Law Practice and Delivery of Justice in Modern Nigeria

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Introduction

The topic “Law Practice, Delivery of Justice and the Nation” is an extremely wide one. It is a topic that can be compartmentalized into three, from the research conducted in the course of writing the paper. What is more, the practice of law is a grandiose one. Law Practice, as conceived here, is omnibus. There is avalanche of issues that can be discussed from Law Practice: Legal profession and the problems bedeviling it, obstacles to legal practice, challenges of legal practice etc. A good research paper can be done on this. There is secondly, 'delivery of justice' covering delivery of Civil Justice and Criminal Justice Administration. Each of these genre of Justice Administration and their problems and challenges could constitute separate presentations. It is thus arduous to request the presentation of a paper on the topic. Law Practice, Delivery of Justice and the Nation (Nigeria).

The advantage however is that it has provided the writer with the latitude to deal with matters that he perceives are contemporary and germane, while eschewing those he decides are mundane, and not so pressing. We have conceptualized justice, access to justice, justice delivery even as the paper laid the background for legal practice, discussing lawyers and

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democracy in Nigeria. The duties of an advocate/lawyer or legal practitioner, in civil and criminal cases have also been adumbrated. The problems bedeviling legal practice and the contemporary challenges of the legal practitioner in an age of globalization have also been treated in this work. A further attempt at conceptualization was done with respect to Criminal Justice Administration, in an era where massive reforms of it's administration is ongoing, at state and the federal levels because of its many impediments which have constituted a bastion against justice delivery. Efforts required to fast-track justice delivery in civil proceedings and best practices in some jurisdictions in Nigeria have also been dealt with. Certain, relevant recommendations have been provided in the conclusion with the desire to achieve the overall goal of justice delivery and legal practitioners effort in the process.

Meaning of Justice

There is no generally acceptable single definition of the word justice. It can however be said to be: treatment of people that is fairly and morally right; the fact that something is reasonable and fair; the legal process of judging and punishing people; a fair result or punishment from a law court.\(^1\) The Hindi English Dictionary contain about three definitions of justice viz: the quality of being just or fair; the administration of law; the act of determining rights and assigning rewards or punishments; a public official authorized to decide questions brought before a court of justice.\(^2\) The word justice is on the lips of everyone nowadays. There are different kinds of justice: cumulative, reciprocal, distributive. The classical definition of justice comes from people such as Plato, Aristotle, Saint Ambrose and St. Augustine expressed in a single phrase *sunnucuique* or 'to each his own'. It is an extremely difficult term to define. There is indeed no term more difficult to define like justice. Tyrants, autocrats, rebel leaders, freedom fighters, Nazis, Facists, democrats and lawyers alike have their perceptions of what justice entails. In the words of Russel Kirk, it is a certain rectitude of mind, whereby a man does what he ought to do in the circumstances confronting him.\(^3\) It is for this that those that are charged with the administration of justice are called Judges. In the wake of the acquittal of George Zimmerman (a neighborhood watchman) in the killing of Travor Martins Jnr, by a Florida Jury, opinions were split down the middle on the kind of Justice that was administered; with the establishment saying that America is a country of

\(^1\) Justice Definition of Justice www.macmillandictionary.com/...dictionary accessed on 8/8/2013
\(^3\) Kirk, R 'The Meaning of Justice' ww.Heritage org/... the meaning of ... accessed on 11/8/2012
laws and that Justice had been done, the Africa-Americans and civil rights groups contended that Justice was not done. So this is the kind of definitional and factual conundrums that justice presents us with diametrically opposed conceptions.

It is intended in this work that a jeune meaning of Justice is adopted, devoid of the unnecessary legalese and jurisprudential stratifications. The definition we have adopted is that proffered by the Oxford Dictionary where Justice was defined as: just behavior or treatment; the administration of the law or authority in maintaining this. Justice therefore is the quality of being just; conformity to the principles of righteousness and rectitude in all things; strict performance of moral obligations; practical conformity to human or divine law; integrity in the dealings of men with each other; rectitude; equity; uprightness. It is said that true men seek not only for justice in the events that intimately affect them, but for the fair treatment of all, even strangers and that justice denied anywhere diminishes justice everywhere. It means placing things in their rightful place, in Islamic worldview. It means giving others equal treatment. In the words of Ata, “justice could be compared to beauty. It is in the eyes of the beholder.”

The Concept of Access to Justice

Germane to the delivery of justice in Nigeria, is the more, widely used access to justice. Access to Justice, unarguably, suffer from the same definitional conundrum that virtually other expressions or terms in law, suffer from - absence of universality of agreed meaning or unison of views. Ladan has argued that access to justice means that people in need of help, finding effective solutions available from justice system which are accessible, affordable, comprehensible to ordinary people, and which dispenses justice fairly, speedily and without discrimination, fear or favour and a greater role for alternative dispute resolution. It refers to judicial and administrative remedies and procedures available to a person (natural and

5. 'Definition of Justice in English' http://oxforddictionaries.com/definition/.../justification accessed on 11/8/2013
8. Ibid. per Martin Luther King Jnr
10. Ibid
11. Ata, K. “whose justice will the justice deliver NDC or NPP?” https://m.modernninghana.com/.../whose justice accessed on 12/8/2013
juristic) aggrieved or likely to be aggrieved by an issue.\textsuperscript{13} It refers also to a fair and equitable legal framework that protects human rights and ensures delivery of justice.\textsuperscript{14}

Ladan referred to Lord Woolf's report on the English Civil Justice System wherein he identified a number of principles which a system should meet to ensure access to justice thus: (a) be just in the result it delivers; (b) be fair in the way it treats litigants; (c) offer appropriate procedures at a reasonable cost; (d) deal with cases with reasonable speed; (e) understandable to those who use it; (f) be responsive to the needs of those who use it; (g) provide as much certainty as the nature of the particular case allows; and (h) be effective, adequately resourced and organized.\textsuperscript{15} The author agrees into the parameters captured by Lord Woolf, in his report. This is not only true of Britain but true of Nigeria, in both civil justice and criminal justice system. As it is we cannot state that these requirements are present in Nigeria. Access to justice has dominated discourse very seriously, for over two decades, especially during the rule of the military junta and the general economic morass with concomitant consequences such as poverty, unemployment, corruption, etc.

In a recent article, the United Nations Office on Drugs and Crime (UNODC) expressed worry on access to justice in Nigeria. The United Nations Office on Drugs and Crime (UNODC) has been providing technical assistance aimed at improving access to justice, enhancing the quality and timeless justice delivery, among other issues. UNODC has done this through two projects: strengthened judicial integrity and capacity (2001 - 2003 - phase I) and (2006 -2010 - phase II). Initially, the project was carried out in Borno, Delta and Lagos states. It was subsequently extended to Anambra, Benue, Enugu, Kaduna, Katsina, Rivers and the Federal Capital Territory - Abuja.\textsuperscript{16} According to the official site of UNODC, the project has been successful stating that:

\begin{quote}
Court users who indicated that they would use the courts again based on their experience, increased from 58\% in 2002 to 69\% in 2007. However, despite this progress, data also shows that further advancements remain a must. Still the percentage of prisoners awaiting trial in remand remains high, adjournments (even if less frequent) unnecessarily prolong disputes, political interference with
\end{quote}

\begin{thebibliography}{9}
\bibitem{13} Ibid
\bibitem{14} Ibid
\bibitem{15} Ibid. Lord Woolf led one of the most successful Civil Justice Reform Programmes in England
\end{thebibliography}
judicial appointments and judicial decision making remain an issue, both in the eyes of judicial officers and the bar, coordinations among the various justice sector institutions poses continuous challenges.\textsuperscript{17}

Even the National Human Rights Commission recently, after its statutory meeting, in 2013, called on the Attorney-General of the Federation (AGF), State Attorneys-General, the Inspector General of Police (IGP) and heads of court and other relevant authorities to take urgent steps to ensure that victims of domestic and sexual violence get prompt justice.\textsuperscript{18} It stated that access to remedies is always constrained by breakdown in communication between the agencies in the criminal justice system which sometimes results in delay in processing legal advice from the ministries of justice and a cumbersome trial process by the judiciary, particularly, the lower courts.\textsuperscript{19} It decried the alarming rate of incidents of domestic and sexual violence in the country, particularly, rape of young persons.

Recently too, the Magistrates Association of Nigeria added its voice to the problem of access to justice. In a communiqué at the end of the Magistrate Association of Nigeria at 40 in Akwa Ibom recently, the magistrates proposed: the creation of a special investigative/prosecution unit from among police officers to minimize delay in justice in the magistrate court; that an information technology (IT) compliant judiciary is an efficient judiciary and consequently the judiciary at all levels of government is urged to deploy facilities in all magistrate courts to bring them in tune with 21st century standards if justice delivery; that to reduce congestion in magistrate courts, alternative dispute resolution applicable to magistrate court is a \textit{sine qua non}; that decorum, integrity, industry and honesty are desirable to sustain respect for the magistracy.\textsuperscript{20}

\textbf{Meaning of Justice Delivery}

It is difficult to say if the neo-concept of justice delivery can be separated from the more, widely used access to justice. It appears that justice delivery or delivery of justice is more specific, even though part and parcel of access to justice. Justice delivery is the end product of access to justice. In other words, with access of individuals to justice, the question remains whether at the end, justice was delivered. In a recent article, a former judge grappled with

\textsuperscript{17} UNODC “Attempts At Granting Access to Justice” www.undoc.org/Nigeria accessed on 8/8/2013
\textsuperscript{19} Ibid
\textsuperscript{20} Communiqué magistrates Association of Nigeria magistratesnigeria.com/.../communiqué accessed on 8/8/2013
the issue of delivery of justice when he said that ‘in a democratic set up, every individual is entitled to get justice, but it will be feasible only when justice is delivered in time and without any hassles … justice can be delivered in time only when both the police and legal system perform their duties with sincerity, dedication and honesty. Justice would have no meaning if delayed. The former Judge, in the article, referred to the delivery of criminal justice. If justice is not delivered at the right time, it may either lose importance or may become meaningless. Delay must be avoided in the pursuit of delivery. This, in no way means, rushing justice or hurrying justice since that would be tantamount to burying justice. But justice can be expedited, not hurried. Without belabouring the point, it is crucial to state that justice is delivered, in both criminal and civil cases, where justice is not inordinately delayed, not unduly hurried, safe enough to conclude that justice was not denied or buried but promptly delivered.

**Legal Practice in Nigeria**

Any discussion of legal practice in Nigeria, finds its root in the trajectory of the legal profession in Nigeria. Before the attainment of political independence in 1960, Nigerian Lawyers were trained in the United Kingdom so that a call to the English, Scottish or Irish Bar or enrolment as a Solicitor in either England, Scotland or Northern Ireland, qualified a Nigerian to Practice Law in Nigeria. The training provided Nigeria with a high quality of trained lawyers but with the passage of time, it was discovered that English trained lawyers lacked knowledge of Nigerian statutes since they did not learn Nigerian Law, lacked knowledge of Nigerian Customary Law system and that the Bi-cameral structure of legal education in England, insufficiently equipped lawyers for law practice in Nigeria.

The report of the Committee on the Future of the Nigerian Legal Profession (the Unsworth Committee) which was published in 1959, recommended the training of lawyers, locally. The report recommended the establishment of the faculties of law in Nigerian universities. This culminated in the enactment of the Legal Education Act of 1962 under

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24. Ibid
25. Ibid
which the Nigerian Law School was established with the Council of Legal Education to coordinate legal education in Nigeria. By the end of 1963, the University of Nigeria, Nsukka, University of Lagos, University of Ife, Ile-Ife (now Obafemi Awolowo University and Ahmadu Bello University, Zaria, had established Law Faculties. From these premier universities, came intellectual fecundity, excellence, resourcefulness unrivaled in the West African sub-region as they produced some of the greatest legal colossi that still remain the fulcrum/substratum of legal practice (Bar and Bench) today.

I daresay that legal practice, indeed, the legal profession has witnessed a downturn, a cascade of fortunes. Legal education which begets legal practice over the years, has grown in Nigeria, from a competent process that successfully replaced training of entrants in foreign university, to a near sorry state. The process has become a shadow of its former self, to the point where its products are increasingly becoming doubtful both in character and learning. The factors that have given rise to this state of affairs straddle environment, curriculum, commitment of staff, corruption, loss of focus, lack of inspiration, poverty, corruption etc.

A university don knows that quality has nose-dived as 500 level law students in some of the nation's foremost universities find it extremely difficult to: complete a well-researched dissertation even with the tutorials on legal research methodology; find it hard to write a good memorandum or pass examinations. These failures have rubbed off on legal practice as practitioners here and judges can testify to. It is not within the purview of this paper to discuss the challenges of legal education in Nigeria, as it would take the discussion off the ball, but suffice it to state that the challenges range from poverty, dearth of books and curriculum challenge, to outright corruption in the Faculty such as (handouts racketeering, sorting, arrangement of files etc), over admission, inability to discipline erring students and staff, underfunding, strikes by lecturers etc.

**Category of Lawyers in Nigeria**

An advocate, said Yusuf Ali, "is the misunderstood professional. He is the envy of many and scorn of others." An advocate pleads the cause of another in a judicial tribunal. He acts also as barrister or solicitor. He is also one who argues a case for a client in court. Chief Richard Akinjide classifies advocates into three: city practitioners, high street practitioners and country practitioners. According to him, city practitioners are the super elites of the profession who desire to be compared to their counterparts in England and the USA. This

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27. Ibid at p.2
class attend international law conferences and operate a well stocked library. The high street advocate is midway between the city and country practitioners.\textsuperscript{29} His law practice is average just as he is competent but not overly ambitious. He attends conferences sparingly. The third type of advocate is the country practitioner, he said is happy with his bread and butter.\textsuperscript{30} In this category, he is the charge and bail lawyer. The author agrees with the classification as any other classification will differ only in name.

**Duties of the Advocate/Legal Practitioner in Modern Nigeria**

The duties of a lawyer in a modern democracy are diverse. In modern developing democracies, a lawyer is a social engineer, caring for the downtrodden, ministering to the needs of the hoipolloi, the common man, defending members of the public against injustice etc. This is in addition to what is usually considered the traditional duties\textsuperscript{31} of a lawyer: duty to the society, duty to the court, duty to the profession,\textsuperscript{32} duty to clients, duty to colleagues,\textsuperscript{33} even duty to himself - that is a duty to himself that he presents himself in a respectable manner before the court, the client and the whole world. The duty to self, extend to dressing neat, exhibit seriousness in court, stand erect in court.\textsuperscript{34} Lawyers in Africa, and in Nigeria, have an enlightened self-interest in consolidating democracy because lawyers function optimally in a constitutional democracy.\textsuperscript{35} The help lawyers can provide to the sustenance of democracy is huge, in a continent encapsulated in political instability, disequilibrium, insecurity, corruption, inefficient and ineffective public institutions, a declining economy and lack of democratic culture.\textsuperscript{36}

In criminal trials, (1) the duties of a prosecuting counsel have been exhaustively discussed by Agaba, in his *Magnum opus 'Practical Approach to Criminal Litigation'\textsuperscript{37} as: duty to be present in court, duty to avoid forum shopping, duty to act fairly and honestly, duty to

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\textsuperscript{29} This presentation shall only discuss the duties of legal practitioners and their challenges. Their obligations and rights shall not be discussed here.

\textsuperscript{30} Ali, Loc.cit

\textsuperscript{31}

\textsuperscript{32} Ibid

\textsuperscript{33} Ibid at pp 3-8 Type of lawyers: those obsessed with the theory of change and those obsessed with the theory of forestalling change - Wahab Shittu- “Travails of a New Wig” - The Nation, August 21, 2013

\textsuperscript{34} Ibid

\textsuperscript{35} Ibid


call material witnesses, duty to observe the interest of justice, duty to conduct case with due diligence, duty to be fair and candid, duty to make available to the accused person proof of evidence, duty to avoid frivolous institution of criminal proceedings. (2) The duties of defence counsel have also been stated by Agaba as: duty to be present in court, the duty to undertake defence of an accused, duty to keep client's confidence, duty not to withdraw from the brief, duty not to seek unnecessary adjournments, the duty to employ the right mode of address for the judge or other presiding officers of a court, judges been legal practitioners have duties to the legal practice. (3) Given the important role of the judge in criminal justice administration, some ethical duties of the judge must be adumbrated: duty to grant to the parties right of audience before the court, duty of neutrality, duty to maintain high standard of conduct, duty to be an active participator in the proceedings but not unnecessarily interfere.  

Problems of Legal Practice/Legal Practitioners - problems, challenges

In contemporary Nigeria, legal practitioners are confronted with a miscellany or cocktail or myriad of problems, and challenges, challenges that limit their effectiveness in Nigeria as they seek to operate in an environment and in a world where democracy is deepened. Problems such as judicial corruption, general insecurity, lack of democratic culture, non-availability of books and other accessories, illiteracy, violations of rule of law confront legal practice. The challenges of operating in a digital era for lawyers is equally daunting.

Problems

- **Insecurity**: Nigeria, especially, the northern part of the country, has been roiled by violence and social disequilibrium. The spate of bombings, kidnappings, arsons, killings in various parts of Nigeria, has forced mass movements and social dislocations. The North-Eastern part of Nigeria, mostly Yobe, Borno and Adamawa states (currently under emergency) has borne the brunt of this violence. A panoply of lawyers were killed and have relocated their law practice to other states, including Jos and Abuja. In the South Eastern and South-Southern part of Nigeria, the spate of kidnappings has forced the promulgation of laws in states such a Akwa Ibom, Rivers, Imo, Anambra, etc to curtail the crime, punishing same with the death penalty. In other parts of the country, these agitations, schisms have become more vociferous and more violent.  

39. Ibid
found it difficult to provide security for all. This has adversely affected the practice of law. On security, Oko succinctly stated elsewhere:

*Insecurity has fundamentally altered the way in which lawyers practice their trade. Lawyers place much premium on survival and are thus unable to discharge their obligations to the society. Fear weighs heavily in a lawyer's decision to aggressively defend and protect rights and liberties. Far more concerned with staying alive than practicing law, lawyers devote most of their time devising survival strategies that will keep them out of harms way.*

In Nigeria, there has been a roller coaster of security challenges, lately. The series of kidnapping incidents in Edo involving teachers and pupils, a traditional ruler from his palace to the kidnap of an Anglican Archbishop in River State to killings and maiming in Nassarawa state between the Ombatse cult and members of the Alago ethnic group and Fulanis has exacerbated the security corundum. With these challenges, Nigeria, obviously tethers on the brink of an abyss with political instability and a wider implication for national security. The kidnap of Mike Ozekhome SAN along Benin-Auchi Road, an operation in which four policemen were killed is a sad and stark reminder of the dangers lurking around lawyers which affects law practice.

- **Corruption:** This is a major impediment to legal practice in Nigeria. Corruption has become a cankerworm, a hydra-headed monster in the practice of law and other issues. It is an area where so much has been written. In a recent article, Alubo quoted a Senior Advocate of Nigeria wherein the approach to initiating corruption, in legal circle, was highlighted:

  *In the same article, A Senior Advocate of Nigeria, Funke Adekoya, SAN granted an interview wherein he described the way in which the Bar and Bench initiate corrupt “if a lawyer says, my Lord, each time this mater comes up, your court is not sitting, the case is not progressing, the Judge may make a statement like, you guys are making money and want to kill us with work: the money you are making, are we sharing with you? Sometimes, it is the lawyers who make the*

move to corrupt the judges. They would go there to start telling the judges they want their matter speedily heard, and end up with a statement like 'if it is good for me, it will be good for you too.' This was alluded to only days ago by Itse Sagay.\textsuperscript{41} Merit, credibility and integrity has been destroyed in the process.\textsuperscript{42}

**Non-Availability of Books and Other Accessories**

There is a dearth of basic practice books in Nigeria, in so many law firms. This invariably hurts the practice of law. This may be the affordability of the books rather than its availability. Affordability is a major problem as it relates to young advocates. Of course, there are a plethora of law reports in Nigeria: Nigerian Weekly Law Report, Federation Weekly Law Reports, Monthly Judgment of the Supreme Court of Nigeria, Laws of the Federation, 2004 and 2010. The cost of these practice books are way out of the reach of the average legal practitioner. Things may not be about to change soon.\textsuperscript{43}

**NBA and Members**

It is axiomatic that a vast majority of lawyers are still, struggling, economically, in an economy that is equally struggling. The NBA expects its members to pay annual practicing fees which guarantees private practice in the law courts. The question has been asked: has the practitioner received his fair recompense, so to speak? Is the NBA truly concerned about the welfare of its members? Unlike Doctors, why is the NBA not genuinely concerned about its members been taken off the street, in a challenging economic environment? Is the NBA conscious of the aims and objectives of its constitution, 2001, some of which are: promotion of good relations among the members of the association and between them and lawyers of other countries, creation of schemes for the encouragement of newly qualified members and assistance to aged or incapacitated members of the Association, establishment of schemes for the promotion of the welfare, security and economic advancement of members of the legal profession.

Substantially, the NBA, arguably, has not delivered on these objectives. This has forced members into a tupsy-turvy with grave consequences for practice. A corollary to the above is the existence of difficult principals which makes relationship between them and the juniors

\textsuperscript{42} Alubo, A.O. 'Abuse of Discretion, Violations of Code of Conduct for Judicial Officers and the Disciplinary Role of the National Judicial Council in Nigeria” being paper presented at the NBA, Makurdi Law Week, July, 2013
\textsuperscript{43} The issue of corruption has been discussed in subsequent pages of this paper, infra
frosty. There are juniors who are lazy, careless, reckless and cantankerous, hence, difficult to work with.

Other problems such as executive lawlessness, violations of the rule of law have dwindled significantly, under the present administration. Relics of them reared their head recently in Rivers states and a few others, but far removed from circumstances that bludgeoned oracular pronouncements from Supreme Court Justices in Government of Lagos State v Ojukwu in the 1980s.

**Challenges of Contemporary Legal Practice**

The challenges facing legal practice in contemporary Nigeria are huge. Some of these challenges are discussed hereunder:

**Prospects for e-legal Practice**

The role of information technology in the digital age must be stressed. Information technology is, in jejunie terms 'the use of technology to aid the capture, storage, retrieval, analysis and communication of information, whether in the form of data, text, image or voice.' It cannot be over-emphasized that there is now cyber practice, web practice, the use of data by lawyers in finding statutes, cases and other authorities. Information Technology (IT), it is said, has improved the law in the use of forensic (analyses of evidence and criminal investigation) junmetrics (scientific methods of legal inquiry and logical reasoning), legal drafting, law reform and prediction of judgment. The arguments against e-practice (it will dehumanize practice and robotize lawyers, redundancy syndrome, high cost of IT, lack of/unreliable infrastructure) have refused to hold water and therefore, not persuasive.

It is imperative for lawyers to be learned, digitally, capable of filing processes on-line, access the internet for materials, meet with other lawyers in hackerspace make comparisons between countries on a given subject - matter. In a recent article, Akomolede said. “The internet has added great value to human life. With globalization, the internet has made it possible for transactions to be transacted, without the parties ever meeting. Electronic commerce and it emergence has revolutionised international trade. With this revolution are concomitant 'legal and socio-economic' problems. Issues relating to the formation of contract on the internet such as offer, acceptance, counter-offer, intention to create legal

44. See Ali, OPcit at 8
relations, payment system in e-commerce, jurisdiction, evidential issues, cybercrime etc and their relative novelty pose contemporary legal challenges for legal practice. Training and orientation may be required. In an era of globalization and internationalization, it is only imperative that lawyers enmesh themselves in e-knowledge. It is sad that a lot of lawyers do not even have computing devices such as laptops, ipads or even phones for browsing.

**Lawyers and Alternative Dispute Resolution**

In an era when litigation and its numerous disappointments have forced disputants to seek alternative methods of resolving disputes, lawyers cannot remain aloof or recalcitrant or lackadaisical. S. 37 of the Magistrate Court Law of Lagos 2010 encourages settlement in an amicable way of simple offences such as Assault - not felony aggravated in degree. Lawyers must enlist in institutions with expertise in Alternative Dispute Resolutions. Increasingly, resolution of dispute through alternative means has taken its hold on the Nigerian legal system, with good record of success. In international commercial disputes, mediation, conciliation, negotiation and arbitration are increasingly used. It is a challenge to lawyers in contemporary Nigeria. Across Nigeria, there are various dispute resolution centres.

**Lawyers and Law Reform**

The challenge of reforming outdated and dysfunctional laws in every states in Nigeria are real. Unlike Lagos, Ogun, Anambra, Benue, (on-going) Kaduna, to an extent, there are states that have antiquated laws that presently does not guarantee justice delivery. In various capacities, either as legal officers, judges, magistrates, legal practitioners, lawyers should consider law reform obligatory must be audacious with the requisite chutzpah and participate extensively in the law reform activities. A state rich as Niger state has fast-tracked justice delivery through reform of its laws.

**Lawyers and Anti-Corruption Jujitsu**

The topic of corruption has been expansively dealt with in various segments of this preparation. Corruption must be eliminated or else justice delivery will remain a mirage. Corruption by Lawyers (Bar or Bench) everywhere, must be exposed. Unless that is done, judicial integrity, once the defining virtue of the judiciary, is vanishing swiftly and possibly irretrievably.48

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47. Ibid. see also Williams, R. 'Keynote address on Challenges of Legal Practice in the 21st Century Nigeria. Web accessed on 12/8/2013
48. Ibid
**Delivery of Justice in Criminal Justice System**

In every society, codes and laws are established and respected. When such laws are contravened, processes and procedures for summoning, arresting, arraigning, custody, trial of such persons, punishment for such violations have been put in place to deal with such matters. Criminal justice connotes the machinery, procedures, personnel and purposes which has to do with the content of the criminal law, covering the arrest, trial, conviction and disposition of offenders. Criminal justice deals with an established system that deals with the analysis of the nature of crime in a society and measures put in place to ensure crime control. It must be stated that the Nigerian criminal justice system is perceived as 'old fashioned' and 'criminal', in dire need of review as the system is awash with undue delays and the legislation: penal code, criminal code, criminal procedure code and the criminal procedure act are relics of colonialism with anachronistic provisions. Suffice it to state that there can be no criminal justice system without Criminal Justice Administration.

Musa contends that there is hardly any doubt that the administration of justice in Nigeria craves for serious reform in order to cope with the challenges dictated by 21st century changes and development. These developments, he listed, as: the advent of internet, the mobile phone, increase in terrorist acts and crimes hitherto e.g. the senseless and brutal kidnapping and or killing of fellow human beings. He stated that the justice machinery is squeaking under the weight of a heavy caseload and myriads of problems such as: prolonged delays in the administration of justice, congestion of courts, inadequate infrastructure and lack of access to justice by the poor, a majority of who cannot afford the services of lawyers, the congestion of prisons with the daily influx of accused persons or suspects awaiting trial, the persistent issue of the holding charge, arrest of suspects' relatives


53. "Reforming the Criminal Justice System' www. The nigeriavoice.com/... reforming accessed on 8/8/2013. Criminal Justice Administration include the gamut of Criminal Justice including 'the collective institutions that an offender passes through until the accusations are disposed off such as law enforcement, judicial process and reformatory institutions such as the Prisons. Nnochiri, I., 'Criminal Justice System in Nigeria Obsolete” www. Gloza.com/...criminal justice accessed on 8/8/2013

54. Musa, C. 'Judicial Overhaul urgently needed in Nigeria” premiumtimesng.com/.../accessed on 8/8/2013
in place of suspects, the use of torture by the police to extort extra-judicial confessions and allegations of corruption against judicial officers.

The learned author stated that many Nigerian laws are outdated and out of tune with modern trends stating that efficient justice delivery is central to the nation's economic growth and development and the socio-economic well-being of its citizens.\textsuperscript{55} The author cannot agree more with the learned publicist when he stated that the success of an effective justice system is measured not only by the number of cases that it manages to dispose of but also and more specifically by the amount of litigation which is avoided because the rights and obligations of parties are ascertainable in advance.

The Nigerian Bar Association has argued that the Criminal Code and the Penal Code made in 1902 and 1960 respectively are obsolete.\textsuperscript{56} Some of the problems often highlighted are inadequate policing, unlawful arrests, snail speed of the wheels of justice hampered by powerful accused persons, legal practitioners and other stakeholders who frustrate the speedy administration criminal justice through various dilating tactics,\textsuperscript{57} weak police prosecution characterized by illiteracy and lack of capacity generally, lack of proper training of prison officials; absence of law reform and review in line with international best practices, continued absence of complainants and witnesses, congestion of cases in courts,\textsuperscript{58} inadequate manpower in the criminal justice system, operational challenges, inadequate funding and non-release of budgetary allocations, obsolete and archaic legislation, current policing system antithetical to contemporary philosophy of investigation which involves a more forensic approach to crime.\textsuperscript{59}

Other observations\textsuperscript{60} were also made by the NBA as: the absence of basic investigative facilities including finger printing laboratories and digital forensics, only five ballistic experts, four finger print experts and two forensic laboratories for a population of over 150 million people,\textsuperscript{61} lack of certainty of detection of crimes, over-centralised quasi-federalism as opposed to real federalism, insecurity among citizens regardless of status or location, rising incidences of corruption at all levels of the polity, emergence of new forms of criminal activities such as kidnapping and terrorism as well as corrupt and inefficient prison

\textsuperscript{55} Ibid
\textsuperscript{56} Ibid
\textsuperscript{57} Ibid
\textsuperscript{58} Nnochiri, I., 'Criminal Justice System in Nigeria Obsolete' www.Gbooza.com/.../criminaljustice accessed on 8/8/2013
\textsuperscript{59} Ibid
\textsuperscript{60} Ibid
\textsuperscript{61} Ibid
decongestion programme predicated on patronage.\textsuperscript{62} It is the position of the NBA that a sound criminal justice system in any nation is a precursor to economic growth, political stability and social equilibrium.

In trying to obliterate the gargantuan obstacles to effective access to justice and justice delivery, various initiatives and efforts have been embarked upon at different epoch in Nigerian history. Ladan\textsuperscript{63} has exhibited some of those efforts hereunder:

\textit{National Economic Empowerment and Development Strategy (NEEDS), 2004-
chapter 9 dealt with improving security and the administration of justice;
Draft Bill on Elimination of Violence in Society (April 2006), Federal Ministry of
Justice, British Council/DFID, Abuja; Report on the Draft Bill on Abolition of All
Forms of Discrimination Against Women in Nigeria and other Related Matters,
2006, Federal Ministry of Justice, Abuja; 2005 NCWD/UNICEF/World Bank-
IDF Project on Discriminatory Laws etc; Presidential Commission on the Reform
of Justice Sector, 2006, Administration of Criminal Justice Bill, 2005; the NBA
has also stated that over ten (10) Bills are currently pending at the National
Assembly ranging from Police Act Amendment Bill, Community Service Bill,
Victims of Crimes Remedies Bill, Prisons Act Amendment Bill to the Elimination
of Violence in Society Bill, among others.\textsuperscript{64}

At the level of states, the Lagos State Government, has through the Administration of
Criminal Justice Law, 2007 and Administration of Criminal Justice Law, Repeal and Re-

\textsuperscript{62} Ibid
\textsuperscript{63} Ibid see also Justice Oputa, for example identified delay and huge expenses as Nigerian Justice System weaknesses
when he said:

\textit{The administration of justice in our courts suffers from two major constraints, namely delay and
expenses. If it takes seven to ten years to decide a case, prospective litigants may decide not to go to court
at all. But the one thing that frightens prospective litigants from the court is the inordinate expenses
which has to be incurred with the result that a very large proportion of our country men as it were, are
priced out of our legal system - Inieken, D & Myraine, F. “Former Governors in “Plea Bargain” with
of the Lagos High Court recently said that the Lagos State Judiciary is the largest and busiest judiciary in
Nigeria and arguably, in Africa with over 50 High Court Judges with not less than 300 cases pending
before each judge and new cases added on a daily basis. He further stated that proceedings are still taken
in longhands with some cases lasting from 10 years to 20 years  Oke, O. “Decongesting the Courts, the
place of Lagos multi-door court-house (LMDC)” allafrain.com 26 2009 web July, 2010

\textsuperscript{64} Ladan, Loc.cit. See Nnochiri, Loc.cit
enactment Law, 2011, achieved laudable goals in delivery of access to justice with the introduction among, others of the abbreviated process of plea bargaining, the insistence that a woman can act as a surety, the introduction professional bondsmen.65

We hasten to add, also, that the most recent and optimistically, successful attempt that has been made, federally, in recent times, is the Bill for an Act to Repeal the Criminal Procedure Act, Cap C41, LFN, 2004, The Administration of Justice Commission Act Cap A3 LFN 2004 and Enact the Administration of Criminal Justice Act Applicable in Federal Courts and Courts of the Federal Capital Territory. The 484 Section Bill is calibrated to provide for speedy and efficient administration of criminal justice in federal courts and courts of the Federal Capital Territory while limiting adjournments of cases to five times and not more than 14 days interval between the adjournments endeavour to conclude all criminal matters within (90) days from the date of arraignment. It has proposed the use of plea-bargaining. I thought that this is achievable but a contrasting position canvassed recently by an author provides that 'the truth, however, is that no criminal case gets decided within a year or more inspite of this provision. This is because beyond the legislation, there is no capacity-human or material to ensure the realization of its lofty objectives.66

It is germane to highlight a few sections of the Administration of Criminal Justice Bill:
- Plea-bargain S. 270 elaborate provision are made taking into account recent criticism of the practice. S. 311-314 objectives of sentences, principles of sentences, reformation and deterrence, - interest of the victim, community and convict compensation to victim in judgement - Court can make recommendation for mercy and give reasons for so doing.
- 348 (2) Trials in H/C may be recorded electronically by retrievable audio visuals as where a judge is unable to conclude trial, it may not have to start denovo.
- Trials in Magistrate Court S.378 charged is expected to be filed by the police accompanied by (1) list of witnesses and their addresses (2) list of exhibits (3) statement of the witnesses and defendants (4) any report, document or material that the prosecution intends to rely on.

In over 40 years, the Criminal Justice System has not undergone any reform.67 The learned publicists, Ojukwu and Briggs, summarized the main problems associated with the

65. The Anambra State Government has also promulgated the Administration of Criminal Justice Law, 2010
66. National Assembly Journal, Vol. 10, No. 2 Abuja 4th February, 2013. A provision of the Magistrate Court Law, 2009 was lauded recently when S. 42 (4) of the law provides that the Magistrate shall
criminal justice system as: congestion of courts, overcrowding in prisons and other detention centers, delayed trials, outdated criminal legislations (sic), poor investigation and police techniques, lack of infrastructure, poor data storage and retrieval system, outdated sentencing procedures, corruption, lack of access to legal representation, lack of properly trained prosecutors, incapacity in the ministry of justice to handle criminal prosecution and issues, lack of adequate coordination and planning within the justice sector, lack of a properly trained manpower, inadequate training and other administrative problems and inadequate funding. The issue of corruption must be singled out as one of the most important obstacles to delivery of justice. Corruption can be defined as the use of power for private gain. It also means dishonest or illegal behavior, especially of people in authority. What constitute corruption are more appropriately contained under various laws that seek to combat corruption such as the relevant provisions of the Penal Code, Criminal Code, Sharia Penal Code, Economic and Financial Crimes Commission Act, 2004 etc. Justice Olatawura, recently quoted extensively, from a 1995 Daily Times Editorial wherein the paper said:

... the tragedy of a sick judiciary does not even end with the shattered expectation of citizens. A morbid bench from the outset finds itself incapacitated in the discharge of its sacred duty as the legal watchdog of the nation. It cannot uphold the rule of law, neither can it administer justice without fear or favour nor prevent citizens right from being imperiled by overbearing government functionaries. Corruption within the judiciary has made it impossible for it to play a neutral and fair role when political disputes arise. Controversial judgments and frivolous injunctions have cost the judiciary the peoples confidence, and subsequently affected the democratic ethos in Nigeria. The Nigerian Judiciary had never before been so ridiculed as it was during the aborted Third Republic. Judicial decisions were given political coloration. 69

This was in 1990s. The words are still as golden as they are oracular. It is a truism that allegations of corruption in the Judiciary today has given rise to a lot of concerns. So prevalent are cases of corruption that the National Judicial Council (NJC) has been forced to

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wield the big stick and has wielded the big stick in a number of cases. Only recently, the Chief Justice of Nigeria (CJN) Hon. Justice Aloma Mukhtar stated that no judge found guilty of corruption would be spared as public confidence in the judiciary continues to wane. The learned CJN noted that the Performance Evaluation Committee report about the quality and quantity of the output of judges in terms of monthly reforms shall be used to hold judges accountable and discipline them. Akin to corruption are a miscellany of issues such as abuse of discretion by judicial officials, violations of the code of conduct for judicial officials manifesting in poor job performance to cases or allegations of outright fraud against judges and legal practitioners as well as undue influence on fellow judges. Allegations of corruption in the judiciary has plummeted the fortunes of that hallowed chambers - the judiciary. It continues to militate against delivery of justice in Nigeria. It is apposite to conclude that the impediments to effective delivery of justice are not exhaustive. Ojukwu and Briggs even identified lack of cohesion between agencies involved in the administration; poor funding of the justice sector; role of technology in criminal justice in Nigeria.

**Civil Justice Administration**

One other area that issues of delivery of justice manifests itself, is in the area of civil proceedings, as disputes are ever present variables in any social context.

There are a phalanx of problems bedeviling delivery of justice through the adversarial/adjudicatory process in Nigeria. These problems range from too many cases in the courts to trial delays and denials of justice, inadequacy of judicial personnel, archaic

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71. Ibid
73. Chief Justice of Nigeria (CJN) worried Nigerians are losing confidence in their judges. www.information.com/.../chief-justice... accessed on 8/8/2013
75. Civil Proceedings are Proceedings in Courts of Law, to resolve disputes; proceedings other than proceedings in criminal matters such as contract, banking, commercial disputes, family law, corporate governance, etc
system of court adjudication, corruption, lack of modern management technology and the absence of case management techniques. These problems militate against effective justice delivery in civil justice system. It is pertinent therefore to discuss in greater detail some of these factors hereunder. It is for these problems, lately, that has given rise to agitations for 'fast tracking of civil proceedings'.

The Problem of Delay

A major obstacle besetting delivery of civil justice system is the problem of delays suffered by litigants. This is ubiquitous in various magisterial and judicial divisions in Nigeria. In Edo State, in the 2010 legal year, there were 14,000 pending cases out of which 7,310 cases were disposed of. Unusual delay blamed on a panoply of factors, accounted for the non-disposal of the other cases. Osibanjo, painted a grim picture of the situation in Lagos when he stated that, in the year 2000, 40,000 cases were pending at the Lagos High Court and that the overall time average for disposal of cases (law matters, personal matters, commercial cases and family cases) was 4-5 years. In 2001, another study conducted by the Lagos State Ministry of Justice showed that it took an average of 5-9 years to dispose of a contested case from filing to judgment while other lawyers put the figure at 10 years. Anyebe stated in his treatise that: the position was painted gloomily by the Honourable Justice Dahiru Musdapher, C.J.N, when he stated that during the 2010-2011 Legal Year alone, the Supreme Court disposed of 163 cases, consisting of 78 judgments and 85 motions. However, 1, 149 civil appeals, 58 criminal appeals and 177 motions were still pending before the Supreme Court, during the same period. Delays have been begot by wanton adjournments, indolence of judges, continued use of the old rules, docket congestion, unpredictable trial costs. Inexorably, this has affected efficiency of justice delivery. In circumventing delays, the court may need to break the rules, break with tradition as the Supreme Court did recently when it fixed the hearing in the Ondo State Election Petition for the 28/8/2013 despite the Court observing its mandatory annual vacation. By its tradition,

77. Uzondu, J. "Fast Tracking Justice Delivery" nigerianews.world.com/.../fast...accessed on 8/8/2013
79. Ibid
81. Ibid
the Supreme Court does not sit during vacations until the commencement of the legal year, this time on the 16th day of September, 2013. The sitting was impelled by the need avoid the appeal becoming statute-barred.  

**Fast Tracking Justice Delivery in Civil Proceedings in Nigeria**

Fast tracking means expediting, to secure efficiency. It is not intended to hurry delivery of justice. The use of fast tracking is symptomatic or indicative of a phlegmatic, bedraggled, runbunctious state of the civil justice sector.

Several states in Nigeria have introduced states High Court (Civil Procedure) Rules which are aimed at fast tracking civil justice delivery. It aims to curtail, If eclipse the slow pace of justice delivery. Significantly, the period between the filing of court process to the date of delivery of judgments have been shortened. Lagos state blazed the trail with the introduction of the rules. Other states notably: Rivers, Kano, Anambra and even the Federal Capital Territory, Abuja have since followed suit, a practice that a foremost jurist lauded, stating that the challenge that the development imposes on advocacy is the challenge of fidelity to the new techniques, which if diligently complied with would lead to the restoration of the confidence of the court users. The apex courts are not left out in the reform of the justice sector to guarantee and provide justice delivery. A new cost regime was introduced by the new Practice Direction as well as other innovations have been introduced by the Court of Appeal Rules, 2007. S. 60 MCL, Lagos, 2010 provides that magistrates shall deliver judgement in every action or matter not later than 21 day after close of trial.

The courts have not rested on their oars. A blizzard of measures have also been introduced to avoid denial of justice and delay of justice. Anyebe adumbrated these measures to include:

(a) Case law management systems (or case flow management)
(b) Fast track court system
(c) Multi-door court house
(d) Court connected APR systems
(e) Simplified method of initiating actions in court
