

Adjournment of Court Cases in Nigeria: Determinants, Effects and the Way Forward

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Abstract: *The court is a key component of the criminal justice system besides the police and prisons, playing a central role in promoting social order. However, the rate at which cases are adjourned in courts is worrisome as victims and aggrieved persons do not get justice when they need it. Sequel to the above, this work therefore examines: Adjournment of Court Cases in Nigeria: Determinants, Effects and the Way Forward. Marxist theory was adopted as the most appropriate theoretical framework, documentary data were generated and analyzed using content analysis with the view of probing how this situation has constituted a failure of the criminal justice system. The study observed that poor funding/ infrastructural facilities, corruption, unpreparedness of lawyers, delayed tactics by litigants are some of the factors that influence cases adjournments. Consequently, it takes a toll on the prisons due to the geometric increase in the number of awaiting trial inmates and the speedy dispensation of justice. The study suggested that judges must learn to prioritize their adjudicative functions above every other activity they have as well as effective funding of judicial institutions.*

Keywords: Criminal Justice System, Court, Adjournment

1. INTRODUCTION

The role of law in the development of human societies cannot be overemphasized. Man's journey through history, has been constantly shaped by law in its various forms which include customs, norms, edicts, rules, regulations, legislation and judicial precedents, such that it would have been impossible for humanity, in its various spheres of evolution, to have survived without the instrumentality of the law (Banwo & Ighodalo, 1899).

The structural-functionalist theory describes the criminal Justice System (CJS) as an essential part of any society through which the laws guiding the existence and order of such societies are applied and the rights of the citizens upheld (Olonisakin, Ogunleye, & Adebayo, 2017). The court is one component of the criminal justice system besides the police and prisons established by the government to uphold the instrumentality of the law by adjudicating legal disputes among members of the society, and carry out the administration of justice in civil, criminal, and administrative matters in accordance with the rule of law. The courts in Nigeria represent the judiciary saddled with the responsibilities of ensuring fair dispensation of justice. Alemika (2014) and Alemika & Chukwuma (2005) associate certain characteristics with Criminal Justice System. They include fairness, justice, equality, effectiveness and efficiency. Hence, it is an aberration for this same system to be characterized by ineptitude and injustice (Olonisakin, Ogunleye, & Adebayo, 2017). Okogbule (n.d), however, argued that from the point of

arrest, to investigation, case hearing, verdict and execution of court verdict, the Nigeria CJS is tainted.

Research indicates that courts/judiciary of most developing countries like Nigeria is plagued with delays in the resolution of cases (Alemika, 2014; Alemika et al, 2005; Olonisakin et al, 2017). These delays are nonetheless, caused by multiple adjournments, particularly in common-law judicial systems, and create challenges for the scheduling and management of courts (Edward, 2016). This consequently, militate good governance, social order and development. Anaodozie (2016) submitted that when the system saddled with the responsibility of dispensation of justice is, itself sometimes, an embodiment of delay and injustice, then the masses are in trouble as it does not only make the system weak but also has the tendency of making the system less effective in achieving the purpose of criminal law—prevention of crimes and social control (Pilai, 2007).

This paper therefore, proposes to interrogate the causes and effects of incessant adjournment in the Nigerian Judicial system. Finally, an attempt would be made to chart a way forward.

2. THEORETICAL FRAMEWORK

The Marxist theory developed by Karl Marx (1818-1883) forms the theoretical framework for this study. The theory claims that there is an intersection between power and wealth with human social organization. Marx posits that history of all human societies is characterized by struggle

between classes for dominance. "The history of all hitherto existing society is the history of class struggles" (Ritzer, 2006). Marx believed that the wealthy centralize their power and influence through laws, government and the criminal justice systems such as the courts. He argues that institutions of the state like the judiciary with its powers is required by societies (capitalists) to enforce the unequal distribution of social and material rewards in order to preserve their position to oppressed less privileged class in the society (Aver & Orban, 2014). He further maintains that the court and issues of adjournments is the mechanism by which the wealthy, influential and powerful keeps all the other classes in a disadvantaged position as it reflects the interest of powerful members of the society. This however, is essentially true in Nigeria where the perception of criminal injustice is especially common among the poor or socio-economically disadvantaged. Access to justice is an essential part of any criminal justice system and should be the right of every member of the society irrespective of class, status, wealth, power and influence Ibanga (1996), Imiera (2005) and Igbo (2007).

3. DETERMINANTS/CAUSES OF ADJOURNMENT

Several factors are responsible for the delay experienced in the smooth, efficient and quick disposal of cases. Adjournment of cases can be/are necessitated by factors such as:

3.1 Poor Funding/ Infrastructural Facilities

The Chief Justice of Nigeria, Justice Walter restated that inadequate funding is one of the greatest challenges confronting the nation's judiciary. This can be felt in the abysmal state of courts infrastructure in Nigeria and welfare of lawyer/judges. Most courts especially state courts are burdened with antiquated physical and legal infrastructure that renders them extremely slow and inefficient. At times, the court rooms would be so filled up that lawyers would not have any seat to sit and articulate their cases. Sometimes, they have to fight their ways through crowded corridors into the courtrooms or are forced to share spaces, alternating sitting times. This situation most times makes judges and lawyers unable take all the cases listed for the day or leave them with several cases to argue making them spend more than half the day on less than three cases. In addition, car park, restrooms and Lawyers' robing rooms are not provided at virtually all the courts in Nigeria. As a result, in most cases, you find lawyers and litigants scrambling for places to ease up themselves before, during and after court sessions.

Poor remuneration of judges and lawyers is one of the factors exacerbating delay in criminal justice and corruption in the Nigerian Judicial system. It is now common knowledge that the welfare of Magistrates and

Judges in some states leaves much to be desired. In most jurisdictions, official quarters are not made available let alone official vehicles. Dr. Kwede as cited in Mann (2017) in his article describes the plight of lawyers in the following terms: "Some of them hang on the road for so long to join commuter vehicles to their places of work. Before the phasing out of motorbikes in some Nigerian states such as Jos, Amambra etc, it was common to see some of them hanging or perching precariously on the motorbikes with their bags and files behind them.

3.2 Corruption

Interpretation and maintenance of law and order is one of the basic the functions of the judicial arm of government. However, this has taken a different turn in Nigeria. A recent report from Global Corruption Barometer states that the judiciary in Nigeria is widely perceived as one of the most corrupt institutions. It has become quite "normal" for judicial officials to request for bribes so as to move cases along much faster. Consequently, parties who cannot afford the financial compensation are denied justice. Their cases are not handled as at when due or they continuously face issues of incessant adjournments. In a country where a disproportionate percentage of the citizenry can barely afford some of the basic necessities of life, legal costs are viewed as a deterrent to access to justice.

3.3 Lack of adequate institutional reforms and modernization

In the era of technological advancement, most judges still write in long hand and record court proceedings in same manner. This leads to unsecured storage of court documents, loss of case files, provides room for corruption and consequently, incessant adjournments. Low investment in information and communication technology, lack of political will and commitment to a better society, use of archaic and outdated laws, procedures and processes that are riddled with loopholes are some of the problems the judiciary is faced with. These issues lead to legal unreadiness of the courts to go on with some matters based on administrative bottlenecks.

3.4 Inadequate number of Judges

In addition, there are inadequate numbers of judges available to resolve disputes relative to the number of cases. This inadequacy results to overloading the available judges/lawyers who also need to strike a balance between their profession and personal life occasioning unnecessary hiccups in the system. Many of the courtrooms are empty because there are no judges assigned to them. Judges are not easily replaced as they retire. For instance, while four judges retired at the High Court last year, only one has been appointed to replace them (Mann, 2017).

3.5 Unpreparedness of Lawyers

Legal practitioners also cause delays in the administration of justice. Sipes (1988) argues that the duration of a court case can be influenced greatly by the lawyer's preparation, knowledge, and skill. This results to frivolous applications for adjournments. There are occasions when counsel in criminal matters deliberately request adjournments for the purpose of ensuring the full payment of their fees or to beef up the fees in cases where they are paid on the basis of the number of appearances made. Apart from the issue of payment of fees, many lawyers engage in sole practice, making them liable to having conflicting dates, thereby causing delays. They find it difficult to engage or brief juniors to handle cases on their behalf when they appear in other courts. Consequently, they go to the courts without adequately reviewing the case files leading to ill preparedness and adjournment of cases.

To add to this, indisposition of lawyers based on natural disasters such as heavy rain downpour, or medical issues are also causes of excessive adjournment. Rainfall per se, cannot be a legal excuse to deter courts from proceedings. However, the reverse is the case in the Nigerian judiciary.

3.6 Delay tactics by Litigants

Prosecutors are reluctant to provide full information on evidence to defense lawyers, prompting the latter to request an adjournment. (Sipes, 1988; Luskin & Luskin, 1987; Chan & Barnes, 1995) posit that a litigant's behavior can influence adjournment of cases. A wealthy litigant can prolong discovery of evidence hoping to financially overwhelm and intimidate a smaller opponent into settling by burying them in paper.

4. EFFECTS OF ADJOURNMENT ON GOOD GOVERNANCE, SOCIAL ORDER AND DEVELOPMENT IN NIGERIA

Delay in courts threatens the system of justice. As delays increase, the innocent who cannot afford to make bail suffer longer in jail, the guilty who are released pose greater threats to society, and the deterrent value of speedy justice is lost (Monek, n.d). Furthermore, protracted adjournment of court cases dissuades citizens who desire to seek redress in court from entering and using the system. As a result, illegitimate options to obtain justice are considered. In what Robert K. Merton calls *innovation*, an individual who lacks opportunity could be disillusioned with the common societal goal of getting justice through legitimate means, so creates an alternate path to the same goal by through illegitimate means. When members of the society are dissatisfied with a society's established means of achieving a goal, they resort to crime as a means to an end. Thus, People who are innocent but continue to suffer because their innocence has

not been proven, likely result to *Innovation* (crime) as means of gaining justice.

Delays in the administration of justice heighten social injustice which in turn affects development, infrastructural sustenance, and leadership. Other visible signs are; fallen standards of education and work output, high rates of unemployment and the ever widening gaps between the rich and poor among other factors (Odeh, 2015). It is an anomaly because it brings to the entire court system a loss of public confidence, respect and pride. It deprives citizens of the basic public service, leads to deterioration of evidence and makes it less likely that justice be done when the case is finally tried as well as causes severe hardship to some parties and may in general affect litigants differentially (Zeisel as cited in Monek, n.d).

Delay in the delivery of justice is largely responsible for the problem of increase in the number of awaiting trial suspects and is one of the root causes of prison congestion. Delays encountered in the processing of cases before a final sentence is passed, have a significant impact on the size of the pre-trial prison population in many countries including Nigeria (Alemika & Chukwuma, 2006; Ayo, 2008). Ibanga (1996) as cited in Ukwayi & Okpa (2017) posit that delay in court proceeding and ATP problem throughout the country threaten the safety and security of lives and properties. He contends that as delay in criminal prosecution increases, the innocent who cannot afford to make bail suffer longer in jail.

Due administration of justice is the firmest pillar of good Government (Mann, 2014). According to UNDP (1997), good governance encompasses the exercise of political, economic, legal, judicial, social, and administrative authority in a manner that meets the aspirations and needs of the citizens. Olowu & Akinola (1995), provides some parameters for measuring good governance. They include; organizational efficiency, accountability, legitimacy, and responsiveness to the public, transparency in decision-making and pluralism in policy options and choices, rule of law, equity, etc. Nigeria, despite the long years of independence is still battling with the problem of good governance, social order and sustainable development. The failure of courts to dispose of cases in a reasonable time frame has serious consequences for the exercise of justice in society, as captured in the legal maxim 'justice delayed is justice denied. This impedes development since sustainable development embodies all attempts to improve the coordination of human existence in all ramifications Gboyega (2003).

5. WAY FORWARD

Aiyedun as cited in Ezeamalu (2017) posits that to reduce court delays, the Judiciary must prioritise the

rendering of a Judge's adjudicative functions above every other activity of its Judges. This is in line with the Code of Conduct for Judicial Officers which specifically states in a preamble that the "the judicial duties of a Judicial Officer, which include all the duties of his office prescribed by law, take precedence over all his other activities". She further opines that one adjournment can trigger a series of further adjournments in an effort to get a suitable trial date for all the parties. Therefore, preventing one adjournment in a case could save a significant amount of time available for trial and improve court users' experiences with attending courts.

Dean (n.d) advocates the entire abolition of jury trials in negligence cases. He suggests a replacement with compulsory arbitration or, as a prelude, encourage jury waivers, compulsory pre-trial conferences, and the construction of more courthouses. Mann (2017) suggests the Introduction of Alternative Dispute Resolution (ADR) mechanisms and multi-door courthouses where suitable cases can be sent through the various doors for negotiation, conciliation, mediation or arbitration. He also suggested a mandatory time limit for the filing of processes, failure which the defaulting party would be made to pay a penalty and limiting adjournments in the life cycle of a case to a specified number. Furthermore, Olonisakin, Ogunleye, & Adebayo (2017) lays emphasis on the need for the government to institute a system of incorruptible judges where by judges would be reminded of what their job is and how it should be done. This process can be achieved through adequate training and retraining at regular intervals. He also called for effective funding of the judicial institutions in Nigeria.

6. CONCLUSION AND RECOMMENDATIONS

The role an effective dispensation of justice can play in creating an enabling environment for the development of Nigeria and the world over can never be underestimated. This is especially so for the Nigerian nation which is in dire need of good governance, social order and sustainable development. Incessant adjournment of cases weakens the criminal justice system and in turn, the society at large. "A stitch in time saves nine" says a popular proverb. It is therefore imperative that issues of excessive adjournments in Nigeria are checkmated. To guide against this, it is recommended that there should be rigidity in the rules of the courts. Natural or manmade disasters such as rainfall and antiquated court infrastructures should not deter court proceedings. There is also a need for the judiciary to be free and fair in its implementing of court proceedings. Punishments and sanctions should be awarded to erring judges who indulge in corrupt practices such punishment like dismissal from service, public humiliation by sending them to prisons to serve jail terms. To curb the excesses of adjournment is to redress the rules of the courts.

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