufai and Nuhu Ribadu.

## Appendix II: Timeline of Reform and Reversion in Nigeria 1960 - Present



### **Appendix III. From the Outside Looking In: Nigeria in a Global Context**

As the most populous nation on the African continent with an estimated 155 million citizens (making it the eighth largest nation in the world), Nigeria is playing an increasingly larger role as an influential regional leader. The country has boasted real GDP growth consistently above 6 percent for the better part of a decade, and is Africa's largest oil producer, providing some 7-8 percent of U.S. imports.<sup>47</sup> As traditional oil and gas production sites begin declining in other parts of the world, substantial investment has been pouring into Nigeria from both international and state-owned energy companies, adding to annual remittance inflows of more than \$5 billion,<sup>48</sup> and a burgeoning services sector. Nigeria is also one of the most ethnically heterogeneous countries in Africa and is widely considered a regional beacon. One report comments that "even with South Africa as a partner in continental affairs, Nigeria provides the more credible litmus of democracy's future in sub-Saharan Africa."<sup>49</sup>

The following excerpts from recent reports by respected international institutions and observers help contribute to the understanding of the political dynamics which have contributed to Nigeria's culture of corruption and the unjust persecution of Nasir El-Rufai as a reformer who challenged this status quo.

#### **Transparency International**

Berlin-based Transparency International has been surveying corruption around the world for more than a decade. Its annual Corruption Perceptions Index, first released in 1995, currently ranks 180 countries by the degree to which corruption is perceived to exist among public officials and politicians. It is a composite index, a poll of polls, drawing on corruption-related data from expert and business surveys carried out by a variety of independent and reputable institutions. The CPI reflects views from around the world, including those of experts who are living in the countries evaluated. The CPI focuses on corruption in the public sector and defines corruption as the abuse of public office for private gain. The surveys used in compiling the CPI ask questions relating to the misuse of public power for private benefit. Since Nigeria's rank in the CPI is in part determined by the relative performance of other countries, its score is a much clearer indication than its actual rank of the perceived level of corruption.

In 2000, Transparency International's Corruption Perception Index (CPI) placed Nigeria at the very bottom of its annual ranking (90 of 90). By 2008, Nigeria ranked 121<sup>st</sup> out of 180 countries in the CPI.

It is difficult to improve a CPI score over a short time period. The CPI 2008 is based on data primarily from the past two years, relating to perceptions that may have been formed even further in the past. This means that substantial changes in perceptions of corruption are only likely to emerge in the index over longer periods of time. Bearing in mind that the results released by Transparency International in any given year reflects the reality of the previous year, Nigeria's CPI score in 2008 was its best since Obasanjo took office in 1999.

#### **TI Global Corruption Barometer**

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<sup>48</sup> U.N. International Fund for Agricultural Development <http://www.ifad.org/events/remittances/maps/africa.htm>

<sup>49</sup> 49 "Nigeria: Bellwether of African Democracy," O. Carl Onegbu, *World Politics Review* (New York: Spring 2003, Vol.20, Issue 1, p.41).

Transparency International also produces what it calls the Global Corruption Barometer. The difference between the CPI and the Global Corruption Barometer is that the CPI assesses expert perceptions of levels of public sector corruption across countries, while the Global Corruption Barometer is concerned with attitudes toward and experiences of corruption among the general public.<sup>50</sup>

The TI Global Corruption Barometer 2007 (or the Barometer) is the fifth edition of a public opinion survey that assesses the general public's perceptions and experience of corruption. This more recent Barometer polls more than 63,000 people in 60 countries for their opinions regarding which public sectors are the most corrupt, and how future levels of corruption will evolve in the near future, as well as how governments are doing in the fight against corruption. The Barometer also explores people's experiences with bribery, presenting information on how frequently citizens are asked to pay bribes when they come in contact with different public service providers.

The Barometer is a public opinion survey – unlike the CPI, it is a poll of the general public, not of experts. In each country included, a representative sample of the general public has been polled. Some samples are national and others urban; all samples have been weighted to bring them in line with national and global populations.

As of 2007, Nigeria ranked among the top quintile of countries whose citizens believe government efforts to fight corruption are most effective.<sup>51</sup> Among Nigerians surveyed, 64% of respondents in Nigeria think their government efforts to fight corruption are effective. Of the 60 countries studied, only Singapore, Hong Kong, Ghana and Macedonia scored higher. Developed countries such as Japan, Norway and USA all scored much lower when their own citizens were asked the same questions of their own countries.<sup>52</sup>

Overall, looking at the year-by-year reporting from Transparency International, what one finds is that attitudes among ordinary Nigerians about corruption in the country steadily improved during the Obasanjo years. The fact that it was during precisely these years that an unprecedented number of corrupt officials were investigated and successfully convicted can hardly be a coincidence. But corruption is just one of many issues at hand.

### **Foreign Policy Failed State Index**

Political and economic setbacks are not unique to the world's most vulnerable countries. But what makes weak states weak is their inability to cope with unforeseen surprises. When a global economic downturn slashes the main export base, an election turns violent, or a natural disaster devastates an entire region, the nation's liabilities become all the more apparent.

The Failed State Index surveys 177 countries and is a joint effort from Foreign Policy magazine and the Washington-based Fund for Peace. Using 12 social, economic, political, and military indicators, the Failed State Index ranks 177 states in order of their vulnerability to violent internal conflict and

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<sup>50</sup> [http://www.transparency.org/policy\\_research/surveys\\_indices/gcb](http://www.transparency.org/policy_research/surveys_indices/gcb)

<sup>51</sup> [http://www.transparency.org/policy\\_research/surveys\\_indices/gcb](http://www.transparency.org/policy_research/surveys_indices/gcb)

<sup>52</sup> Table 3, p 31: [http://www.transparency.org/content/download/27256/410704/file/GCB\\_2007\\_report\\_en\\_02-12-2007.pdf](http://www.transparency.org/content/download/27256/410704/file/GCB_2007_report_en_02-12-2007.pdf)

societal deterioration. To do so, it examined more than 30,000 publicly available sources, collected from May to December 2007, to form the basis of the index's scores. These ratings do not necessarily predict when states may experience violence or collapse. Rather, they measure vulnerability to collapse or conflict.<sup>53</sup>

With a #1 ranking denoting the most failed state in the world, Nigeria's rank has steadily deteriorated since the survey began in 2005, when it was ranked at 54. In the 2008 edition, Nigeria's rank has slipped to 18. African neighbours considered to be in worse shape than Nigeria are the following: Somalia, Sudan, Zimbabwe, Chad, the DRC, Ivory Coast, Central African Republic, Guinea, Uganda and Ethiopia. Perhaps more telling than who is worse than Nigeria is which African countries are better off than Nigeria, which would be the 40-odd nations not mentioned in that list. While it should be reiterated that these rankings are relative measures, it is worth noting that while Nigeria slides down the scale, other nations can and do improve.

### **UN Human Development Index**

When it was launched in 1990, the United Nations' Human Development Report introduced a new way of measuring development by combining indicators of health (as measured by life expectancy), knowledge (as measured by educational attainment) and standard of living (as measured by income) into a composite human development index, the HDI. The breakthrough was the creation of a single statistic meant to serve as a frame of reference for both social and economic development. The index value for each country is expressed as a value between 0 and 1.

Since 2000, Nigeria has ranked consistently in the bottom quintile of the 179 countries surveyed, most recently at #154.<sup>54</sup>

### **World Economic Forum – Global Competitiveness Report**

Perhaps best known for its annual gathering in Davos, the not-for-profit Switzerland-based World Economic Forum also hosts a number of research and policy initiatives, among them the Global Competitiveness Index. The GCI surveys 134 countries for their ability to achieve sustained economic growth and long-term prosperity through both macro- and microeconomic indicators.

In 2002, when just 75 countries were surveyed, Nigeria was given a ranking of 74. Its ranking in the most recent report is 94 of 134. Given that at least some of this change in ranking resulted from the addition of new countries to the survey, it once again is instructive to review the most telling examples of Nigeria's relative position. Pakistan, which arguably is on the verge of war, ranks three spots above Nigeria at 92. Georgia, which just last year entered a war, albeit brief, ranks at 90.<sup>55</sup>

While the proximity of these rankings may on some level be due to the qualitative equivalent of rounding errors, the very notion that two nations involved in cross-border conflicts are even in the same sentence as Nigeria does not speak well of the state of Nigeria's long term competitiveness.

### **Heritage Foundation Index of Economic Freedom**

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<sup>53</sup> [http://www.foreignpolicy.com/story/cms.php?story\\_id=4350](http://www.foreignpolicy.com/story/cms.php?story_id=4350)

<sup>54</sup> <http://hdr.undp.org/en/reports/global/hdr2007-2008/>, <http://hdr.undp.org/en/statistics/>

<sup>55</sup> <http://www.weforum.org/en/initiatives/gcp/Global%20Competitiveness%20Report/PastReports/index.htm>

Published annually by the Wall Street Journal and the Heritage Foundation since 1995, the Index of Economic freedom covers 10 different measures of freedom, from property rights to entrepreneurship in 183 countries. Economic freedom is defined as ability of a citizen to control his or her own labor, property and assets in a manner both protected by the state and unconstrained by the state. In the current survey, Nigeria ranks 117 with a score 55.1 on a scale of 1 to 100, the same standing it had last year.<sup>56</sup>

Since this index<sup>57</sup> explicitly points to property rights and corruption as two of its discrete indicators, looking at those measurements is in order. On property rights in Nigeria, the individual score is 30.0 and the report offers the following comment:

*“Nigeria's judiciary suffers from corruption, delays, insufficient funding, a severe lack of available court facilities, a lack of computerized systems for document processing, and unscheduled adjournments of court sessions because of power outages. One of the world's least efficient property registration systems makes acquiring and maintaining rights to real property difficult. Enforcement of copyrights, patents, and trademarks is weak.”*

On corruption, in which Nigeria scores 22.0, the report offers the following comment:

*“Corruption is perceived as pervasive. Nigeria ranks 147th out of 179 countries in Transparency International's Corruption Perceptions Index for 2007. Corruption is endemic at all levels of government and society, and the president, vice president, governors, and deputy governors are constitutionally immune from civil and criminal prosecution.”*

### **Human Rights Watch**

In its 2007 report on Nigeria entitled “Criminal Politics,”<sup>58</sup> Human Rights Watch called upon Nigeria’s international peers to “[d]enounce selective investigation and prosecutions by the EFCC and other anti-corruption bodies”, and to “[t]ake measures, including the publication of information as appropriate, to pressure the EFCC to take action against public officials implicated in corruption through the EFCC’s own investigations.” Human Rights Watch further recommended that Nigeria’s foreign peers explore means of providing greater political and material support to improve the independence and capacity of the Nigerian judiciary.

In addition to supporting El-Rufai, there are other effective levers that the international community can use to help effect positive developments in Nigeria. Human Rights Watch calls for several benchmarks necessary to improve the chances for free and fair elections in 2011, which can be identified by Nigeria’s international peers while also articulating the policy consequences that will follow if there is a failure to meet those benchmarks.<sup>59</sup> The recommended benchmarks include:

- Transforming the Independent National Electoral Commission into an effective body.
- Investigating abuses committed in the 2007 elections.
- Bringing into force a Nigerian Freedom of Information Law
- Real independence for the EFCC
- Reform of the country’s corrupt and instrumentalized police force.

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<sup>56</sup> <http://www.heritage.org/Index/>

<sup>57</sup> <http://www.heritage.org/Index/Country/Nigeria#property-rights>

<sup>58</sup> “Criminal Politics: Violence, ‘Godfathers’ and Corruption in Nigeria,” Chris Albin-Lackey and Ben Rawlence, Human Rights Watch, Volume 19, No. 16(A), October 2007.

<sup>59</sup> “Criminal Politics: Violence, ‘Godfathers’ and Corruption in Nigeria,” Chris Albin-Lackey and Ben Rawlence, Human Rights Watch, Volume 19, No. 16(A), October 2007.

- To end the impunity that shields pervasive and bald acts of corruption, a constitutional amendment should be considered that would eliminate or scale back the immunity from all criminal prosecution that is now enjoyed by sitting governors.

Appendix IV: The Rosehill Letter to the EFCC

ROSEHILL GROUP

The Executive Chairman  
Economic and Financial  
Crimes Commission,  
Wuse II, Abuja.

Dear Sir,

We wish to report to you, the illegal confiscation, trespass and laundering of Plot 3352 Madeira Street Maitama Abuja, belonging to NIPOST - a Federal Government Parastatal, by Messrs: Systems Property Development Consortium (SPDC) Limited, acting in concert with some officials of the Development Control Unit of the FCTA.

Plot 3352, was allocated to NIPOST on **August 23, 1994**, for the construction of the Maitama District Post Office. Due to budgetary constraints and in order to develop the said Property, Rosehill Group Limited on **8 October 2003**, signed- Sublease agreement with NIPOST under - the Build **Operate and Transfer BOT for 35 years**, to develop a Post Office, commercial office and executive Suites.

The Rosehill - NIPOST BOT agreement, has received a corporate Governance approvals - including the Ministerial Tenders Board approval and Due Process approval and Certification at the Presidency.



Rosehill jointly with the Nigeria Social Insurance Trust Fund (NSITF) and a consortium of International investors and Consultants, appointed FCMB Capital Markets to raise funds estimated at **N1.2Enllion** for the project. As at February 2005, we raised via Private Placement the Sum "of N500million for the Project we then sought to obtain necessary building plan approval of FCDA (received) recertified the Land, and applied for consent of the Honourable Minister (FCT) - (Still Pending). The foundation laying ceremony was to be laid by President Obasonjo in March 2006.

We were shocked, when **on January 19, 2006**, we observed, the illegal encroachment on the land, demolition of fence wall, destruction of signboard and borehole by the SPDC and Development Control Staff. Our investigations at the land apartment at the development Control on 24/1/06 revealed that the land was neither marked nor listed for revocation. On enquiries at the SPDC office, we and NIPOST were told that the land - has now been re allotted to SPDC! Please see attached our protest letter to the Honourable Minister on the issue and that of NIPOST .All efforts to see the Honourable Minister FCDA proved abortive.

We confirmed from CAC – records - that SPDC is owned by Alh. Othman Idris, 'Mohammed G. Salis and Engr Abimbadelawal, who are known friends and Associates of Minster EI-Rufal. They Infact share same office wlth (EI-,Rufai and Partner at no. 1 Kandi Close: Off Aminu Kano Crescent, Wuse II, Abuja.

Sir, the SPDC's office has become a "nest" for the Laundering of FCDA Revoked hands for economic rent. Recently, I was offered a plot purportedly belonging to Mrs. EI-Rufai for N30million by some agents. I declined the offer. Upon enquiry, I discovered that the Land was revoked from a Government Parastatal and is being laundered at a premium. This Pattern of abuse of office and Manipulations of the Abuja Land reforms by private interest is an affront to equity, justice and transparency. We fear that the NIPOST Land may soon be in the market, if nothing is done.

It is embarrassing to note the Minister did not respond to our complaint. Rosehill will suffer huge economic loss and will be a target of litigation that will arise from Contract breaches, if this manipulation succeeds"

Executive Chairman, your worldwide reputation for zero tolerance on corruption and economic crimes as well as upholding the sanctity for rule of Law, transparency and equity are well known, only you and EFCC can restore order.

We plead with you to use your good office and timely intervene to restore confidence to the land reform, for which I have been a consistent supporter, kindly bring the culprits to book; restrain them further damage and return the land to

NIPOST and make them pay us appropriate compensation and restitution for the damages caused.

We attach all relevant documents for ease of perusal.

Best Regards

Your Faithfully,  
ROSEHILL GROUP LIMITED  
SULEIMAN YAHYAH

**Appendix V: Federal High Court of Nigeria Charges Against El-Rufai**

**IN THE FEDERAL HIGH COURT OF NIGERIA  
IN THE ABUJA JUDICIAL DIVISION  
HOLDEN AT ABUJA**

CHARGE NO: FHC

BETWEEN:

FEDERAL REPUBLIC OF NIGERIA ..... COMPLAINANT

AND

1. MALLAM NASIR AHMED EL- RUFAI
2. ALTINE JUBRIN
- PERSONS
3. ISMAILA IRO

} ACCUSED

**CHARGE**

**COUNT 1**

That you Mallam Nasir Ahmed EI-Rufai (M) between 13th day of December, 2003 and 14th day of December, 2007 or thereabout at the Ministry of Federal Capital Territory, Abuja in the course of and/ or in the performance of your official duties as the Minister of the Federal Capital Territory did use your said Office and position to gratify and confer corrupt or unfair advantage on your relation to wit: your wife - Hadiza Ahmed EI-Rufai by reallocating to her parts of the parcel of land known as plot No 1201, Asokoro District (A4) Abuja, originally allocated in the Federal Capital Territory Master plan to Power Holding Company of Nigeria Plc for the construction of transmitting/injection sub-stations which allocation you had wrongfully and/or intentionally revoked for that purposc, thereby committing an offence contrary to and punishable under Section 19 of the Corrupt Practices and Other Related Offences Act, 2000.

**COUNT 2**

That you Mallam Nasir Ahmed EI-Rufai (M) between 13th day of December, 2003 and 14th day of December, 2007 or thereabout at the Ministry of Federal Capital Territory, Abuja in the course of and/ or in the performance of your official duties as the Minister of the Federal Capital Territory did use your said Office and position to gratify and confer corrupt or unfair advantage on your relation to wit: your wife - Asia Ahmed EI-Rufai by reallocating to her parts of the parcel of land known as plot

No 1201, Asokoro District (A4) Abuja, originally allocated in the Federal Capital Territory Master plan to Power Holding Company of Nigeria Plc for the construction of transmitting/injection sub-stations which allocation you had wrongfully and/or intentionally revoked for that purpose, thereby committing an offence contrary to and punishable under Section 19 of the Corrupt Practices and Other Related Offences Act, 2000.

### **COUNT 3**

That you Mallam Nasir Ahnled El-Rufai (M) between 13th day of December, 2003 and 14th. day of December, 2007 or thereabout at the Ministry of Federal Capital Territory, Abuja in the course of and/or in the performance of your official duties as the Minister of the Federal Capital Territory did use your said Office and position to gratify and confer corrupt or unfair advantage on your associates to wit: M Oil Limited, Philip Daudu, Saidu Samaila, Iyabo-Obasanjo Bello, Jamaila Alhassan and Bello Sani by reallocating to them parts of the parcel of land known as plot No 1201, Asokoro District (A4) Abuja, originally allocated in the Federal Capital Territory Master plan to Power Holding Company of Nigeria Plc for the construction of transmitting/injection sub-stations which allocation you had unlawfully and/or deliberately revoked for that purpose, thereby committing an offence contrary to and punishable under Section 19 of the Corrupt Practices and Other Related Offences Act, 2000.

### **COUNT 4**

That you Mallam Nasir Ahmed El-Rufai (M) between 13th day of December, 2003. and 14th day of December, 2007 or thereabout at the Ministry of Federal Capital Territory, Abuja in the course of your official duties as the Minister of the Federal Capital Territory did use your said Office and position to gratify and confer corrupt or unfair advantage on Altine Jubrin and Ismail Ira (both public officers, of the Federal Capital Development Authority) by reallocating to them parts of the parcel of land known as plot No 1201, Asokoro District (A4) Abuja, originally allocated in the Federal Capital Territory Master plan to Power Holding Company of Nigeria Plc for the construction of transmitting/injection sub-stations which allocation you had unlawfully and/or deliberately revoked for that purpose, thereby committing an offence contrary to and punishable under Section 19 of the Corrupt Practices and Other Related Offences Act, 2000.

### **COUNT 5**

That you Mallam Nasir Ahmed El-Rufai (M), Altine Jubrin (F) and Ismaila Iro (M) between 13th December, 2003 and 14th day of December, 2007 or thereabout at the Ministry of Federal Capital Territory, Abuja and in the performance of your official duties as Public Officers, being the Minister of Federal Capital Territory, Abuja, the Director-General, Abuja Geographic Information System (AGIS) and the General Manager, Abuja Geographic Information system (AGIS) respectively did engage in

criminal conspiracy to commit an offence, to wit: using your office(s) and position(s) to gratify and/or confer Corrupt or unfair advantage upon the relations and associates of Mallam Nasir Ahmed El-Rufai to wit: Hadiza Ahmed El-Rufai, Asia Ahmed El-Rufai, M Oil Limited, Philip Daudu, Saidu Samaila, Iyabo-Obasanjo Bello, Jamaila Alhassan, and Bello Sani by the irregular revocation and reallocation to them of the parcel of land originally belonging to Power Holding Company of Nigeria Plc, thereby committing an offence contrary to Section 26(1 ) (c) and punishable under Section 19 of the Corrupt Practices and Other Related Offence Act, 2000.

#### **COUNT 6**

That you Mallam Nasir Ahmed El-Rufai (M), Altine Jubrin (F) and Ismaila Ira (M) between 13th December, 2003 and 14th day of December, 2007 or thereabout at the Ministry of Federal Capital Territory, Abuja and in the performance of your official duties as Public Officers, being the Minister of Federal Capital Territory, Abuja, the Director-General, Abuja Geographic Information System (AGIS) and the General Manager, Abuja Geographic Information system (AGIS) respectively did engage in criminal conspiracy to commit an offence, to wit: using your office(s) and position(s) to gratify and/or confer corrupt or unfair advantage upon one another as such Public Officers, by the irregular revocation and reallocation to each other of the parcel of land originally belonging to Power Holding Company of Nigeria Plc, thereby committing an offence contrary to Section 26(1 ) (c) and punishable under Section 19 of the Corrupt Practices and Other Related Offence Act, 2000.

#### **COUNT 7**

That you, Mallam Nasir Ahmed El-Rufai (M), between 13th day of December, 2003 and 14th day of December, 2007 or thereabout at the Ministry of Federal Capital Territory, Abuja, in the course of and/ or in the performance of your official duties as the Minister of the Federal Capital Territory did use your said Office and position to gratify and confer corrupt or unfair advantage on your associate(s) to wit: System Property Development Consortium Limited (SPDC) by reallocating to her parts of the parcel of land known as plot No 3352, Maitama District Abuja, originally allocated in the Federal Capital Territory Master plan to Nigeria Postal Services Plc (NIPOST) for the construction of Maitama Post Office which allocation you had wrongfully and/or intentionally revoked for that purpose, thereby committing an offence contrary to and punishable under Section 19 of the Corrupt Practices and Other Related Offences Act, 2000.

#### **COUNT 8**

That you Mallam Nasir Ahmed El-Rufai (M), Altine Jubrin (F) and Ismaila Iro (M) between 13th December, 2003 and 14th day of December, 2007 or thereabout at the Ministry of Federal Capital Territory, Abuja and in the performance of your official duties as Public Officers, being the Minister of Federal Capital Territory, Abuja, the Director-General, Abuja Geographic Information System (AGIS) and the General

Manager, Abuja Geographic Information system (AGIS) respectively did engage in criminal conspiracy to commit an offence, to wit: using your office(s) and position(s) to gratify and/or confer corrupt or unfair advantage upon the relations and associates of Mallam Nasir Ahmed EI-Rufai to wit: System Property Development Consortium Limited (SPDC) by the irregular revocation and reallocation to them of the parcel of land originally belonging to Nigeria Postal Services Plc (NIPOST), thereby committing an offence contrary to Section 26(1 ) (c) and punishable under Section 19 of the Corrupt Practices and Other Related Offence Act, 2000.

Dated the.....day of .....2009

Adebayo Adelodun SAN  
Adebayo Adelodun & Co  
Counsel to the Complainant  
Suit 25, Yasuha Plaza  
Adetokunbo Ademola Crescent  
Abuja.

OR

Adebayo Adelodun & Co. Suit 25,  
Yasuha Plaza, Adetokunbo Ademola  
Crescent, Wuse II, Abuja.

#### ADDRESS FOR SERVICE

1. 1st Accused Person  
12, Mambilla Street,  
Maitama, Abuja
2. 2nd Accused Person  
No. 22, Kudang Street,  
Wuse II, Abuja
3. 3rd Accused Person  
No. 4, Peace Drive, Abuja

## Appendix VI: Foreign Ministry Directives on Arbitrary Passport Refusal

### *National Intelligence Agency*

P.M.B. 213, Garki, Abuja.

Tel : +234-9-3143828  
Telefax: +234-9-3143825  
E-mail:



Ref. No. SR.28/VOL.13

Date: 15<sup>th</sup> Sept., 2009

The Permanent Secretary,  
Ministry of Foreign Affairs,  
Maputo Street,  
Wuse Zone 3,  
Abuja.

#### **WITHDRAWAL OF CONSULAR ASSISTANCE TO MALLAM NUHU RIBADU AND MALLAM EL-RUFAT**

I am directed to convey that the attention of Government has been drawn to the continuous and unyielding campaign of calumny against the Federal Government abroad by Mallam Nasir EL-RUFAT, former FCT Minister and Mallam Nuhu RIBADU, former EFCC boss.

1. EL-RUFAT has reportedly run out of blank pages on his E-Passport. Consequently, he has approached the Nigerian High Commission in London to apply for a new Passport.
2. A decision has been taken at the highest level that *all Nigerian Missions* are to henceforth deny the duo consular assistance of any form. Concerning EL-RUFAT's application, the Nigerian High Commission in London should be directed *not to* issue him with a new Passport. Doing so will further aid and abet his foreign travels and junketing, during which he has taken every opportunity to put Nigeria on the spot, while portraying a sanctimonious view of himself and his ilk.
3. Please accept the assurances of the Director-General's highest consideration and esteem.

  
S.U. ABULAZEEZ, *for*  
for Director-General

Overseas Communications Department

Tel. No. *5111* Date *17/09/2009* File No. *AS.605/33*  
**PERMANENT SECRETARY**  
From the **NIGERIAN - UK**  
To **ALL MISSIONS**  
Repeated to

Urgency prefix  
**Immediate**

Insert EMERGENCY, IMMEDIATE  
PRIORITY or ROUTINE

Security grading  
**Enclair**

Insert TOP SECRET, SECRET, CONFIDENTIAL  
IN CONFIDENCE, RESTRICTED OR UNCLASSIFIED

HEADQUARTERS' ATTENTION HAS BEEN DRAWN TO THE  
CONTINUOUS AND UNYIELDING CAMPAIGN OF CALUMNY BEING  
ORCHESTRATED BY FORMER FCT MINISTER COMMA MALLAM NASIR EL-  
RUFAT AND FORMER EFCC CHAIRMAN COMMA MALLAM NUHU RIBADU  
AGAINST THE FEDERAL GOVERNMENT ABROAD X

IN PARTICULAR COMMA FORMER FCT MINISTER WAS REPORTED TO  
HAVE APPROACHED YOU FOR RE-ISSUANCE OF HIS STANDARD PASSPORT  
HAVING EXHAUSTED THE VISA PAGES OF HIS CURRENT PASSPORT  
BOOKLET X

MEANWHILE COMMA A DECISION HAS BEEN TAKEN AT THE HIGHEST  
LEVEL **NOT TO GRANT ANY CONSULAR ASSISTANCE** TO THE DUO BY  
ALL OUR MISSIONS ABROAD AS DOING SO WILL FURTHER FACILITATE  
THIER OVERSEAS TRAVELS AND ENHANCE THEIR TENDENCY TO CONTINUE  
TO UNDERMINE NIGERIA'S IMAGE ABROAD X

CONSEQUENTLY COMMA YOU ARE HEREBY DIRECTED **NOT** TO RE-  
ISSUE THE FORMER FCT MINISTER WITH A NEW PASSPORT X

ABOVE IS FOR INFORMATION AND COMPLIANCE BY ALL COMMA  
PLEASE X

WARM REGARDS X

*(Signature)*  
**AMB. JOE KESHI**  
PERMANENT SECRETARY

**EXTERNAL ABUJA X**