

## **From Panama to Paradise Papers**

**Babafemi A. Badejo, Ph.D.**

The ripple effects of the Panama Papers are still on in many jurisdictions. Now we have a new leak which, according to the International Consortium of Investigative Journalists (ICIJ), include confidential documents of a Bermuda based law firm, Appleby Group Services Ltd, files from Asiaciti, a trust company, as well as documents from company registries in 19 secrecy jurisdictions. The Paradise Papers were first shared with German newspaper Süddeutsche Zeitung, and the ICIJ and partner media outlets. *Premium Times* claims to be the only news outlet invited to participate from Nigeria. The new leak that became public on November 5, 2017, contains 13.4 million files on offshore accounts of private investors, both individuals and corporations from around the world.

The host country of Appleby, Bermuda, is a British island territory in the North Atlantic Ocean covering just about 20.5 sq. miles. It is a tiny beautiful spot in the Atlantic Ocean off the east coast of the US.

Christianity sold us the mental construct of paradise being such a beautiful place to aspire to spend eternity. The beauty of paradise is supposed to be unparalleled in comparison to anywhere on earth. Bermuda is one of the closest places to the utopic imagination of paradise. So, it is understandable that the new leaked papers have been dubbed paradise papers. This appellation for the hacked papers is very apt.

The initial analysis of the Paradise Papers has thrown up names of the high and mighty, including the Queen of England, and American politicians. Fairly or unfairly, it has added another fuel to the Russiagate that continues to be of concern to Americans over the last presidential elections. The Secretary of Commerce of the Trump administration, Wilbur Ross, has been shown to hold a 31.5% stake in a shipping company, whose major client is a Russian energy giant, Sibur, with owners as close associates of Putin, currently on the U.S. sanctions list.

As with the Panama Papers, African leaders have also been shown to have stashed away their money into secret offshore investments being managed by Appleby. Among them, Liberian President Ellen Johnson Sirleaf, the first elected African female Head of State, has been mentioned. Such a reality raises the question of Madam President not putting her own money (even if the money is hers), into where her mouth is. She normally, and appropriately so, sought investments for her dear Liberia but kept her own investments with Appleby to manage through offshore investments in other places.

The Nigerian President of the Senate, who was previously mentioned in the Panama Papers, has also been mentioned in the new round of leaks. Also named in Paradise Papers is Sally Kosgei, a powerful civil servant who held sway in Kenya under President Moi. It has been reported that she did respond to ICIJ that she has not done anything legally or ethically wrong. Of course, after all, she has investments in Kenya and she asks about what's wrong in salting away some one million dollars in purchasing an apartment in the UK through Appleby. Well, why the secrecy on such a purchase and why through Appleby and not the many Estate houses in Nairobi? The answer, for sure, is simple. Why not? It should be interesting to know if taxes are paid on proceeds from such investments.

As the world digs deeper into the Paradise Papers, many structured thoughts are bound to be thrown up. Investing in offshore accounts and even not being transparent about such investments are not necessarily crimes. It would be necessary to investigate the intentions behind investing secretly offshore accounts managed by Appleby of Paradise Papers or even Mossack Fonseca of Panama Papers fame. We had recently contributed on the latter Papers in a contribution titled: [\*Africa Avoids Accountability on Panama Papers.\*](#)

The origins of the money of the rich in the West, are largely not queried. However, this cannot and should not be the case for Africa where participation in governance is normally used for stupendous primitive accumulation that are then laundered into corporate entities. In effect, Africa's attention need involve investigation into the origins of money tucked away into secret offshore companies. Stealing from common patrimony is unacceptable on a continent in which people many of the people remain below the poverty line. Stealing remains a crime everywhere and should be more so in Africa. All hands must be on deck to stamp out kleptocracy.

Many a time, the tucking away of the much-needed earnings of African countries violate money laundering laws.

Inquiry should also and necessarily involve investigations into other crimes like concealment of offshore investments from laws that require asset disclosures by politicians and public servants, in which case, non-disclosure of money tucked away through Appleby and Mossack Fonseca constitute crimes. In some jurisdictions, one may be in a position to merely update records without problems. But that is not the case in jurisdictions like Nigeria where public office holders are expected to expressly declare assets as they get into office in order to compare with assets of the public office holders and their respective family members on leaving office.

Secrecy in hiding funds in offshore companies automatically raises the question of propriety. If it smells wrong, it is most likely wrong. If the intention to be secretive is to hide from paying taxes, that is automatically tax evasion, which in most jurisdictions is a crime.

Tax mitigation is known to law. The rich secure favorable tax laws that allow them to write-off tax obligations and thereby pay very little, if at all. But when profits being generated from offshore companies are hidden from the tax man and/or failure to declare the existence of offshore interests, we have tax evasion to contend with.

Unlike the situation of Bukola Saraki, the President of the Nigerian Senate who is a lawmaker hence not above the law, the British Monarch is actually the sovereign hence, the law giver. It would be interesting to know more about the status of the British Monarch with respect to taxes. Those who invest on her behalf have, so far, indicated that there is nothing under hand because she voluntarily pays taxes on her private income. But were these offshore investments in the public domain before the current leakage? Should they be? And if not, the necessity for secrecy needs to be explained.

Secrecy smacks of the feeling that: *it ain't right*. Secrecy gives the impression that a crime is being concealed. The crime could be from under-hand dealings like: corruption; money laundering; criminal non-disclosure of assets and of course, tax evasion.

It is safe to surmise that: the first casualties of the Paradise Papers would be from the West, followed by Asia as Africa most likely, again, dodges accountability of the rich and powerful.