Administration of Justice in Nigeria: Ideological Constraints and Allied Challenges

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Abstract

It is trite that the administration of the justice system in Nigeria is confronted by diverse challenges. Among the relatively better-known challenges are delays in the dispensation of justice by the courts, corrupt practices among judicial and law enforcement officers, disrespect of court judgments by the government, its agencies and other subjects, as well as the high cost of litigation. Perhaps one factor that may not be as apparent as other challenges is the jurisprudential ideology of positivism—inherited through the transportation of the British legal system into the country via the colonial relationship with Britain. The underpinning ideology influences and informs the judgments from the courts, which tend to translate to the dispensation of 'technical' or legalistic justice in line with strict constructionist formats. To people traditionally attuned to a concept of justice rooted in the moral perception of fairness or good conscience, the technical nature of the justice emanating from the courts tends to raise questions and concerns as to the justness or equitability of such. Generally, these challenges and the nature of the Nigerian justice system erode the trust and confidence of the populace in the justice system, particularly the poor and less influential class'. Hence, this raises the question of whether Nigerian courts are the last hope of the common man. Against this background, this paper engages the discourse on the ideology, challenges and allied issues relating to the administration of justice in Nigeria.

Keywords: Administration of Justice, Positivism, Courts, Natural School, Equity, Fairness, Adversarial System

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I. Introduction

With human evolution into living as coordinated groups in societies of different structures, law has stood as an essential social control and regulation mechanism. Thus, according to A.O. Obilade, an eminent Nigerian legal scholar, '[e]very society, primitive or civilized, is governed by a body of rules which the members of the society regard as the standard of behaviour'.[1] Without law delineating the boundaries of acceptable and unacceptable conduct, there would be no social and normative guide and people can act according to their whims, with 'might' being 'right'. A reference to the philosophical postulation of Thomas Hobbes presents the likely distressing scenario of a society without laws and regulations in the following words:

> 'The consequence of this…was that if society broke down and you had to live in what he called 'a state of nature', without laws or anyone with the power to back them up, you, like everyone else, would steal and murder when necessary. At least, you'd have to do that if you wanted to carry on living. In a world of scarce resources, particularly if you were struggling to find food and water to survive, it could actually be rational to kill other people before they killed you. In Hobbes' memorable description, life outside society would be "solitary, poor, nasty, brutish, and short"'.[2]

Beyond the mere existence of laws in society lies the more crucial need for their effective and just implementation, ensuring their relevance and impact. In essence, in achieving its underlying goal of social regulation and control, there must be *justice* in the application of laws without partiality or exemption among the people. The Collins Dictionary defines justice as '…fairness in the way that people are treated' and, in a related vein, as 'the quality or fact of being just'.[3] The essence of justice is aptly captured in the words of renowned Nigerian Nobel Laureate and scholar Wole Soyinka, who asserts, 'for me, justice is the first condition of humanity'.[4] Evidently, in the unceasing drive for cohesion and orderliness in society, it is crucial that all parties to a dispute, criminal or civil, must have a sense and satisfaction of justice being manifestly done and, by extension, the society should have the fulfilment of justice being done to it

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1 Obilade, AO, *The Nigerian legal* system, Spectrum Books Ltd, Ibadan 1985, 3

2 Yale Books, 'Thomas Hobbes: 'solitary, poor, nasty, brutish, and short" — <https://yalebooksblog.co.uk/2013/04/05/thomas-hobbes-solitary-poor-nasty-brutish-and-short/> on 8 November 2022.

3 Collins dictionary, 'Definition of 'justice" — https://www.collinsdictionary.com/dictionary/english/justice on 8 November 2022. See also, Cambridge Dictionary, 'Meaning of justice in English' —<https://dictionary.cambridge.org/dictionary/english/justice> accessed on 8 November 2022 which defines justice "fairness in the way people are dealt with".

4 Libquotes, 'Wole Soyinka quote' — https://libquotes.com/wole-soyinka/quote/lbs8x8f> accessed on 8 November 2022.

as a collective entity. Simply put, justice must be done to *all* in every situation. This can be illustrated in the following words of Justice Oputa of the Nigerian Supreme Court in the case of *Josiah v The State*:[5]

> '…[J]ustice is not a one-way traffic. It is not justice for the appellant only. Justice is not even only a two-way traffic. It is really a three-way traffic – justice for the appellant accused of a heinous crime of murder; justice for the victim, the murdered man, the deceased, 'whose blood is crying out to heaven for vengeance' and finally justice for society at large – the society whose social norms and values had been desecrated and broken by the criminal act complained of'.

Despite the legal guarantee of administration of justice in a fair manner, the practice of justice in Nigeria remains a mirage, riddled with many systematic challenges. This had led to despair in the justice system as its seen to selectively serve certain quatres of the society. By examining both systemic and systematic challenges, this paper unveils these challenges and make proposals on how to improve the justice system to realize legal guarantees.

II. Administration of Justice and Associated Issues in Nigeria

At a broad level, the concept of 'administration of justice' has been described as 'the process by which the legal system of a government is executed. *The presumed goal of such administration is to provide justice for all those accessing the legal system'*.[6] In any legal system, the judiciary occupies a crucial spot on the landscape of the administration of justice. This flows from its preeminent position in the application and interpretation of laws, its constitutionally bestowed role as the ultimate arbiter in the resolution of disputes,[7] coupled with the trial and sanctioning of transgressors of the law. Administration of justice, vis-à-vis the judiciary, involves a setting that includes the personnel, activity, and structure of the justice system.[8] The Court's role in the administration of justice is 'to ensure equality and fairness, to uphold the law, and to punish those who do wrong.'[9]

Beyond the vital role of the courts in the administration of justice, other stakeholders also have important roles to play in having and sustaining an effective

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5 (1985) Supreme Court of Nigeria.

6 United Nations, (United Nations Human Rights) office of the High Commissioner, —<https://www.ohchr.org/en/taxonomy/term/729?page=5> accessed on 15 November 2023.

7 Section 6, *Constitution of the Federal Republic of Nigeria*, as amended (1999).

8 Futo, R 'Administration of justice: Definition & overview' *Study.com* — <https://study.com/academy/lesson/administration-of-justice-definition-lesson.html> accessed on 15 January 2023.

9 Futo, R 'Administration of Justice: Definition & overview'*Study.com* — <https://study.com/academy/lesson/administration-of-justice-definition-lesson.html> accessed on 15 January 2023.

and productive administration of the justice system. Principal among the roles of courts is the need for litigants, whatever their powers or positions are, to respect and abide by the judgments of courts as delivered. It is in this respect that recurrent disobedience of orders of courts by governments and others in Nigeria has been an issue of serious concern as one of the factors affecting the administration of justice in the country.[10]

Apart from non-compliance with court orders, there are other factors affecting the administration of justice in Nigeria. These factors, collaboratively, constitute potentially discouraging bottlenecks for aggrieved persons desirous of pursuing justice through the courts. Adekoya, a Nigerian professor of law and scholar of Constitutional Law, in a discourse on access to justice, has offered a wide-ranging elucidation of some of these factors,[11] which are discussed below.

One of the challenges to the administration of justice in Nigeria, as identified by Adeokoya, is the high cost of accessing courts. Aggrieved and justice-seeking litigants inevitably have to bear filing and process service charges along with other administrative expenses. Furthermore, with Nigeria's adversarial justice system that is lawyer-centred,[12] litigants would have to procure the services of lawyers who are professionally trained to navigate the complex labyrinths of substantive and procedural rules with the related technicalities, as well as the language of the courts. In a country with high poverty rates, where the prescribed workers' minimum monthly wage for government workers is seventy-seven thousand Nigerian Naira, the possibility of affording the high cost of pursuing justice through the courts can be a very daunting and discouraging factor. This can be readily inferred from the fact that professional lawyers' fees and other expenses of litigation can run into hundreds of thousands of Naira in a society where many are financially disadvantaged and engaged in unceasing struggles to meet basic daily necessities. One can also reflect on the likely multiple levels of litigation expenses in situations where a case has to go on appeal through the

[10] Akinlade A, 'Disobedience to judgments and orders of the lower Court: implications for the rule of law in Nigeria', All Nigerian Judges Conference for Lower Court Judges organised by National Judicial Institute, Abuja, Nigeria, 14 November 2022; Chioma U, 'Rethinking the disobedience of court orders In Nigeria', *The Nigeria Lawyer* 19 April 2023 — <https://thenigerialawyer.com/rethinking-the-disobedience-of-court-orders-in-nigeria/#google_vignette> on 25 August 2023; Punch editorial board, 'Disobedience of court threatens democracy' *Punch* 21st February 2023 - <https://punchng.com/disobedience-of-court-threatens-democracy/> on 25 August 2023.

[11] Adekoya C O, 'Betrayal of the Poor in Accessing Justice in Nigeria: The Judas in our Midst' 103rd Inaugural Lecture, Olabisi Onabanjo University, 13 December, 2022, 23-36.

[12] Adekoya C O, 'Betrayal of the Poor in Accessing Justice in Nigeria: The Judas in our Midst' 24 and 26.

different hierarchies of court up to the Supreme Court, which is the highest and final level of court in Nigeria. In the scenario, the consequence is that many financially handicapped litigant parties may find it difficult to access or pursue justice through Nigerian courts, with a feeling that justice is not for the poor.

Other inhibiting factors to the administration of justice in Nigeria include overburdening volumes of cases with the courts, delays in adjudication and conclusion of cases and location and issue of physical access to courts by litigants.[13] The location and physical access to courts are apt to increase the costs of litigation. Typically, high courts are located in state capitals, with divisions in other major towns; Court of Appeal divisions are in designated cities, while the Supreme Court sits only in the Federal Capital Territory of Abuja. By and large, getting to these courts for people in rural or other faraway places can occasion relatively huge expenses, constituting an addition to the basic financial requirements for litigation.

Another pervasive factor affecting the administration of justice in Nigeria is corruption. In the specific court sector, basic tasks in litigation such as filing, processing, service, entering of proofs of service, as well as getting cases assigned to courts may not be done speedily or appropriately without the tacit or express demand and giving of gratifications or inducements to court officials. Generally, a litigant or lawyer who fails to 'play ball' is likely to encounter frustrations of delay and other untoward experiences in their suit. Beyond the realm of courts, other stakeholders in the justice system, such as the police, have been implicated in corrupt practices. Of more serious concern is the payments of money or other forms of inducement to judicial officers and court officials to influence judgments or other judicial outcomes.[14] Such has been the pervasiveness of judicial corruption in Nigerian courts that it has been a recurrent subject of adverse commentaries on diverse platforms.[15]

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13 Adekoya C O, 'Betrayal of the Poor in Accessing Justice in Nigeria: The Judas in our Midst' 29, 30, 33.

14 Adekoya C O, 'Betrayal of the Poor in Accessing Justice in Nigeria: The Judas in our Midst' 35-37.

15 Aderoju T, 'The impact of corruption on the rule of law and the effective administration of justice using Nigeria as a case study' International Bar Association Friday 28 April 2023 — <https://www.ibanet.org/impact-of-corruption-on-rule-of-law-Nigeria> on 13 August 2023; Obutte P C, 'Corruption, administration of justice and the judiciary in Nigeria February 3, 2016) — <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2727319>; Ejekwonyilo A, 'Supreme Court justice laments corruption, inequity in Nigeria's judiciary', Premium Times, 23 May 2022 -<https://www.premiumtimesng.com/news/headlines/531981-supreme-court-justice-laments-corruption-inequity-in-nigerias-judiciary.html?tztc=1> accessed on 13 August 2023.

The collective impact of the above-noted factors as challenges to the administration of justice is not far-fetched. Central is in discouraging aggrieved persons from seeking to access the courts for the pursuit of justice and, generally, making the Nigerian justice system an unattractive option in the resolution of disputes, particularly for financially disadvantaged persons. Adekoya summed this up in the following words:

> '[T]he challenge of the inaccessibility of the poor to justice…is an unfortunate reality in Nigeria...The result in people withdrawing from the court instead of people seeking to access the court because those who have had a frustrating experience of the civil justice system or who have someone very close to them, who have gone through similar ordeals, often vow never to seek formal justice with the court'.[16]

Akinola Aguda, a renowned Nigerian jurist, has commented along a similar line, stating:

> 'The whole system of administration of justice is heavily weighted against the vast majority of the people, who are unable to afford the expense of any search after justice. The poor can hardly be expected to enter the temple of justice to worship therein and not even the 'not-too-poor' can hardly be expected to pursue his legal rights to a successful end in the system we run. If however the poor is foolhardy enough to enter the temple of justice, he and his family may regret it for the rest of their lives. For in the process – in the pursuit what he considers to be just – he may become bankrupt and die a pauper. Because, no matter how little a claim may be if one of the parties is a wealthy person or is the State, such a case my traverse eight courts in between 5 and 20 years'.[17]

The factors militating against the administration of justice in Nigeria, as discussed above, no doubt, should be of serious concern. Though, while they may not be eradicated, there have been measures to address them. Among others, the requirement by judicial officers to submit quarterly reports on concluded cases is one. It is expected that the need for compliance would propel judges to avoid lethargy in adjudication of disputes before them; in that respect, they would be unreceptive of unwarranted 'delay tactics' by lawyers and strive to undertake trials with dispatch, without compromising due process. The introduction of the front-loading process and case-management mechanism in different Nigerian jurisdictions, encompassing pre-trial conferences and other components, is another device geared towards improving the speed of trial of cases. [18]

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[16] Adekoya C O, 'Betrayal of the Poor in Accessing Justice in Nigeria: The Judas in our Midst' 46-47.

[17] Aguda A, [as adopted from Adekoya C O, 'Betrayal of the poor in accessing justice in Nigeria: The Judas in our Midst' 38.]

[18] Alli N, 'The Evolving Practice of "Frontloading" in Civil Actions in Nigeria' Afe Babalola University, 27 June, 2013 — <https://www.abuad.edu.ng/the-evolving-practice-of-frontloading-in-civil-actions-in-nigeria/> on 13 August 2023); Iguh A, 'The Front Loading Concept: An appraisal of

There are some means of ameliorating the huge financial burdens faced by litigants in Nigeria. One is the *legal aid* scheme.[19] Another is the increasing intervention of civil society groups and activists in taking up the grievances of helpless persons in pursuing their cases through the courts, which can assist financially disadvantaged aggrieved persons to pursue justice through the courts. The aspect of the intervention by civil society groups or activists can be illustrated by the widely reported case of Mrs. Georgina Ahamefule. The litigant, a female worker in a hospital, was aggrieved by her dismissal from her job, based on her HIV-positive status. A civil society group took up her case to court, fighting to a successful conclusion, with the court awarding a substantial sum of 7 million Naira in her favour as damages.[20] While the avenues for assisting financially handicapped persons may not be far-reaching or available to all, they remain beacons of hope to aggrieved persons lacking means of pursuing justice.

With disrespect of court orders perpetrated by powerful persons and groups, including the government, it may be difficult to address. Nonetheless, it is hoped that the personal consciences of those holding powers of office and other powerful individuals would continue to spur them to respect court orders and the associated rights of affected persons, as well as the collective interest of the society. At different times, reports emerge of judicial officers being sanctioned for corrupt practices. It can be reasonably expected that such situations would serve as deterrence to others, facilitating a notable reduction of incidents of judicial corruption.

Beyond all the above issues, one other crucial factor affecting Nigeria's administration of justice system is the legalistic dispensation of justice by courts, which tends to confuse people as to whether *real* or *natural* justice has been done in actually assuaging the grievances of affected persons. This issue relates to the jurisprudential structure of the Nigerian justice system; the authors discuss the system and allied issues subsequently.

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the future of civil litigation in the High Courts within the application of the new rules.' *Researchgate*, —<https://www.researchgate.net/publication/317042134_the_front_loading_concept_an_appraisal_of_the_future_of_civil_litigation_in_the_high_courts_within_the_application_of_the_new_rules/citation/download.> on 13 August 2023.

19 Banire and Associates, 'Legal aid in the administration of justice in Nigeria' —<https://mabandassociates.com/pool/Legal_Aid_in_the_admin_of_justice_Nigeria.pdf> 13 August 2023.

20 Channels Television, 'Court orders hospital to pay unlawfully dismissed HIV positive staff N7 million' —<https://www.channelstv.com/2012/10/10/court-orders-hospital-to-pay-unlawfully-dismissed-hiv-positive-staff-n7-million/> on 13 August 2023.

III. Equitable Versus Legalistic Justice

In pre-colonial Nigerian societies, the resolution of disputes was largely based on reconciliatory, arbitral and mediatory approaches.[21] Generally, dispute resolution was aimed at achieving a 'win-win' outcome based on fair and just adjudication, in which none of the disputants would feel disgruntled, and the public would see that justice had been manifestly done.[22] Ascertainment and upholding of *truth* is a fundamental component of dispute resolution in the pre-colonial setting, which imposed a burden on stakeholders to strive for truth and fairness. In pre-colonial societies, governance, social regulation, and control, including dispensation of justice, involved human participators along with supernatural forces, such as deities and ancestral forces, believed to be overseers and monitors of human affairs. Rooted in religious, superstitious, and related beliefs, the fear of incurring the impartial wrath of supernatural forces—seen as arbiters of truth and enforcers of justice—served as a powerful deterrent against anti-social or unethical acts, including the perversion of justice.[23] Two scholars of History, Ajayi and Buhari, capture the foregoing narrative thus,

> '[Truth] is the major significance of conflict resolution. How would the other opponents know that there will be no partiality? Both disputants must be truthful. The mediator, arbitrator, judge must also be truthful, the presence of the ancestral forces is a factor; some may collapse or forced to say the truth because of the ancestral forces'.[24]

Ajayi and Buhari also note that '[i]ndeed, it is a cardinal principle of justice that the common man must see the whole process of adjudication as being fair to all parties'.[25] In this context, *justice,* as perceived through the prism of evaluating common people, is a key parameter in gauging the integrity of the dispensation of justice in specific cases, and the administration of justice at large. In the Nigerian pre-colonial settings, the involvement of dreaded supernatural forces in the justice system, as a component of sociological engineering, presented a scenario in which stakeholders tended to strive for truth and justice. Thus,

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21 Ajayi A T and Buhari L O, 'Methods of Conflict Resolution in African Traditional Society' 8 (2) *African Research Review*, 2014, 138-157; Oyelade O S 'Conflict Resolution and Human Rights in Traditional African *Society'* 45, *Indian Journal of International Law* 2005, 209.

22 Ajayi A T and Buhari L O, 'Methods of Conflict Resolution in African Traditional Society', 139.

23 Odunsi, B 'Crime detection and the *Psychic Witness* in America: An allegory for re-appraising indigenous African criminology' in O Onazi (Ed.), *African legal theory and contemporary problems – Critical essays*, Springer, New York, 2012, 265-288.

24 Ajayi A T and Buhari L O, 'Methods of conflict resolution in African traditional society', 142.

25 Omoleye B O and Eniola B O, 'Administration of justice in Nigeria: Analysing the dominant legal ideology' 10 (1) *Journal of Law and Conflict. Resolution*, 2018, 1.

whatever the outcome of any adjudicatory process, the people were apt to be satisfied that the process had been fair and appropriate.

Generally, beyond the scope of pre-colonial Nigeria, the fundamental principle of justice that 'the common man must see the whole process of adjudication as being fair to all parties' has been of long origin and remains fundamental in contemporary times. As highlighted in the very popular and evergreen dictum of Lord Hewart, the then Lord Chief Justice of England, in the case of *Rex v. Sussex Justices,*[26] 'It is not merely of some importance but is of fundamental importance that justice should not only be done but should manifestly and undoubtedly be seen to be done'.[27]

Meaningful and beneficial dispensation of justice, therefore, should not be limited to the mere technical perception of judges, legal professionals or other legalism-minded persons that justice has been done following the *prescribed rules*. Rather, the situation should be that the adjudicatory outcome would readily be seen by the people as being fair to all the parties in terms of the basic human notion of natural justice, equity and good conscience. It is in this respect that the authors examine the prevalence of technical or legalistic rulings in Nigerian courts and their impact on the true essence of justice administration.

IV. Nigeria's Adversarial Justice System: Legalistic Justice and the Question of 'Fairness' in Context

To recap, the largely mediatory and conciliatory approach of the justice system of pre-colonial Nigeria facilitated a perception of *fairness* to which the people could relate. As noted earlier, this could also be attributed to factors including 'fear of the supernatural'. One other notable factor is that, as a whole, the legal system, including the dispensation of justice, revolved around customary law, made and accepted by the people as binding on them. The reason why customary law has been described as 'a mirror of accepted usage'.[28] Along similar lines, Lord Atkins had noted, '…it is the assent of the native community that gives a custom its validity and, therefore, barbarous or mild, it must be shown to be recognised by the native community whose conduct it is supposed to regulate'.[29] The general nature of Indigenous customary law and its role in the pursuit of justice has been summed up thus:

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[26] *Rex v. Sussex Justices* (1924) United Kingdom High Court.

[27] Datar A 'The origins of "Justice must be seen to be done"', *Landmark judgements*, 2020 — <https://www.barandbench.com/columns/the-origins-of-justice-must-be-seen-to-be-done> on 20 May 2023.

[28] *Owonyin v Omotosho,* (1961) Federal Supreme Court of Nigeria.

[29] *Eshugbayi Eleko v Government of Nigeria* (1931) The United Kingdom.

> '…the organic or living law of an indigenous people of Nigeria regulating their lives and transactions. It is organic in that it is not static. It is regulatory in that it controls the lives of the community subject to it. It is said that custom is a mirror of the culture of the people. I would say that customary law goes further and imports justice to the lives of all those subject to it'.[30]

British colonisation of Nigeria, among other impacts, led to the introduction of the foreign English legal system and its approach. One consequence of the new order was the subjugation of the indigenous customary law system to the English system revolving around the operation of English statutes, case law, and the received English Law.[31] As a component of the English legal system, the *adversarial system*[32] of litigation and adjudication of disputes came into operation in the courts, overshadowing the non-adversarial approach of the pre-colonial system. Put differently, litigation, adjudication of disputes, and dispensation of justice, through the conventional courts, assumed the outlook of fierce contests in a win-or-lose scenario between parties. Ultimately, the prevailing side would emerge as the victor, 'taking all' and the losing side, the vanquished.

As typical of officially regulated contests, Nigeria's adversarial justice system is set in a legal framework of strict substantive and procedural rules, which direct and regulate the forensic contests between the adversaries. Any party that litigates on a claim in a manner that is non-compliant with the substantive and procedural rules stands to fail in getting redress or justice, notwithstanding the basic truth, merit or moral sanctity of his position in the litigated dispute. By and large, the straitjacketing rules of administration of justice, in such situations, result in legalistic or technical justice, as strictly formatted within the architecture of the procedural rules. Judicial outcomes in such dispensation may not readily align with the perception and mindset of the people as *real* justice in terms of equity, fairness and good conscience. This situation has been a cause of vitriolic attacks on some judgments of the Nigerian judiciary, even at the highest level of the Supreme Court,[33] more so in a society where the judiciary carries a taint

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30 *Oyewunmi Ajagungbade II v Ogunsesan* (1990) Supreme Court of Nigeria.

31 Odunsi B 'Sources of Nigerian law and the relegation of customary law in perspective' 1 *Crescent University Law Journal* 2016, 151-167.

32 Adekoya C, 'Betrayal of the Poor in Accessing Justice in Nigeria: The Judas in our Midst' 26-27.

33 Kperogi F A 'Lawan and Supreme Court of Shameless Judicial Bandits' —<https://www.farooqkperogi.com/2023/02/lawan-and-supreme-court-of-shameless.html> on 21 May 2023; Ezeani A 'Supreme Court vs. Farooq Kperogi & others' The Sun , 14 February 2023, — <https://sunnewsonline.com/supreme-court-vs-farooq-kperogi-others/> on 21 May 2021; Premium Times, 'Ahmad Lawan Judgement: Supreme Court angry over attacks on judges, warns critics' Premium Times, 11 February 2023 — <https://www.premiumtimesng.com/news/581230-ahmad-lawan-judgement-supreme-court-angry-over-attacks-on-judges-warns-critics.html> accessed on 21 May 2023.

of corruption with people believing that justice can be obtained by the 'highest bidder'.[34]

It can be argued that the displeasure and criticisms of 'unacceptable' judicial decisions arise because the critics lack the professional or technical minds of jurists and lawyers in the process of administration of justice.[35] The criticisms can also be attributed to the biases of the critics, based on inherent displeasure with decisions that are unfavourable to them.[36] Whatever the case is, recurrent condemnations of judicial decisions remain an issue of concern in the administration of justice projects. The courts may be self-convinced of having done justice within the prescribed rules. However, public vituperations indicate that the justice purportedly done had not been seen as manifestly and undoubtedly done in their esteem and evaluation.

Scholarly and allied literature offer instances of Nigerian judicial decisions that appear rather strictly technical and are difficult for the public to perceive as being fair. Some examples are considered in the following section for illustration.

V. Legalistic Judicial Decisions Based on Strict Constructionist Approach

Omoleye and Eniola offer some notable Nigerian cases decided in the mould of strict legalism, attracting the perception of being harsh or inequitable in the outcome. One is the case of *Peoples Democratic Party (PDP) v Congress for Progressive Change (CPC) and 41Ors*.[37] In contention before the Supreme Court was the provision of section 285(7) of the Constitution of the Federal Republic of Nigeria, 1999 ('Nigerian Constitution'), which provides: 'An appeal from the decision of an election petition tribunal or court of Appeal in a matter shall be heard and disposed of within sixty (60) days from the date of delivering the judgment of the tribunal or court of Appeal'.

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34 Kperogi F A 'Lawan and Supreme Court of Shameless Judicial Bandits' [ ]

35 Enumah A 'Supreme court replies critics, says its silence must not be taken for weakness or cowardice' ThisDay, 12 February 2023 — <https://www.thisdaylive.com/index.php/2023/02/12/supreme-court-replies-critics-says-its-silence-must-not-be-taken-for-weakness-or-cowardice/> accessed on 22 May 2023: "The Supreme Court yesterday reacted in anger to the attacks on its judges over the recent judgments they delivered, warning that those who had been "venting convoluted anger" were ignorant of the law."

36 Premium Times, 'Ahmad Lawan Judgement: Supreme Court angry over attacks on judges, warns critics', 11 February 2023 — <https://www.premiumtimesng.com/news/581230-ahmad-lawan-judgement-supreme-court-angry-over-attacks-on-judges-warns-critics.html?tztc=1> accessed on [date].

37 (2011) Supreme Court of Nigeria.

Arising for resolution, thereby, was whether the sixty-day period in the provision would include court vacation periods, Saturdays and Sundays, in determining whether a matter falling beyond the period became statute-barred or otherwise. Engaging the issue, the appellant's counsel contended that the provision should be liberally construed to exclude vacation periods, Saturdays and Sundays. Rejecting the contention, however, the court held that vacations, public holidays, Saturdays and Sundays could not be excluded in the interpretation of the subsection. The rationale of the court was that if the makers of the Nigerian Constitution intended to exclude the periods, such would have been expressly stated in unambiguous terms. Ultimately, the suit was struck out for being statue-barred.

Omoleye and Eniola, in strong disagreement with the court's approach and decision, poignantly remark:

> 'A liberal and progressive approach, one which advances the cause of democratic value would have reckoned that vacation period and weekends should not be included in the sixty (60) days' time-frame even when such was not expressly stated in the constitution. It could not have been the intention of the legislature that vacation periods and weekends should be included in the sixty-day frame… The vacation period certainly was not caused by the parties involved in this matter and so the ruling was unjust'.[38]

Another is the case of *Ifezue v Mbadugha*.[39] The matter in issue was the construction of section 258(1) of the 1979 Nigerian Constitution, which provides, 'Every court established under this Constitution shall deliver its judgment not later than three months after the conclusion of evidence and final addresses and furnish all parties to the case or matter with duly authenticated copies of the decision on the date of delivery'.

The Court of Appeal had given judgment beyond the prescribed three-month deadline, which was one of the key issues on which the appeal before the Supreme Court was based. Arising for determination in the case was whether the three-month timeline was mandatory or directory. However, taking a strict constructionist and legalistic approach for a literal interpretation of the provision, the Supreme Court's majority decision was that the prescribed time was mandatory, and on that basis, nullified the Court of Appeal judgment, with a directive of remittance of the case back to Court of Appeal for hearing before a different panel. Notably, Bello, a Justice of the Supreme Court, differed from the majority decision in a dissenting judgment. It was the position of the learned

[38] Omoleye B O and Eniola B O, 'Administration of justice in Nigeria: Analysing the dominant legal ideology', 5.

[39] (1984) Supreme Court of Nigeria.

Justice that strictly sticking to the provisions of section 258(1) in holding it as mandatory would occasion injustice to the parties. Along the scope of the dissenting judgment, one can note the hardship to be faced by the parties for an act or omission of the lower court for which the parties were not responsible. The parties, in the light of the majority decision, would have to incur more expenses and longer time in having to re-undertake the appeal afresh, among other consequences, and, possibly, back to the same Supreme Court.

Worthy of note also is the well-known case of *Savannah Bank Ltd v Ajilo*.[40] The case centred on the validity of a deed of assignment executed without the requisite consent under the Nigerian *Land Use Act*, section 22 of which provides:

> 'It shall not be lawful for the holder of a statutory right of occupancy granted by the Governor to alienate his right of occupancy or any part thereof by assignment, mortgage, transfer of possession, sublease or otherwise howsoever without the consent of the Governor first had and obtained…'.

In this case, Savannah Bank, a mortgagee sought to foreclose a property used as collateral by Ajilo, the mortgagor upon default of the loan amount. Ajilo on learning of the foreclosure-initiated proceedings at the high court in Lagos, seeking declaration that the deed of mortgage be invalidated for the reason that no consent had been obtained prior to execution of a deed from the Governor, as required by section 22 of the Land Use Act, rendering the transaction null and void. The high court ruled in Ajilo's favor, a decision that was upheld by the appellate court and the supreme court. This holding was manifestly arrived at on a strict literal interpretation and application of the law. The mortgagor, a beneficiary of a loan and a holder of the statutory right of occupancy invalidated the transaction on technicalities exposing the bank to non-recovery of its loan amount.

The case of *Calabar Central Cooperative and Credit Society Ltd v Ekpo* decided after *Savannah Bank Ltd v Ajilo*, along similar lines, also warrants attention. To illustrate the discourse between legalistic justice and *real* justice, it is pertinent to present abridged facts of *Ekpo*'s case.[41] The plaintiff was an employee of the defendant company. Following his arrest over allegations of defrauding his employer of eight hundred thousand Nigerian Naira, he signed a deed transferring his house to the defendant in the form of 'plea-bargaining' to avoid prosecution. Ironically, about eight years later, he sued to declare the property transfer void and invalid on the grounds of the absence of the Governor's

[40] (1989) Supreme Court of Nigeria.

[41] As adopted from Omoleye B O and Eniola B O, 'Administration of justice in Nigeria: Analysing the dominant legal ideology', 5.

consent, contrary to section 22 of the Land Use Act, as was the case in *Savannah Bank v Ajilo*. Ultimately, the case went on appeal to the Supreme Court, where the court upheld Ekpo's contention regarding the invalidity of the property transfer he made, based on non-compliance with section 22 of the Land Use Act.

The *Ekpo* case had been the subject of strong commentaries. Commenting on the case, Emeka Chianu, a Professor of Law, commented:

> 'This decision is simply calamitous and retrograde. If it is not speedily reversed it could smother commerce…[E]ither unconsciously or unavowedly, the Supreme Court, in its eagerness to achieve a desirable result on the facts flung itself headlong into a narrow conception of the consent issue…'[42]

The technical dispensation of justice resulting from a strict judicial constructionist approach has also been evident in other cases that may not have garnered significant media or public attention and reviews. One example is the case of *Olubunmi Iranlade v Alfa Olomowewe & Six Ors.*[43] Briefly, the central subject matter of the case was the claim of ownership of a parcel of land by the claimant, Iranlade, an acknowledged illiterate woman. In need of finances for various purposes, she sought a loan of sixty-five thousand Naira from the 3rd Defendant, for which she understood that the disputed land would serve as security for repayment. Contrary to her expectations, the 1st to 3rd defendants misled her into signing a sale and transfer of the land to the 3rd Defendant. Upon realising the fraud and the failure of preliminary measures to rectify the situation, she sued, praying to the court for the nullification of the purported sale/transfer transaction and restoration of her land.

The defendants filed their defence and joined issues with the Claimant, but at some point, as indicated in the court's records, they abandoned the case and withdrew from the court's proceedings. After a protracted delay of approximately twelve years, the court ruled in favour of the claimant on Thursday 23 May 2013 concerning the case filed in 2001.

The Defendants filed an appeal, *Alpha Olomowewe & Ors (Appellants) v Mrs. Olubunmi Irinlade (Respondent)* suit no. CA/IB/348/2013[44], against the judgement of the High Court at the Court of Appeal, Ibadan Division. After another stretched time of about six years, judgment on the appeal was delivered on Tuesday, 9 July 2019. The central issue raised and canvassed by the appellants was that the High Court failed to issue a *hearing notice* to them before commencing

[42] Omoleye B O, Eniola B O, 'Administration of justice in Nigeria', 5.

[43] (2001) High Court of Ogun State, Nigeria. Unreported.

[44] (2013) Court of Appeal Nigeria. (Unreported)

the hearing of the case and thereby deprive them of their right to a fair hearing. The Court of Appeal concurred with the appellants and ultimately declared the High Court judgement a nullity and set it aside.

To the appellants and, perhaps, adherents and protagonists of strict judicial legalism, the outcome of the appeal can be described as a 'smart' forensic move. That is, despite the lower High Court's finding and holding that the appellants abandoned its proceedings in which they had filed submissions and participated up to a point—a fact which propelled the court in proceeding with the trial, with reliance on pertinent legal authorities. Due to some reasons, particularly that the fatal default in issuing a hearing notice was not the court's fault nor under its control, the Court of Appeal's decision would be considered harsh and unfair. This conclusion resonates with a wide range of people who perceive justice from the spectrum of natural fairness. However harsh and unfortunate the situation may be, it stands as a sombre and stark reality of Nigeria's adversarial justice system operated in a strict legalistic framework.

VI. Natural Law Theory and Legal Positivism: The Issue of the Dominant Ideology in the Nigerian Justice System

Historically, ideological foundations of legal systems have been discussed in the scope of some jurisprudential propositions or theories postulated by different schools of thought.[45] Principal among these are *Legal Positivism* and *Natural Law* theories. Generally, the scope and operation of any legal system, including the administration of justice vis-à-vis disposition of judges in the interpretation and application of laws, depend on the operative or predominant jurisprudential ideology in place.

Simply, the drive of legal positivism is to

> 'concentrate on the detailed but careful analysis of legal concepts with view to determining their theological nexus and function in a system of law. All ethical considerations must accordingly be excluded from any legal analysis, morals have nothing to do with law and it is no business of the lawyer to concern himself with the end or purpose of law which is peculiarly a function of the legislator'.[46]

In essence, legal positivism focuses on legalism devoid of sentimental, moral, ethical or metaphysical considerations, with a concentration on the bare analysis of law as existing. Furthermore, the strict constructionist approach in

[45] Elegido J M, *Jurisprudence,* Spectrum Books Limited, Ibadan, Nigeria, 1994, 19-81.

[46] Omoleye B O, Eniola B O, 'Administration of justice in Nigeria', 3.

literal dispassionate interpretation and application of law in judicial adjudication of cases is a feature of legal positivism. Along this axis, as a reflection of the f legalistic dispensation of justice in Nigeria, Hon. Justice Belgore M B, a respected Nigerian jurist, notes that: 'A judge is obliged to enforce the law laid down by the legislature or created by a higher court whether such law is unfair, absurd or even dangerous. It is justice according to law, not necessarily according to justice'.[47]

In justifying its adoption, it has been argued that legal positivism facilitates certainty and predictability of law. On the contrary, it has also been noted that, by its nature, the ideology unduly constrains judges and reduces their capacity for flexibility often needed to achieve the end of social justice.[48]

In comparison, Natural Law, in theoretical configuration, focuses on justice and fairness in the nature and operation of law. While comprising of diverse postulations, the key tenet is about law achieving social justice; this flows from an objective, comprehensive and rational enunciation of its basic ideas geared towards practical reasonableness in ordering human life and community.[49] In highlighting the essence of Natural Law, the position is that law is not law unless it is just, and in another respect, that an unjust law is a perversion of justice.[50] In perspective, the Natural Law approach, as a legal system ideology, offers a more veritable disposition for the attainment of fairness and *real* justice, compared with Legal Positivism, which propels courts into applying law 'whether such law is unfair, absurd or even dangerous.'[51]

Substantively, legal positivism is the bedrock of the Nigerian administration of the justice system; this has been reflected in the strict constructionist approach of the courts.[52] The ideological leaning of Nigerian courts has been particularly highlighted in the following commentary.

> 'Classical English Positivism which Nigerian judges and jurists have inherited from colonial masters never gave any serious thought to the question of justice as part of the definition of law or even as a concept to which law should direct its attention. And yet in modern times, people have come to the realization that law in the nature of rules, orders and so on must have justice as its main purpose'. [53]

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47 Belgore M B, 'Constraints in the Administration of Justice' a paper presented at the Judges conference, Abuja, 1999 – as adopted from Omoleye B O and Eniola B O, 'Administration of justice in Nigeria: Analysing the dominant legal ideology' 4.

48 Omoleye B O and Eniola B O, 'Administration of justice in Nigeria', 3.

49 Omoleye B O and Eniola B O, 'Administration of justice in Nigeria', 3.

50 Omoleye B O and Eniola B O, 'Administration of justice in Nigeria', 3.

51 Belgore M B, 'Constraints in the Administration of Justice' [ ]

52 Belgore M B, 'Constraints in the Administration of Justice'[ ]

53 Akinola T, 'Poverty, Law and Justice' in Elias and Jegede M (eds), *Jurisprudence*, MIJ Pub., Lagos, 433.

Based on the strict constructionist approach, it has poignantly been stated of Nigerian judges that, '[w]hen confronted with a choice between applying law *de lege lata* and law *de lege ferenda*, the majority of the judges would opt for the former in accordance with the strict constructionist legal ideology which they have imbibed'.[54]

In summary, colonialism introduced the English legal system and its administration of justice to Nigeria. Unlike the relatively simpler pre-colonial approach, this system imposed a framework characterised by technical legal rules and a strong inclination toward legal positivism as its underlying jurisprudential ideology. This influence is evident in the judicial decisions of Nigerian courts, as reflected in previously examined cases—many of which have fallen short of public expectations of justice and fairness.

Regardless of the guiding ideology of a justice system, judges can—and should—endeavour to uphold substantive justice rather than a purely legalistic approach rooted in the rigid application of laws and rules. Put in another perspective, in relation to the words of Justice Belgore, judges should not deliver justice in the harsh manner of 'justice according to law, not necessarily according to justice'. Similarly, they ought not to summarily enforce 'the law laid down by the legislature or created by a higher court whether such law is unfair, absurd or even dangerous.'[55] Along this line, there have been notable expositions by eminent Nigerian jurists on the need to strive for real justice even in the framework of the positivist jurisprudential ideology underpinning the Nigerian justice system. In one case, Oputa JSC, a renowned Nigerian Justice of the Supreme Court, reflected on the essence of substantive justice, as against technical justice, in positing that a court is not a mechanical or automatic calculator. Rather, it is a court of law dealing with varying situations and applying the same law to these situations to do justice in each situation according to its peculiar surrounding circumstances. In a related vein, the jurist pronounced himself thus:

> 'The picture of law and its technical rules triumphant, and justice prostrate, may, no doubt, have its judicial admirers but the spirit of justice does not reside in forms and formalities, nor in technicalities; nor in the triumph of the administration of justice to be found in picking one's way between pitfalls and technicalities. Law and its technical rules are to be but a handmaid of justice and legal flexibility'.[56]

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54 Oyebode A, *Law and Nation Building: Selected Essays*, Nigeria Center for Political and Administrative Research (CEPAR), Ikeja, Lagos, Nigeria, 2005, 134.

55 Belgore M B, 'Constraints in the Administration of Justice' [ ]

56 Omoleye B O and Eniola B O, 'Administration of justice in Nigeria', 6.

The operation of the emasculating ideology of legal positivism in the Nigerian legal system should not be a barrier to substantive justice. With the proper mindset, commitment and courage, a judge can avoid being mechanical in an adjudicatory process and strive to achieve real justice and fairness based on the circumstances of each case in the framework of the prescribed rules – even at the risk of a charge of 'judicial activism' or 'judicial radicalism'. This relates to the declaration, attributed to an Austrian Jurist, Eugen Ehrlich, that 'there is no guarantee of justice except the personality of the judge.'[57] In this context, it has been written of Lord Denning, a foremost jurist of the English legal system, on which Nigeria's system is patterned:

> 'He looks at law as an instrument of doing justice, doing justice now in the case before him which is founded on what majority of right-thinking people regard as fair solutions to justice and which gives them confidence that those occupying the judgment seat do not live in a different world of ideas from their own and understands their hopes and anxieties. The belief that law is instrument of doing instant justice is the explanation of Lord Denning's often misunderstood radicalism…He thinks of the result before he considers the legal reasoning on which it was to be founded. If the results to which established legal doctrines leads is obviously unfair and out of touch with what ordinary people would expect to be law, he will examine the principles in order to ascertain whether they really compel an injustice solution and after, this method will enable him to arrive at an answer which is more equitable to modern need'.[58]

The drive for meaningful justice in Nigeria does not lie solely in the formulation and operation of legal rules, propelling strict legalistic justice dispensation. It extends to the personality and disposition of judges as well as the mindset of other stakeholders, including parties to cases. Therefore, the existence of guiding rules or the absence of directives should not be a harbinger of injustice in any form.

VII. Administration of Justice in Nigeria: Matters Arising

Generally, there is a need for general improvement in Nigeria's justice system. The role of judicial officials as key role-players in the system has been addressed in different dimensions. To briefly recap, for effectiveness, judicial officials need to eschew corruption, bias, unwarranted delays in adjudicatory processes and other unwholesome acts that taint the administration of justice in the country. Likewise, the technical and strict constructionist approach embedded in the positivist ideology of the country's justice system needs to be modified to imprint

[57] Omoleye B O, Eniola B O, 'Administration of justice in Nigeria', 3.

[58] Omoleye B O, Eniola B O, 'Administration of justice in Nigeria', 6.

a human face in the dispensation of justice, with a drive for fairness rather than mere technical justice. Poignantly, it has been declared that '[t]he approach of strict construction of statutes has increasingly made Nigerian Judiciary detached from and even alienated the people. The institution is fast becoming irrelevant to the social conditions, aspirations and national development requirements'.[59] The positivist ideology of the Nigerian legal and justice system should not be an excuse for Nigerian judges to dish out judgments that the evaluating public largely finds devoid of fairness and equity. As noted in previous parts of this paper, the feasibility of *real* justice being done in the framework of the ideology has been highlighted with references to the veritable positions of eminent jurists such as Lord Denning, Justice Oputa and Justice Eso, among others, who have had to operate in the framework of the same positivist justice system. Essentially, there is a need for a paradigm shift on the part of judicial officials in Nigeria to ensure that justice should not only be done but should manifestly and undoubtedly seen to have been done.

Beyond judicial officials in the court system, other stakeholders have roles to play in instilling confidence in the justice system. The need to respect and abide by court judgments by the government and all affected by such judgments has also been emphasised. Apart from that, there is a need to avoid invocation of tribal, religious, political, affiliations or other sentiments by sections of the public when transgressors of law are made to face trials for crimes. Resort to such sentiments tends to put unwarranted pressure on the justice system in *prima facie* colouring legitimate trial processes such as witch-hunting, vendettas and the like, which may affect the effective dispensation of justice. The public should generally have an attitude of permitting the machinery of justice to run unencumbered.

The unsatisfactory state of the Nigerian justice system, vis-à-vis the related challenges or deficiencies, has been a source of widespread lack of confidence or distrust in it. Consequently, the pursuit of justice through law enforcement and the court systems has largely been an unattractive option for aggrieved persons, particularly, members of society who lack the financial capacity and influence to fight their causes. In reality, law enforcement agencies and the courts are avenues taken or resorted to when it is strictly inevitable and, ostensibly, with mixed expectations. Frustrations with Nigeria's court system, notably, have spawned scathing questions on the legitimacy of Nigerian courts as the 'last hope of the common man',[60] with some, derogatorily labelling the courts as the '*lost hope* of

[59] Omoleye B O, Eniola B O, 'Administration of justice in Nigeria', 6-7.

[60] Anegbe A, 'Is Nigerian Judiciary Still the Hope of The Common Man?' Global advocacy for Afri-

the common man'.[61] The displeasure with the Nigerian justice system has even resonated beyond the country's frontiers; among others, this has been reflected in reported refusal of travel visas to judges by some countries, based on perceived questionable direct or indirect roles of such judges in controversial decisions.[62]

Lack of confidence in the Nigerian administration of justice system, naturally, would foster some unpleasant outcomes. One, people who are helpless in pursuing redress through the system are apt to leave their grievances and pains, unaddressed by the human justice structure, to God to 'fight' for them. Nonetheless, such people are apt to have bottled-up discontentment and anger with the whole system of governance and society for their failure to come to their aid as necessary. A byproduct of such scenarios is that unscrupulous persons may intensify their impunity in taking advantage of the weak who cannot fight for themselves. A scholar has forlornly noted in this respect,

> '[I]mpunity is one of the main factors emboldening violators of rights because they are not brought to account. It is worse when the aggressor wears the victim out by sheer exploiting the machinery of justice against the victim or using the law enforcement machinery to silence him/her. Some even flaunt this machinery to let the victim know that there is absolutely nothing he she can do knowing full well that the poor cannot have access to redress mechanism through the court'.[63]

In summation, violators of the law, with a feeling of immunity from legal sanctions under the justice system, tend to be further propelled to engage in misdeeds. Unceasing and regular incidents of diverse crimes such as robberies, banditry, ritual killings, land-grabbing, and financial frauds in Nigeria stand as attestation. In another aspect, in fighting back, aggrieved citizens, distrustful of the justice system, are apt to take laws into their hands, resorting to extra-legal acts such as mob lynching of apprehended offenders or other forms of violence in addressing personal disputes instead of opting for the making recourse to the justice system. The prevailing mindset is that resorting to the justice system would be 'a waste of time' as the offenders would likely walk free ultimately.

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can affairs, 6 May 2019 — < https://globaladvocacyafrica.org/is-nigerian-judiciary-still-the-hope-of-the-common-man/> accessed on 27 November 2022.

61 Omirhobo M E 'Nigerian judiciary: Lost hope of the common man' The Guardian 12 November 2021 — <https://guardian.ng/opinion/nigerian-judiciary-lost-hope-of-the-common-man/> accessed on 11 January 2023.

62 Wale Odunsi W 'Justices who declared third-runner up winner refused US visas - Donald Duke' Daily Post 16 February 2023 — https://dailypost.ng/2023/02/16/justices-who-declared-third-runner-up-winner-refused-us-visas-donald-duke/ on 26 August 2023; Akinsuyi T 'US Government Denies Visa To Justice Kekere-Ekun' Independent 17 February, 2023 -<https://independent.ng/us-government-denies-visa-to-justice-kekere-ekun/> accessed on 26 August 2023.

63 Adekoya C O, 'Betrayal of the Poor in Accessing Justice in Nigeria', 49.

VIII. Conclusion

It cannot be said that the Nigerian administration of the justice system is *totally* bad or utterly dysfunctional. Systems of other countries, including developed ones, are not infallible, considering reports of miscarriages of justice at different times.[64] The pre-colonial justice system, despite its noted values and potentials, had its instances of abuses and injustices. This, for example, can be inferred from two long-existing proverbs of the Nigerian Yoruba group: *'Ori yeye ni'mogun, ti aishe lo po'* (many that have been beheaded for alleged wrongdoings are innocent)[65] and *'Oluwa lo m'ejo da'* (Only God, as an omniscient being, can be an infallible adjudicator or judge).[66]

Overall, the central issue is that Nigeria's administration of justice system is beset with some serious challenges which affect its attractiveness as a mechanism of dispute resolution or pursuit of redress among the common people. Thus, there is a pressing need to address the challenges to improve the outlook of the justice system. It is in that vein that a call is made to all participators and stakeholders in Nigeria's administration of justice. Factors, such as costs of litigation and others, which inhibit accessibility to court by financially handicapped people should be pragmatically addressed. Financial limitation should not be a barrier to justice for any aggrieved person or be a cause for any person to suffer injustice. Put differently, justice should not be available to only those who can afford its pursuit to the ultimate end. A recent criminal case serves as a touching illustration. The accused person, following conviction at the lower courts, had to fight up to the apex Nigerian Supreme Court before he could get justice in being found innocent of the criminal allegations against him. Reportedly, the lawyer of the defendant

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64 U.S. Department of Justice, Office of Justice Programs, 'USA and UK responses to miscarriages of justice' in Adler JR (ed), *Forensic psychology: concepts, debates and practice*, Willan Publishing, Uffculme, United Kingdom, 2004, 39-57.

65 The origin of this proverb has been traced to an incident in which a king ordered the execution of seventeen of his servants at the shrine of Ogun, the Yoruba god of iron, on the allegation of stealing his trumpet, a prominent symbol of his royalty. It was later discovered that the loss of the trumpet was the act of his son in conspiracy with two other persons. On this discovery and realisation of miscarriage of justice, the king lamented, presumably, at the scene of the execution, that not all the persons whose heads lay at the execution ground were guilty. See, 'How Yoruba Proverb "Ori Yeye Ni Mogun T'aise Lopo" Became A Proverb' — https://web.facebook.com/218630248872524/posts/how-yoruba-proverb-ori-yeye-ni-mogun-taise-lopo-became-a-proverblong-time-ago-in/374905813244966/?_rdc=1&_rdr> on 17 July 2023; *Yorubaoloji*, "Ori Yeye Ni Mogun T'aise Lopo" - <http://yorubaoloji.blogspot.com/2016/07/ori-yeye-ni-mogun-taise-lopo.html> accessed on 17 July 2023.

66 In context, the saying seeks to convey that human adjudication can turn to be erroneous, unfair or unjust based on different factors.

lamented that the defendant was able to get justice 'because he could afford to reach the apex court; imagine what would have been the plight of the innocent Nigerian who could not afford to get as far as the Supreme Court.'[67] Inferably, a probable scenario is that a less influential or financially disadvantaged person without the means of the accused in that case would have suffered injustice due to financial limitation in taking the case up to the highest level of the Supreme Court.

Beyond access to court, the courts, as occupiers of crucial junctions in the justice dispensation landscape should deliver judgments not encapsulated in legalism or strict technicalities. The tacit and express knocks that Nigerian judicial officials have received in Nigeria and beyond, based on some judicial decisions, speak to the courts on the imperatives of engaging adjudicatory tasks with a sense of equity and humanity, and not robotic inclinations in the guise of ideological compliance. Also important is the need for all, especially the government and powerful people, to respect judgments given in favour of less powerful people.

Generally, the administration of justice in Nigeria does not have to be a complicated and mystical phenomenon or an item of disillusionment to citizens. Essentially, with good conscience, determination and fair-mindedness on the part of all stakeholders, the administration of justice, particularly through the court system, should be an attractive project which citizens ought to embrace with relish, confidence, and positive expectation. Involved in this expectation is that, even in its regimented adversarial setting together with the underpinning positivism ideology, the sanctity of Nigeria's justice system and dispensation of justice can still be ensured through conscientious judicial adjudication and resolution of disputes devoid of sacrificing the fundamental essence of justice at the altar of technicalities or strict legalism.

[67] Edozien L C, 'Supreme Court on Nwaoboshi's case: Reason to reform EFCC' Guardian, 18 July, 2023 — <https://guardian.ng/opinion/supreme-court-on-nwaoboshis-case-reason-to-reform-efcc/> accessed on 27 August 2023.