

**THE ROLE OF THE COURT IN THE CRIMINAL JUSTICE SYSTEM: THE  
IMPACT OF DELAYS ON JUSTICE IN NIGERIA.**

**BY**

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BENIN CITY**

**APRIL, 2024**

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**BEING A LONG ESSAY IN PARTIAL FULFILMENT  
OF THE REQUIREMENTS FOR THE AWARD OF  
BACHELORS OF LAWS (L.L.B HONS) SUBMITTED TO THE FACULTY OF LAW  
OF THE UNIVERSITY OF BENIN, BENIN CITY, NIGERIA.**

**APRIL, 2024**

## **CERTIFICATION**

I, **Adesuwa Jessica AKIOYA (Mat. No. LAW1805894)** hereby certify that apart from the references made to other people's work as duly acknowledged herein, this entire project is the product of my personal research, and has neither in part nor in whole been presented for another degree elsewhere.

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## **APPROVAL**

We the undersigned, certify that this project work was written and completed by Adesuwa Jessica AKIOYA (Mat. No. LAW1805894), in partial fulfillment of the requirements for the award of the degree of Bachelor of Laws (LL.B).

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## **DEDICATION**

This Research work is dedicated to God Almighty the giver of life and Strength and my lovely parents Mr Osagie & Mrs Patience Akioya for their love, care and support.

## ACKNOWLEDGEMENT

I owe much gratitude to my parents Mr. Osagie and Mrs. Patience Akioya for their Financial, emotional and moral support towards my education. And to my amazing Siblings Nosa Akioya and Osas Akioya thanks for adding light and spice to my Journey in the University of Benin. In the course of my journey at the University of Benin, I made amazing friends Becky Nyen Owan, Akpevwe Goodnews Oshevire and Blessing Mariam Idachaba you guys mean a lot to me and I can't trade you all for anything. To all my other wonderful friends Ruth, Tovie, Christabel, Godswill Ufuoma, Syntyche, Deborah Adeniyi (100L roommate), Jacinta, Favour Ezeh, Adamma Joy, Joy Ogieva the leaflet won't permit me to write your names you all are amazing, all my roommates from 1001 to 5001 God bless you all.

I am deeply grateful to my project supervisor Prof. Eric Okojie for his fatherly traits of patience and guidance throughout the period of my research.

I appreciate all my lecturers of the faculty of Law whose impact of knowledge has contributed largely to my value as a person. My lovely CLASFON Family (Christian Law Students Fellowship of Nigeria Uniben Chapter) I love you guys.

I acknowledge my colleagues whose support and assistance have made every process of this academic journey interesting amidst the struggle for excellence.

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Federal High Court Civil Procedure Rules 2000

Judgement Enforcement Rules 2004

Lagos State Civil Procedure Rules 2004

Legal Aid Act 2011

Rules of professional Conduct for Legal Practitioners 2023

Sheriffs and Civil Processes Act 2004

### Foreign Statutes

Constitution of the United States of America 1789

Criminal Justice Reform Act 1990

German Criminal Code (RGSt) 1871

United Nations 1979 Convention

## LIST OF ABBREVIATIONS

ACB	African Continental Bank
ACJA	Administration of Criminal Justice Act
ADR	Alternative Dispute Resolution
AG	Attorney General
BSHA	Bayelsa State House of Assembly
BND	Bundesnachrichtendienst
CEO	Chief Executive Officer
CJN	Chief Justice of Nigeria
CMS	Central Case Management System
COP	Commissioner of Police
CPA	Criminal Procedure Act
CPC	Criminal Procedure Code
CFRN	Constitution Federal Republic of Nigeria
CUSA	Constitution of the United States of America
DFID	Department for International Development
ESLR	Eastern Supreme Court Law Report
FRN	Federal Republic Of Nigeria
FWLR	Federal weekly Law Report
GOVT	Government
LPELR	Law Pavilion Electronic Law Report
NIA	National Intelligence Agency
NLR	Nigerian Law Reports
NO	Number
NWLR	Nigerian Weekly Law Reports

PRAWA	Prisoners Rehabilitation and Welfare Action
UK	United Kingdom
USA	United States of America
SSS	State Security Service

## ABSTRACT

The Nigerian criminal justice system is a caviling constituent of the country's administration and the parts which the courts have to play within this system is important. The aim of this project is to delve into the different functions of the courts in criminal justice system of Nigeria and to dissect the impact of delays on the administration of justice in the country. This study adopts a doctrinal approach all informations are purely from textbooks, internet, law reports for a better understanding of the subject matter.

The research begin by explaining what criminal justice system entail, role and functions of the courts in determining criminal cases, including their function in interpretation and application of the law, following due process, and safeguarding the rights of the accused. Furthermore, this project will dissect the organizational structure of the Nigerian court system and allocation of responsibilities among various tiers of courts, such as the Magistrate Courts, High Courts, Court of Appeal, and the Supreme Court, in the handling of criminal cases.

In addition to expounding the hypothetical facets of the roles of the courts, the project will go into workable implementation of these functions, examining challenges and successes usually encountered within the court system of Nigeria. Most importantly, this research focuses on the existing issue of delays in the meting out of justice and its repercussions on the generic efficaciousness in the criminal justice system. Delays in court proceedings can cause long pretrial detention, abuse of defendants' rights to a quick trial, and lessen the public confidence in the justice system.

The impact of these delays on the defendants, victims, and society at large will be critically examined through Nigerian case laws. Furthermore, this project will examine the fundamental causes of delays, touching factors such as backlog of case, institutional inefficiencies, inadequate infrastructure, and procedural complexities. By pinpointing these encumbrance, the research tends to provide practical recommendations for reforming the court system and building efficiency in handling criminal cases.

Finally, the project tends to make available to the ongoing discourse on judicial reform in Nigeria, dishing out insights that can inform policy interventions and institutional changes aimed at improving the administration of criminal justice. The findings of this research can serve as a foundation for further scholarly inquest and applicable initiatives geared towards strengthening the role of courts in upholding the rule of law and ensuring equitable access to justice for all citizens.

## **CHAPTER ONE**

### **THE ROLE OF THE COURTS IN THE CRIMINAL JUSTICE SYSTEM: THE IMPACT OF DELAYS ON JUSTICE IN NIGERIA**

#### **1.1 INTRODUCTION**

The role of the courts in the Nigerian criminal justice system is very important, because they are saddled with the responsibility for meting out justice and making sure that the rights of every person involved are regarded and upheld. Nevertheless, the criminal justice system in Nigeria is plagued by delays, thereby having a notable effect on the outcome of cases. These delays are associated to a number of causes which include, Adjourment regularity, Tardy Examination System and Old Court system practice.

Delay in the Nigerian criminal justice system is said to have an adverse impact on the administration of justice, because they can result in the denial of justice for the injured party and the abuse of rights. In supplement, the adverse impact on the administration of justice , the delays that occur in the Nigerian criminal justice system can also lead to unfavourable effect on the restoration of violators . This is so because long delays in finding solutions to cases can lead in violators held in pretrial detention for long periods of time, and as such can hinder them from having the effective and efficient restoration services. Furthermore, the delays deteriorate to lack of trust in the justice system, as injured parties together with their families may have the feeling that justice is not delivered fast.

Delays in the criminal justice system of Nigeria can have a significant effect financially. financial effect of delays in the Nigerian criminal justice system can be significant, because it can lead to high costs for the government, not only the government but injured parties together with their families. For instance, long pretrial detention can lead to high costs for the government, which include the cost of making available food and medical care for detainees. Furthermore, injured parties together with their families may accrue costs associated with

travel to and fro from court, and lost wages as a result of the amount spent going for court hearings. These costs place huge financial burdens on individuals together with their families, and can further make worse the negative effects of the delays. Another cost tied with delays in the criminal justice system is the cost of making provision of lawyers for persons who cannot afford it. In Nigeria, there exists a legal aid system which makes available pro Bono for persons that cannot employ the services of lawyers. Although, this system is usually underfunded, and most lawyers don't buy into the idea of handling matters for free. This can lead to delays in the justice system, not just that, also deficient legal representation for those who require it.

Therefore, one issue that usually roll out from the lack of absence of decent legal representation is felonious convictions. Lack of adequate legal aid, can make some parties convicted of crimes they had nothing to do with. This can result in ravaging corollary for both the party together with their family, and this can also put a revelatory weight on the criminal justice system, as it may necessitate for retrials or appeals. Moreso, it can vitiate the confidence the public has in the criminal justice system.

Another effect connected with delays in the criminal justice system has to do with the effect of loss of productivity. Anytime individuals are often detained for a very long length of time, it can result in loss of productivity and economic activity, for both the party and for the economy as a whole. This is usually the plight for young people, who cannot complete their education or who cannot kickoff their careers as a result of being detained.

Moreso, the effect of loss of productivity is not just monetary in its sense. It also has a social effect, like lost of chances and the impact on families and communities. Delays in the justice system can have a slight noticeable effect, and this can cause asperity for persons who are not directly affected by them. A very significant example of social effect of delays in the criminal justice system is the concussion on the mental health of persons who are detained for

donkey years. Being in prison or in pre-trial detention has a substantial impact on a person's mental health, which can lead to perturbation, slump and other mental health issues. Such prints can have an impact on the individual's capacity to fit in into society after they have been discharged. Another social effect of delays in the criminal justice system is the impact it has on children. Whenever a parent is detained, it usually has a scourge impact on their children, whether in the short and long term. Such children go through loss of emotional support, pecuniary asperity and lack of stability in their home. These children are therefore at a huge risk of nonfeasance and Anti Social behavior themselves, immortalizing the cycle of impecuniosity and crime.

Another problem which arises from delays in the criminal justice system is the impact on the safety of the public. Individuals who are not prosecuted on time, can lead to lawlessness and disorderliness in communities. This result in breakdown in social unity and faith in the justice system.

## **1.2 STATEMENT OF RESEARCH PROBLEM**

The criminal justice system in Nigeria is afflicted by revelatory delays in the determination of cases and this has austere implications for timely meting out of justice. Such delays arise as a result of a number of issues, which include deficient architecture, choked court schedule, complicated inefficiencies and corruption. The purpose of this research is to interrogate the role of the courts in the criminal justice system of Nigeria and dig into the impact of these delays on justice.

The research problem stems out from the realisation that delays in the criminal justice system lessens the basic principles of fair and speedy trials and these are important for upholding the rule of law and safeguarding the rights of defendants and the injured parties. This problem has pregnant harzards for the efficacious and plausibility of the Nigerian criminal justice

system, because it corrodes the faith of the public, immortalize immunity, and prevents the determination of criminal cases.

The research will delve into the causes and impacts of delays in the Nigerian criminal justice system by interrogating applicable laws, policies and practices. It will also explore the role of the courts in handling and alleviating delays, dissecting the effectual subsisting machineries, which include control systems, judicial freedom, and managerial rehabilitation. Furthermore, the research will enter the impact of delays on clean trials, having access to justice, the rights of the defendants, the rights of injured parties, and the overall public insight of the justice system.

The findings of this research will give a complete comprehension of difficulties the courts faces in the Nigerian criminal justice system and make available prospective answers that will look into the problem of delays. By identifying best practices and recommending reforms. The research tends to better the productiveness and effectiveness of the courts in achieving the timely meting out of justice, upholding the rule of law, and above all improving the trust of Nigerians in their criminal justice system.

### **1.3 AIM AND OBJECTIVES**

The aim of this research is to look into foundational causes of delay within the Nigerian courts, as well the consequences of these delays on the rights of the defendants, injured parties and the society at large. Proffer adequate solutions to look into this critical issue. By carrying out a detailed analysis of the present state of the criminal justice system in Nigeria, this study tends to dish out priceless insights for Law makers, legal practitioners, and stakeholders to develop the efficacious and proactiveness of the courts.

The aim of this research work is guided by the objectives stated below

To look into the factors that contribute to delays in the Nigerian criminal justice system, with a special focus on court processes and procedures.

To analyse the impact of delays on the rights of the accused, injured parties, and the general public view of the justice system.

To look out for quality practices and potential reforms that can end delays and develop speed delivery of justice within the Nigerian courts.

#### **1.4 SCOPE OF STUDY**

This study focuses on the administration of criminal justice with regards to the Nigerian courts. For the sake of comparison, reference is therefore made to the practice style of foreign courts that have reached a commendable success in their criminal justice system. This study encompasses the rights of the accused which must be safeguarded, the role of investigating in criminal justice, the disposition of the courts and the role the government and other stakeholders must have to fulfill in order to attain justice.

#### **1.5 LIMITATION OF STUDY**

##### **The limitations of this Research work include:**

The research does not cover a specific area or jurisdiction within Nigeria, which may not be representative of the entire country, The researcher talked generally without a specific jurisdiction as a case study.

- a. The research does not take into account the impact of delays on specific groups within society such as the poor or marginalized.
- b. The research does not consider the wider impact of delayed justice on the economy and development of Nigeria.
- c. The research is limited by the availability of data and resources.

- d. The long essay is limited by the time frame of the research, therefore it does not capture the full impact of delays on justice.
- e. The research is limited by the methods of data collection, which does not capture the full range of experiences and perspectives.
- f. The research is limited by the use of secondary sources, which is not reliable or accurate as primary sources.
- g. The research does not cover all the components of the Criminal Justice System save the court.

## **1.6 SIGNIFICANCE OF STUDY**

The significance of studying the impact of delays on justice in Nigeria is two-fold. First, it helps to improve the efficiency and effectiveness of the justice system. By identifying the causes and effects of delays, it is possible to develop solutions to reduce the amount of time that cases take to be resolved. Second, this research helps to improve the experience of individuals who are involved in the justice system, by understanding how delays can impact people's lives, it is possible to develop policies and procedures that minimize the negative effects of delays on individuals and their families. To elaborate on the first point about improving the efficiency and effectiveness of the justice system, studies show that delays can have a negative impact on the perception of justice. When people feel that they are not being treated fairly or that their case is not being resolved in a timely manner, they lose faith in the justice system. This can lead to a loss of confidence in the ability of the justice system to deliver justice and can lead to a breakdown of the rule of law. By addressing the issue of delays, it is possible to improve the public perception of the justice system and increase its legitimacy.

## **1.7 RESEARCH METHODOLOGY**

The research methodology used in this work is purely doctrinal. Informations were sourced from textbooks, statutes, Law reports and the internet. Credit is appropriately made to author's whose work were consulted in the course of this research work.

## **1.8 EXPECTED FINDINGS**

In the course of my research, the following findings surfaced:

- i. The increasing rate of abuse of Nigerian citizens rights.
- ii. The insane delay of court processes and the adverse and negative effects it has on the country
- iii. weak criminal examination in Nigeria that has led to unjust legal decisions and lack of justice. .
- iv. phased mislaying of public trust in the judiciary to penalize crimes and demote its occurrence in Nigeria.

## **1.9 EXPECTED CONTRIBUTION TO KNOWLEDGE**

The problem of delay in the criminal justice in Nigeria is not novel emphasis on the courts people prefer to use whatever means provided they won't go to court to get justice. This researcher acknowledges the difficulties that injustice is causing the citizens of Nigeria and quests to remind every stakeholder of criminal justice to discharge their duties in utmost good fate. And it is believed that citizens of Nigeria will by going through this research work would know their rights and clamour for the need of a responsible government that is aware of the urgency at which crimes should be reduced to the barest minimum.

### **1.9.1 CHAPTER ANALYSIS**

**Chapter One:** of my Long Essay, the title The Role of the Court in the Criminal Justice System: The Impact of delay on Justice in Nigeria. It encompasses the Introduction on the roles of Nigerian courts in the Criminal Justice System and the impact of delays on justice in Nigeria. The Statement of research problem, Aim and Objectives of the long essay, scope of study, limitation of study, Research methodology, expected findings and expected contributions to knowledge.

**Chapter Two:** of my Long Essay which is the literature review contains the Historical and Background information of the Criminal Justice System. It also contains the Importance of the Nigerian Criminal Justice system and Empirical Studies of Comparison with previous works. My Chapter two also contains The Overview of the Court Structure in Nigeria, Processes in Court involved in the Administration of Justice ,The Primary roles and functions of the courts in the Criminal Justice System, Delays in the Criminal Justice System:The causes of delay in Nigerian courts and Consequences of Delay in Nigerian courts. Lastly, my chapter two explores how courts ensure fairness, upholding the rule of law and safeguarding the rights of the defendants and injured parties. Then my conclusion.

**Chapter Three:** of my Long essay contains the Impact of delay on Justice in Nigeria and the repercussions of delays on the attainment of justice in Nigeria. My chapter three also contains how delayed justice affects defendants, victims and the overall fairness of the justice system. My chapter three also contains the Legal Framework and Reforms aimed at addressing delays in the Criminal Justice System which include the Administration of the Criminal Justice Act, Legal Aid Act, Judicial Practice Directions, National Prosecution Policy and Case Flow Management System. The effectiveness of these Legal Framework and Reforms, Challenges of these Policies, Solutions to these challenges and my conclusion.

**Chapter Four:** of my Long Essay contains Comparative analyses between Nigeria Criminal Justice system and that of other Jurisdictions such as the Court of America, the factors aiding efficiency in the Criminal Justice System of America, the Court of England, Wales and Scotland and Court of Germany and my conclusion.

**Chapter Five:** of my Long Essay contains Introduction, Summary, recommendations and conclusions.

## **CHAPTER TWO**

### **LITERATURE REVIEW**

#### **2.1 INTRODUCTION**

The criminal justice system is the connection of government and other private arms with the intention of handling the defendant and convicted criminals. The criminal justice system is made up of several related pillars, which consists of academia, law enforcement, forensic services, the judiciary, and correctional centres. These pillars are put in place to advocate for the ideals of legal justice. Legal justice has to do with the aftermath of forging the rights of individuals government's corresponding obligation to uphold and protect those rights, referred to as due process. These constitutional entitlements can't be given and safeguarded without the undying dedication of those professionals working in the criminal justice system. Accordingly, such professionals must make themselves available to the ethical principles of the criminal justice system and evidence persistent integrity in their character. This is accomplished with the help of a worthy code of professional ethics that signals competence, reliability, accountability, and overall trustworthiness – when properly administered.<sup>1</sup>

#### **2.2 HISTORICAL/BACKGROUND INFORMATION ON THE NIGERIAN CRIMINAL JUSTICE SYSTEM**

The origins of Nigeria's Criminal justice system can be traced back to the late 1800s when the country was colonized by Europeans. The Europeans brought with them their own system of imprisonment, which became the foundation for the Nigerian criminal justice system. While there may be differing interpretations of the factors that led to the development of this system, it is widely acknowledged that it was introduced by foreign powers. The impact of British

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<sup>1</sup><[https://www.researchgate.net/publication/313953949\\_The\\_Nigeria\\_Criminal\\_Justice\\_System\\_And\\_Its\\_Effectiveness\\_In\\_Criminal\\_Behaviour\\_Control\\_A\\_Social-Psychological\\_Analysis&sa=U&ved=2ahUKEwiDupiXju6EAxWmU0EAHYxzAFEQFnoECAMQAg&usg=A0vVaw0CO8zEgcjRgTnuAEM78zBC](https://www.researchgate.net/publication/313953949_The_Nigeria_Criminal_Justice_System_And_Its_Effectiveness_In_Criminal_Behaviour_Control_A_Social-Psychological_Analysis&sa=U&ved=2ahUKEwiDupiXju6EAxWmU0EAHYxzAFEQFnoECAMQAg&usg=A0vVaw0CO8zEgcjRgTnuAEM78zBC)

occupation, conflicts between Nigeria and Europe, and the Slave Trade were all influential in shaping the country's criminal justice system. It is important to recognize that while some individuals involved in the development of this system may have had altruistic and religious motivations, its primary purpose was to protect the interests of the European colonizers, who were exploiting and oppressing the native population.<sup>2</sup>

### **Background Information of the Criminal Justice System**

The new statute, known as the Administration of Criminal Justice Act (ACJA), has the intention to develop the official prosecutorial, prison, and judicial capacity at the federal level, and reduce costly delays and protect the rights of detainees. It makes up of an important part of a an encyclopedic legal framework that, if it is fully implemented, it would bring about the Nigerian justice system into adherence with international law.

The transformation of Nigeria's courts and prisons to comply to the ACJA will establish a herculean undertaking. The ACJA relieves two existing statutes that provided for a separate criminal justice process in the Northern states, helping to conform Nigeria's federal system. The ACJA has called for novel technical systems, which includes a Central Criminal Records Registry; imposing new timelines for recording and reporting arrests, hear bail requests, and inspect places of detention; and most importantly, curb the use of remand and creates time confines on detention. Going further in complicating matters, Nigeria is a federal system where autonomy is shared among the states and the central government. Individual states must make sure they embrace the ACJA for it to be fully effective.

#### **2.2.1 Importance of the Criminal Justice System**

The criminal justice system plays a crucial role in society by maintaining law and order, protecting the rights of individuals, deterring crime, and providing a framework for

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<sup>2</sup>< <https://www.tandfonline.com/doi/abs/10.1080/01924036.1999.9678646>>

punishment and rehabilitation. Here are some key reasons why the criminal justice system is important:

**2.2.2 Safety of the public:** The criminal justice system serves an important role in ensuring the safety of the public and deterring crime. By arresting and charging individuals who commit crimes, the system sends a message to potential criminals that there will be consequences for their actions. This helps to create a safer and more peaceful society for everyone. Additionally, the criminal justice system provides a sense of justice and closure for victims of crime, and it can help to prevent the cycle of violence from continuing. Overall, the criminal justice system plays a vital role in maintaining order and safety in society.

**2.2.3 Rule of Law:** In accordance with the principle of the rule of law, the criminal justice system ensures that everyone is treated fairly and equally under the law, regardless of their social standing or position in society. This fundamental principle helps to promote trust and confidence in the system, as it demonstrates that justice is applied impartially. By treating all individuals equally, the system strives to provide a sense of fairness and security for all citizens.

**2.2.4 Safeguarding Rights:** The criminal justice system not only serves to protect victims of crime, but also to protect the rights of the defendant. It is essential that victims receive justice, support, and restitution for the harm they have suffered, and the system works to ensure this. However, it is equally important that the rights of the defendant are protected, including the right to a fair hearing, legal representation, and the presumption of innocence until proven guilty. This is to ensure that the accused are treated fairly and to prevent wrongful convictions.<sup>3</sup>

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<sup>3</sup> CFRN 1999 36(6)(C)  
CFRN 1999 36(5)

**2.2.5. Reformation and Reintegration:** The criminal justice system should not only seek to punish offenders, but also to rehabilitate and reintegrate them into society. This includes providing opportunities for education, skills training, mental health support, and substance abuse treatment, in order to address the root causes of criminal behavior and prevent future offending. By investing in these programs, the system can reduce reoffending rates and make a positive impact on the lives of individuals.

### **2.3 OVERVIEW OF THE COURTS STRUCTURE**

In Nigeria, the judiciary, like in many other countries, is one of the three branches of government, alongside the legislature and the executive. The legislature creates laws, the executive enforces them, and the judiciary interprets them. Comprising judges and lawyers, the judiciary ensures fair trials and decides whether someone is guilty or innocent. According to the Nigerian Constitution, individuals accused of crimes have the right to a fair trial, which includes appearing in court within a reasonable timeframe. If found not guilty, they cannot be punished.

The Nigerian court practices a Public proceeding pattern. i.e. an open court, this means that the trial of the accused is carried out in a venue where people can access the court including witnesses and members of the public not related to the accused. This is to make sure that there is limpidity and conformity with the principle that justice should not only be done but should be seen to have been done.

To guarantee limpidity further, section 36 of the constitution furnishes that proceedings of the court or tribunal where an accused is tried should be recorded and copy of the record must be given to the accused or anyone acting on his behalf within seven days of the

conclusion of the case. This is to make sure that nothing is done in secret so that the court's proceeding and judgement can be reviewed appropriately when need be.<sup>4</sup>

The courts in Nigeria makes room for appeal which its hierarchical structure approves.

In Nigeria, the apex court is the Supreme Court.

In a descending order the courts in Nigeria are as follows:<sup>5</sup>

1. The supreme court
2. The court of appeal
3. The federal high court
4. The High court of the Federal Capital Territory Abuja
5. High Court of a State
6. The Sharia Court of Appeal of the Federal Capital Territory, Abuja
7. The Sharia Court of Appeal of a State
8. The Customary Court of Appeal of the Federal capital Territory, Abuja
9. Customary Court of Appeal of a State.

## **2.4 PROCESSES IN COURT INVOLVED IN THE ADMINISTRATION OF JUSTICE**

The courts in Nigeria play an important role in the administration of justice in the country. They are saddled with the responsible of interpreting and applying the laws to resolute disputes and make sure there is fair treatment for all individuals involved. The process of the Nigerian courts in the administration of justice involves several key steps. Here is a general outline:

**2.4.1. Initiation of Lawsuit:** In the criminal justice system, the dispute resolution process begins when a dispute arises between two or more parties. The party seeking redress may file

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<sup>4</sup> CFRN 1999 S36 (7)

<sup>5</sup> CFRN 1999 S6 (5)

a complaint or petition in the appropriate court, initiating a lawsuit. The court with the appropriate jurisdiction will then decide on the matter, based on the evidence and arguments presented by both parties. It is important that the correct court is chosen, as this will affect the outcome of the case. In *Hasal Micro Finance Bank Ltd v BDA LTD &ANOR*<sup>6</sup>, It was held that it is a trite and settled principle under the Nigerian Legal System that for a lawsuit to be validly initiated the plaintiff must have capacity to initiate same.

**2.4.2 Service of Process:** In addition to filing the lawsuit, the plaintiff is also required to serve a copy of the complaint or petition on the defendant. This is known as "service of process" and is an important part of the dispute resolution process. It ensures that the defendant is aware of the legal proceedings and can respond to the allegations made in the complaint. In the Supreme Court decision in *Mark &ors v Eke*,<sup>7</sup> Per Musdapher JSC said It is the service of the process of the court on the defendant that confers on the court the competence and jurisdiction consistently adjudicate on the matter .

**2.4.3. Pleadings:** The defendant normally has a specified period to respond to the complaint by way of filing an answer. They usually couch their position on the issues raised. This exchange of pleadings usually defines the scope of the legal dispute.

**2.4.4 Pre-trial conference:** In certain cases, may schedule a pretrial conference. Both parties together with their legal representatives come together to talk about the case, swap important documents and maybe look into the eventuality of bargain or alternative dispute resolution. Failure of court to order pre-trial conference is a mere irregularity. In the Court of Appeal decision in *Ekpo v Guaranty Trust Bank plc & Anor*<sup>8</sup>, it was held by the court that the failure to make a pre-trial conference does not amount to a non-compliance with the process of law or a pre-condition for the exercise of jurisdiction of the trial court.It was an irregularity that

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<sup>6</sup> ( 2023)LPELR CA (60313)

<sup>7</sup> (2004)27 SC 35/1997

<sup>8</sup> (2018)LPELR CA (46079)

did not affect the merits of the case or occasion a miscarriage of justice and that it is too late in the day for the appellant to now complain about such irregularity.

**2.4.5 Trial:** Where dispute cannot reach a resolution through bargain, settlement or alternative dispute resolution, the case will then go to trial. The parties will then lead evidence, call witnesses and present legal arguments before the court. The judge will then go through the evidence and apply the law to determine the after effect.

**2.4.6 .Management of case:** The court is saddled with the responsibility of managing cases by way of fixing date for hearing, stipulating deadlines and managing procedural matters. The court sometimes hold pre-trial conference to lessen issues, look into bargain potentialities or implore the parties to make use of Alternative dispute resolution.

**2.4.7. Judgment:** After taking a look at all the evidence and legal arguments presented, the judge then delivers a judgment, which is usually a formal decision determining the dispute. The judgment usually state the rights and obligations of the parties that are involved and provides remedies if where necessary. It is usually binding on the parties unless appealed.

Also, the court can set aside its own judgment *Ikpong v Udobong*<sup>9</sup> case, it was held that:

A court of law reserves the right to set aside its judgment which was given otherwise than on the merits upon good grounds shown. The principles in respect of the right of a court to set aside a default judgment is that unless and until the court has pronounced a judgment on merits or by consent it retains the power to set aside its own default judgement. The power to do so is discretionary and the discretion has to be exercised judiciously.

**2.4.8. Judgment Execution:** Where the judgment is in the plaintiff or petitioners favour, the court issues an order for judgement enforcement. This includes various methods such as seizing of assets, Damages and injunctions to make sure their is compliance with the courts decision. Per Nnaemeka Agu JSC in *Govt.of Gongola State v Tukur*<sup>10</sup> expressed I therefore

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<sup>9</sup> (2007)2 NWLR(Pt.1017)184

<sup>10</sup> (1989)4 NWLR (pt.117)592

wish to begin my consideration of the main issue raised by this appeal by pointing out that although every Judgment of a court must be obeyed and is effective from the date of its delivery or from such a date as the Judgment itself appoints, the method of enforcement of a particular Judgment depends upon the type of Judgment. In sum (i) A Judgment/order for payment of money may be enforced by a writ of fieri facias, garnishee proceedings, a charging order, a writ of sequestration or an order of committal on a Judgment debtor's summons. (ii) A Judgment for possession of land may be enforced by a writ of possession, a writ of sequestration or a committal order. (iii) A Judgment for delivery of goods may be enforced by a writ of specific delivery or restitution or their value, a writ of sequestration or writ of committal. (iv) A Judgment ordering or restraining the doing of an act may be enforced by an order of committal or a writ of sequestration against the property of the debtor.

**2.4.9. Appeals:** Where a party is not satisfied with the judgment, the party can appeal to a higher court. The appellate court will then review the decision of the lower court in order to find out if there are any errors of law or process were made. The appellate court may then uphold, reverse, or adjust the judgment. In *Virgin Atlantic Airways v Mrs. Francisca Pablo Amaran*<sup>11</sup>. The Respondent in that case challenged the competence of the Appellant's proposed appeal on the grounds (among others) that the Appellant had no right of appeal against a garnishee order nisi, being an order made upon the hearing of a motion ex parte. The Respondent relied for this contention on the provision of Section 14 (1) of the Court of Appeal Act which provides that: Where in the exercise by the High Court of a State or, as the case may be, by the Federal High Court of its original jurisdiction an interlocutory order or decision is made in the course of any suit or matter, an appeal shall, by leave of that court or of the Court of Appeal, lie to the Court of Appeal; but no appeal shall lie from any order

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<sup>11</sup> (2021)12 NWLR (pt1789)91

made ex parte, or by consent of the parties, or relating only to costs.<sup>12</sup>The Supreme Court in arriving at its decision on this point considered the provisions of Sections 1 (3), 241, 242, 243 and 318<sup>13</sup> of the Constitution, and held that the provision of Section 14 (1) of the Court of Appeal Act that no appeal shall lie from an order made ex parte was in conflict with sections 241, 242(1) and 243 of the Constitution, which prescribe the right to appeal to the Court of Appeal and do not limit the right to certain types of decisions, and that Section 318 of the Constitution defines a decision to mean any determination of the court. The court declared in conclusion that by virtue of Section 1(3) of the Constitution, Section 14(1) of the Court of Appeal Act was void to the extent of that inconsistency.

**2.4.10. Enforcement and Compliance:** Immediately judgment is acquired, it then shifts to the parties involved to adhere with the court order. The courts in Nigeria play a vital and crucial roles and functions in the Nigerian Criminal Justice system.. By serving as avenue where criminal cases are determined and justice dispensed. In *Dongtoe v C.S.C Plateau State*<sup>14</sup>,the Supreme Court held that Where a special procedure is prescribed for the Enforcement of a particular right or remedy, non-compliance with or departure from such a procedure is fatal to the Enforcement of the remedy.

## **2.5 THE ROLE OF THE COURTS: PRIMARY ROLES AND FUNCTIONS OF THE COURTS IN THE CRIMINAL JUSTICE SYSTEM OF NIGERIA**

Here are the primary roles and functions of the courts in Nigeria:

**2.5.1. Judicial Review:** The most important function of the courts in Nigeria is to carry out judicial review. The courts review acts, judgements and policies of the executive and legislative branches to make sure that they comply with the Constitution of Nigeria and any other relevant laws. Judicial review aids to regard the rule of law and protects the rights of

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<sup>12</sup> Court of Appeal Act

<sup>13</sup> CFRN 1999 S1(3),S 241,S 242 ,S 243, S 318

<sup>14</sup> (2001)9 NWLR (Pt.717)132.

citizens. In the case of *Abdulkarin v Incar Nigeria Ltd*<sup>15</sup>, the Supreme Court of Nigeria highlighted the scope of judicial review within the Nigerian constitutional jurisprudence thus, In Nigeria, which has a written presidential constitution, judicial review entails three different processes; namely:

(i) The courts particularly the Supreme Court, ensuring that every arm of government plays its role in the true spirit of the principles of separation of powers as provided for in the constitution.

(ii) That every public functionary performs his functions according to law, including the Constitution; and

(iii) For the Supreme Court, that it reviews court decisions including its own, when the need arises in order to ensure that the country does not suffer under the same regime of absolute or wrong decisions. Judicial Review in Nigeria has constitutional recognition. Firstly, in granting legislative powers, in section 4(8) of the 1999 constitution provides 'that the exercise of legislative powers by National Assembly or House of Assembly shall be subject to the jurisdiction of the courts of law'. Secondly in granting judicial powers, the constitution provides that the judicial powers granted to the superior courts in Nigeria shall extend to all inherent powers and sanctions of a court of law.<sup>16</sup> Thirdly the constitution grants supervisory jurisdiction to the State High Courts which they exercise by judicial review<sup>17</sup> as stated by the S.C. in *A.C.B. Plc v Nwaigwe*<sup>18</sup> thus 'Judicial review is the supervisory jurisdiction of the High Court exercised in review of the proceedings, decisions and act of inferior courts and tribunals and acts of governmental bodies.'

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<sup>15</sup> (1992)7 NWLR (Pt 251)1

<sup>16</sup> CFRN 1999,S6(6)a.

<sup>17</sup> CFRN 1999,S272(2).

<sup>18</sup> (2011)7NWLR (pt 1246)380

**2.5.2 Dispute Resolution:** The court is the cardinal establishment for deciding civil and criminal matters in Nigeria. The court usually hear cases on a broad range of matters, which include property disputes, commercial disputes, labor disputes, family disputes, and criminal offenses. The courts make sure that disputes are decided justly and impartially and they make available remedies or impose penalties when necessary.

**2.5.3. Interpretation and Application of Laws:** The courts is vested with the authority to interpret and apply laws. They clear the meaning, scope, and application of statutes, regulations, and constitutional provisions. By interpretation of laws, the courts help to the expansion and growth of legal principles in Nigeria In the Supreme Court decision in *Okumagba v Egbe*<sup>19</sup> , per Bairamian JSC stated that the office of the judge is jus dicere, not jus dare to state the law and not to give it. However, the court may correct a law when there is very obviously a mistake as stated by the Supreme Court in *Yusufu v Obasanjo*.<sup>20</sup>

**2.5.4. Adjudication:** The courts are conferred with the power to hear and decide on cases. They hear evidence, dissect arguments, and make verdicts based on facts given and the applicable laws. Adjudication involves ensuring fair and equitable justice by applying legal principles to the specific circumstances of each case.

**2.5.5 Upholding Fundamental Rights:** The courts make sure that the fundamental rights and liberties of the contained in the Nigerian Constitution are protected . They make available an avenue for citizens to quest for remedies or redress for abuse of their rights and ensure that individual freedoms are protected. Such Fundamental right include respect for dignity of persons, right to personal liberty, right to fair hearing.<sup>21</sup>

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<sup>19</sup> (1965) 1 ALL NLR 62.

<sup>20</sup> (2003)16 NWLR (Pt.847)554

<sup>21</sup> CFRN 1999, S34 (1).

CFRN 1999, S35 (1).

CFRN 1999, S36(1).

**2.5.6. Precedent Setting:** In the Common law system of Nigeria, the courts set precedents by making of decisions. Precedents made by higher courts guide cases that will emerge in future and furnish a structure for legal reasoning. These precedents chip in to the viscosity predictability of the legal system. In the Supreme court decision in *Dalhatu V Turaki*,<sup>22</sup> Per ALU JSC pointed that the Doctrine of Judicial precedent otherwise known as stare decisis.

**2.5.7. Enforcement of Judgments:** Where the courts arrive at a decision, they make sure that their verdicts and orders are enforced. This includes mechanisms for the enforcement of monetary awards, injunctions, and other remedies granted by the courts. For instance, a garnishee proceeding may be taken in a magistrate Court notwithstanding the fact that the debt owing or accruing from the judgment debtor is for an amount that exceeds the jurisdiction of the Court.<sup>23</sup> The court is empowered to make an order for the attachment of the money in the custody of a third party belonging to a judgment debtor for the satisfaction of debt upon an application brought by a judgment creditor. At this stage, the Garnishee comes to show cause.<sup>24</sup>The following laws in the aforementioned empowers the court to enforce judgments.

**2.5.8. Guardians of the Constitution:** The courts serve as the guardians of the Nigerian Constitution. They have the power to annul laws or government actions that are unconstitutional. This function helps in maintaining a constitutional supremacy and makes sure that the government acts within legal limits. According to Per Justice Nnamani, the Judiciary is the guardian of our Constitution, the protector of our cherished governance under the Rule of law. In *Ebebi v Speaker, B.S.H.A*<sup>25</sup> the court of Appeal held Where the Constitution has made a specific provision as to any particular procedure or mode of exercising any legislative function, if there is a breach of such provision, the courts will assume jurisdiction,

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<sup>22</sup> (2003)15 NWLR (Pt. 843)310

<sup>23</sup> Order 4 rule 8 Judgement enforcement rules 2004

<sup>24</sup> s83 Sheriffs and Civil Processes Act 2004

<sup>25</sup> (2012)5 NWLR (pt.1292)1.

as the guardians of the Constitution, to intervene and ensure compliance with the provisions of the Constitution. The courts are bound to enforce and give effect to mandatory provisions of the Constitution and of statutes. In the instant case, it is in respect of the alleged infraction of the mandatory provisions of section 188(1) and of the 1999 Constitution that the appellant invited the court, as the guardian of the Constitution, to intervene and ensure compliance there with.

## **2.6 DELAYS IN THE CRIMINAL JUSTICE SYSTEM OF NIGERIA**

One of the hindrance to justice in Nigeria is the delay of the determination of criminal matters . It is expedient for cases to be tried on time and everyone connected to the case know his ordain and this enables various organs of criminal justice to give concentration to other important issues demanding their intervention.

### **2.6.1 Causes of delay in Nigerian courts**

**2.6.2 Adjourment Regularity:** The way at which Nigerian courts give order for adjourment is horrendous. Adjourment is resorted to whenever the party to a criminal matter is not fully ready to present their submission in court as in instances when a significant witness is not around in court to witness. Adjourment could be as a result of the fact that lawyers are not fully done with accustomising themselves fully with the facts and the laws relevant to their case.

**2.6.3 Tardy Examination:** As a result of the challenges of lack of adequate manpower and the courts are not always able to carry out their timely court verdicts effectively.

**2.6.4 Old Court system practice:** The world is becoming a global village but the Nigerian court is yet to evolve with this development. They still rely on physical court proceedings. There is still much dependence on physical court proceedings and this had an adverse effect during the Covid 19 as courts couldn't sit because of the pandemic. However it would had

been different if the courts utilised technology. With good technology , evidence can be acquired from witnesses through video zoom ,Google meet and certain cases can be done virtually. This would enable a speedy judicial system.

**2.6.5 Backlog of cases:** The courts in Nigeria are laden with voluminous case backlogs. This can amount to revelatory delays in the determination of cases. These backlogs are usually connected to counter productiveness in management of cases, insufficient judicial resources and absence of innovative case determination means. The President, Court of Appeal, Justice Monica Dongban-Mensem, has expressed concerns over the backlog of cases in courts across the country. According to her, the scourge has become a pressing issue that requires immediate attention. She added that the timely delivery of justice in cases gives credibility to the legal system. Dongban-Mensem spoke at the annual conference of the Nigerian Bar Association on Thursday in Abuja . She said

“We cannot ignore the challenges that beset our justice system, ranging from. case backlogs to inadequate funding and the paucity of infrastructure, the backlog of cases in our courts is a pressing concern that demands our immediate attention, timely delivery of justice is essential not only for the litigants but also for the credibility of our legal system.”

She suggested that the Alternative Dispute Resolution mechanisms should be explored to address the backlog of cases.

Dongban-Mensem said,

"To address this, we must explore innovative methods including Alternative Dispute Resolution mechanisms, to expedite the resolution of cases. In the Court of Appeal, we have an active ADR Centre in the Abuja division with branches at the Lagos and Port Harcourt divisions, respectively. Additionally, the use of technology can revolutionise case management and reduce delays."<sup>26</sup>

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<sup>26</sup> <<https://punchng.com/appeal-court-president-calls-for-urgent-action-on-backlog-of-cases/>>/ Accessed February 2024.

The CJN says to be effective, courts need the requisite infrastructure, expertise and technology.

#### **2.6.6 Lack of Proper infrastructure:**

The infrastructure of the court system in Nigeria is deficient and unable to meet the clamour of the legal system. Lack of proper infrastructures include courtrooms, Legal libraries and administrative offices can all lead to delays in slating and conducting case paperwork.

The Chief Justice of Nigeria, CJN, Mariam Mukhtar, has traced the problem of slow administration of justice in Nigeria to the poor institutional and infrastructural facilities associated with the nation's justice system.

Mrs. Mukhtar, who spoke at the official commissioning of the permanent site of the Appeal Court, Ibadan Division on Monday,

'said Nigerian courts, like many others in developing countries of the world, struggle to cope with situations like absence of standard libraries and out-dated legal infrastructure.

In this age of advancement in science and technology, I see no reason why there should be no simultaneous improvement in our court facilities. The need for court rooms to be well equipped cannot be over-emphasised. This is a necessary tool for the judiciary to enable it perform its expected constitutional role with all sense of adequacy," she said. Nigeria's chief judicial officer said for courts to discharge their role of dispute settlement and interpretation of law effectively, they must not be denied of requisite infrastructure, expertise and technology.<sup>27</sup>

**2.6.7 Inefficiency of the Judiciary:** In some cases, inefficaciousness within the judiciary which also includes supervisory jam up ,slow court proceedings and absence of

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<sup>27</sup> <<https://www.premiumtimesng.com/news/135136-nigerias-chief-justice-blames-slow-administration-of-justice-on-poor-infrastructure.html?>tztc=1> Accessed February 2024

accountability are responsible for the delays in court processes .Also, not having enough judges and enough staff can obstruct the timely determination of cases.

**2.6.8 Inadequate legal representation:** In so many cases, delay is often caused by absence of legal representation for impecunious defendants, which may lead to hold on of Lawsuit. This is as a result of high cost of legal services and not enough legal Aid.

**2.6.9 Lack of alternative dispute resolution:** The dependence on the conventional litigation process without enough stress on alternative dispute resolution which include meditation, arbitration can lead to elongated court cases. The Nigerian Constitution provides for the settlement of dispute by Arbitration, Mediation, Conciliation, Negotiation and Adjudication.<sup>28</sup> Order 19 of the Federal High Court Civil Procedure Rules of Nigeria provides for supportive interventions in arbitral proceedings.<sup>29</sup> High Court Civil Procedure Rules of various states also provide for reference of cases to Alternative Dispute Resolution.<sup>30</sup> Rule 15(3)(d) of the Rules of professional conduct for legal practitioners mandates lawyers to attempt an alternative dispute resolution before bringing any matter to court for hearing.<sup>31</sup>

**2.6.10 Challenges in case Management:** Lack of effective case management practice, which includes prolonging serving courts documents, scheduling conflicts and poor cooperation among parties can contribute to delays in the determination of cases.

**2.6.11 Corruption:** Cases of corruption within the Nigerian Legal System such as judicial misconduct, bribery and poor cooperation among parties can lead to delays in the determination of cases.

LIKE a malignant genie, corruption allegations are sticking stubbornly to the judiciary. In the latest assault on the citadel of justice, the Chairman, State and House of Representatives Election Petition Tribunal sitting in Kano, Flora Azinge, raised the alarm that a senior lawyer

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<sup>28</sup> CFRN 1999, S19(d).

<sup>29</sup> Federal High Court Civil Procedure Rules 2000

<sup>30</sup> Order 28, Lagos State Civil Procedure Rules 2004

<sup>31</sup> Rules of professional Conduct for legal practitioners 2023

was attempting to bribe her to influence the court. This has again illustrated the urgency of rooting out corruption and restoring public confidence in the judiciary. Though Azinge did not disclose the identity of the lawyer allegedly trying to bribe the panel, she insisted that some senior lawyers arguing petitions before the tribunal were engaged in unwholesome moves to corrupt the system. Visibly angry, she revealed in court how a senior lawyer offered a member of her staff N10 million to bribe the panel members. This was the second time the judge would raise such a weighty allegation. She had earlier accused an unnamed Senior Advocate of Nigeria of asking her to provide a bank account to send her “Sallah gifts.”<sup>32</sup>

There are a number of solutions that can help to address the issue of delays in the Nigerian criminal justice system. These include improving infrastructure and resources, promoting judicial accountability, and adopting alternative dispute resolution mechanisms. Additionally, it is important to enhance legal education, provide greater access to legal representation, and make use of technology to streamline court processes. Finally, efforts to tackle corruption and malpractice in the legal system are essential to ensure that justice is delivered in a timely manner.

## **2.7 CONSEQUENCES OF DELAYS IN NIGERIAN COURTS**

Delays in Nigerian courts can have several significant consequences and can affect various aspect of legal system, individuals and society as a whole. Some of the delays in the Nigerian courts include:

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<sup>32</sup>Flora Azinge, 'Uprooting Corrosive Corruption in the Judiciary' *The Punch* (August 24 2023) <<https://www.punchng.com>> Accessed February 2024.

**2.7.1 Justice Denial:** Delays in the judicial process can cause justice denial for the parties that are involved in legal disputes. Extended cases in courts can hinder parties from acquiring well timed resolution judgement and redress for their score, and thus can therefore weaken the fundamental principle of accessing justice.

**2.7.2 Economic Impingement:** Delays in courts have severe economic consequences for litigants because lengthy legal processes can lead to high legal expenses, income loss and extended skepticism for businesses and individuals awaiting verdict of their case. Delays in the enforcement of contracts and decideness of commercial disputes can hinder the development of the economy and investment.

**2.7.3 Encumbrance to efficacious governance:** Delays in the determination of legal disputes can prevent potent governance and rule of law. When actions or policies of government are challenged in court ,elongated delays can fetter well timed determination of public interest matters and this can affect governance and public policy implementation.

**2.7.4 Social disgruntle:** Delays in courts can lead to social disgruntle especially when individuals have the sensation that their rights are not protected in a timely manner. This can result in exasperation ,disabuse and social unrest, weakening social unity and stability.

**2.7.5 Case backlogs:** Delays in courts can lead to a pile up of pending cases and this can result in backlogs and thus has a negative effect on the capacity of the judicial system to effectively and efficiently address legal disputes.

**2.7.6 Lack of Public trust:** Constant delays in the adjudication of cases can lead to lack of public trust in the judicial system. Whenever individuals sense that the court cannot give them justice they would loose faith in the judicial system. There are a number of Nigerian case laws that address the issue of public trust in the courts.

## **2.8 EXPLORING HOW COURTS ENSURE FAIRNESS, UPHOLDING THE RULE OF LAW AND SAFEGUARDING THE RIGHTS OF THE DEFENDANTS AND INJURED PARTIES**

The Nigerian courts have various mechanisms in place to ensure fairness, uphold the rule of law, and safeguard the rights of defendants and victims. Here are some key aspects:

**2.8.1. Independence and Impartiality:** The court in Nigeria is structured to be impartial and not subject to influence from outside. This enables judges to make decisions that is based solely on the facts of the case and the relevant laws, without being influenced by political or personal agendas. This ensures that all parties are treated fairly and that justice is served. Mohammed Bello JSC in the case of *Chief (Alhaji) Moshood Kashimawo Abiola v FRN*<sup>33</sup> stated that it is clear from the of Section 33(1) of the 1979 Constitution that the independence and Impartiality of a courts are part of attribute of fair hearing.

**2.8.2 Due Process and Fair Trial:** Individuals have certain rights that must be respected during the legal process, including the right to know the charges against them<sup>34</sup>, the right to an attorney<sup>35</sup>, right to a speedy trial<sup>36</sup>, and the right to be considered innocent until proven guilty<sup>37</sup>. Any delay in the trial process can cause serious problems for those accused of crimes, and a fair and timely trial is vital to ensuring justice.

**2.8.3. Rule of Law:** The Nigerian courts work on the principle of the rule of law, which entails that no one is above the law, including government officials. The courts make sure that laws are applied uniformly and consistently, and decisions are based on legal principles rather than personal biases. Per Aderemi JSC In the case of *Ojukwu v Yar'adua*<sup>38</sup> had this to say 'the degree of civilization of any country that prides itself in upholding the rule of law as

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<sup>33</sup> (1995)7NWLR (pt.405)1

<sup>34</sup> CFRN 1999,S35(3)

<sup>35</sup> CFRN 1999,S35(2)

<sup>36</sup> CFRN 1999,S35(4)

<sup>37</sup> CFRN 1999,S36

<sup>38</sup> (2009)12 NWLR (pt.1154)79.

a way of life is often measured by several parameters, chief among which is the flexibility or otherwise or accessibility to court by its citizens'. Niki Tobi JSC in *Atiku Abubakar v AG Federation*<sup>39</sup> explained that the principle of separation of powers is a fundamental part of the rule of law in Nigeria, and that all branches of government must respect the limits of their powers and respect the rule of law. He also stated that wherever a branch of government exceeds the powers allocated to it by the Constitution, the Court will strike down the offending exercise of power as unconstitutional.

**2.8.4. Judicial Review:** The Nigerian court system has the power to check the constitutionality and legality of laws, rules, and government actions. This is a key part of the system of checks and balances, which helps to ensure that no one branch of government has too much power. The power of judicial review helps to protect the rights of individuals and to ensure that the rule of law is upheld. Without this power, the courts would not be able to provide a meaningful check on the other branches of government. *AG Abia State v AG Federation*<sup>40</sup>, it was held that a legislation made to Pursuant to the constitution must be within the legislative competence of the legislature. In *Hart v Military governor of Rivers State*<sup>41</sup>, an order of the military governor ordering disciplinary action against a civil servant outside his constitutional powers was declared a nullity.

**2.8.5. Legal Representation:** Nigerian law guarantees the right to legal representation to all defendants in court, regardless of their ability to pay for a lawyer. If a defendant cannot afford to hire a lawyer, the court may appoint one for them, to ensure that they receive fair representation. This helps ensure that all defendants are treated equally and have a fair chance to defend themselves in court. Without this right, many people would be unable to defend

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<sup>39</sup> (2007)3 SCNJ

<sup>40</sup> (2002)FWLR (pt.101)1419.

<sup>41</sup> (1976)6 ESLR 421.

themselves effectively, leading to unjust outcomes. In *Adamu v the State*<sup>42</sup> The appeal stemmed from the verdict of the Katsina State High Court, which found the Appellant guilty of armed robbery under Section 1(2)(b) of the Robbery and Firearms (Special Provisions) Act. The incident involved the Appellant and another person, who attacked and robbed two individuals. Despite pleading not guilty, the trial proceeded with witnesses and evidence presented by the Respondent. The Appellant contested the voluntariness of a statement, which was eventually admitted as evidence. In his defense, the Appellant denied the accusation, recounting his arrest and alleged mistreatment by the police. The trial judge, after careful consideration, convicted the Appellant and sentenced him to death. However, due to procedural irregularities and lack of legal representation during the plea, the appeal was successful. The conviction and sentence were overturned, leading to a retrial assigned to another judge by the Chief Judge of Katsina State.

The Constitution of the Federal Republic of Nigeria, has provided that a person who is facing criminal trial is entitled to either represent himself or be represented by a legal practitioner.<sup>43</sup>

**2.8.6. Adversarial System:** The Nigerian court system is based on the adversarial system, where both the prosecution and the defense present their cases to an impartial judge. Under this system, both sides have an opportunity to present evidence, call witnesses, and cross-examine the opposing side. This allows for a more balanced presentation of the facts and allows the judge to make a more informed decision. The adversarial system also promotes fairness by giving both sides an equal opportunity to make their case and to refute the other claims. In *Okoya v Santilli*<sup>44</sup>, Agbaje JSC Stated that the fundamental principle of our adversary system dictates that a petitioner is bound by the requests made in their motion.

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<sup>42</sup> (2022)LPELR- 57084(CA)

<sup>43</sup> CFRN 1999,S36(6)(c).

<sup>44</sup> (1990)2 NWLR (pt.131)172.

**2.8.7 Appeal and Review:** In Nigeria, there are two levels of appellate courts: the Court of Appeal and the Supreme Court. The Court of Appeal is the first level of appellate review, and it can hear appeals from lower courts, tribunals, and administrative bodies. The Supreme Court is the final appellate court in Nigeria, and it can hear appeals from both the Court of Appeal and directly from lower courts in certain circumstances. The appellate system in Nigeria provides a safeguard against injustice, and ensures that cases are decided fairly and consistently. In *petgas Res.ltd v. Mbanefo*<sup>45</sup>, It was determined that the Supreme Court lacks authority to reevaluate its own ruling except for addressing clerical mistakes or accidental omissions. In this particular instance, the petitioner failed to submit a valid appeal during its initial attempt, and upon the court's consideration of the respondent's preliminary objection, the notice of appeal was dismissed due to being filed beyond the stipulated time frame outlined in the Supreme Court Rules. Consequently, the Supreme Court is unable to reassess this decision, rendering the applicant's assertions and arguments regarding it moot. In *Dasuki v Director General S.S.S*<sup>46</sup> one of the issues was Whether Court of Appeal can Review its judgment -By virtue of Order 20 rule 4 of the Court of Appeal Rules, 2016, the Court of Appeal shall not Review any judgment once given and delivered by it, save to correct clerical mistakes or some error arising from any accidental slip or omission or to vary the judgment or order so as to give effect to its meaning or intention. A judgment or order shall not be varied when it correctly represents what the court decided nor shall the operative substantive part of it be varied and a different form substituted. (P. 155, paras. B-D) Per ADAH, J.C.A. at page 155, paras.D-H: "A Review of the judgment of this court to vary the conditions of bail imposed in the judgment and replace same with the conditions considered more reasonable is obviously not a Review to correct clerical mistakes, errors, accidental slips or omissions in

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<sup>45</sup> (2022)9 NWLR (pt.1835)375.

<sup>46</sup> (2020)10 NWLR (pt.1731)136.

the judgment. It is obviously not a Review to give effect to the intention of the judgment as the words of the judgment are clear and unambiguous in their meaning and intention. There is no basis for a Review to give effect to the clear meaning and intention of the judgment. A Review of the judgment to vary the conditions for release on bail stipulated therein and replace them with new conditions is clearly not a Review of the judgment to give effect to it.

**2.8.8. Human Rights Protection:** Nigerian courts play a vital role in protecting the rights of individuals and ensuring that these rights are respected and upheld. They act as a check on the government and other powerful institutions, and they provide a forum for individuals to seek redress when their rights have been violated. In this way, the courts help to promote the rule of law and ensure that all Nigerians enjoy the full protection of their rights. Nigeria has ratified International conventions on the elimination of all forms of discrimination against women<sup>47</sup>. This convention has been applied by the courts in cases one of which include *Asika v Atuanya*<sup>48</sup> where the court ruled that women were entitled to inherit property. On essence of Human liberty and need to protect same, Per PATS-ACHOLONU, J.C.A. in *Fawehinmi v Abacha*<sup>49</sup> stated that: "It should be noted that since the end of the second world war when legal positivism or juridical formalism was made nonsense of by the despotic regimes of Third reich and Fascist Italy, and the U.N. Universal declaration of Human rights was enthroned, there is growing tendency in most jurisdictions to protect as much as possible the fundamental right of people in times of Peace in particular. There is no doubt that in times of war or emergency of some sort - like earthquake or internal insurrection, the public might close their eyes to an enactment of laws that appear draconic on their face. Such laws if made are to secure and protect the state in times of emergency. There is of course no affidavit that there is an emergency at the time the appellant was arrested and detained. Therefore it must

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<sup>47</sup> Article 2(7) United Nations 1979 Convention

<sup>48</sup> (2008)17 NWLR (pt.1117)484.

<sup>49</sup> (1996)9 NWLR (pt.475)710.

be assumed that his detention is due to some act of his that was seen to be detrimental to the public good." "It must be stated that liberty in the context of modern times has now assumed a far broader conception than before and it increasingly demands protection. This Court shall take judicial notice of recent laws by way of Decrees and statutory instruments and see to it that Human rights of Nigeria citizens are well protected.

**2.8.9. Alternative Dispute Resolution:** In addition to the use of courts to resolve legal disputes, Nigerian law also provides for alternative dispute resolution (ADR) methods, such as mediation and arbitration. These mechanisms are less formal and more efficient than traditional court proceedings, and they can help to promote fairness and settlement of disputes. The use of ADR can save time and money, and it can also be less stressful for the parties involved. Some examples of how ADR has been used effectively in Nigeria include the Lagos Multi-Door Courthouse and the Kaduna State Multi-Door Courthouse. In *Kayili v Yilbuk*<sup>50</sup>, the Supreme Court held that the purpose of provision for resolution of chieftaincy dispute by prescribed authority before resort to court action -making provision for the resolution of chieftaincy disputes by a prescribed authority a condition precedent to approaching the court for redress, the intention of the lawmakers is to reduce the number of such disputes that eventually find their way into court. It is a means of Alternative dispute resolution to reduce congestion of cases before the court. Such provision cannot however oust the jurisdiction of the court and confer judicial powers on the Governor or prescribed authority. (P. 83, paras. E-F

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<sup>50</sup> (2015)7 NWLR (pt.1457)26.

## **2.9 CONCLUSION**

The courts in Nigeria play an important in the Criminal Justice System, therefore they should effectively and efficiently carry out those roles so that individuals can have justice and have trust in the courts. When people have trust in the Courts it would reduce the acts of people taking law into their hands.

## **CHAPTER THREE**

### **THE IMPACT OF DELAYS ON JUSTICE IN NIGERIA**

#### **3.1 INTRODUCTION**

In Nigeria, delays in the judicial process have a significant impact on the administration of justice. These delays have both economic and social impact, as they lead to increased costs, frustration, and reduced public confidence in the judicial system. Studies have shown that delays in Nigeria's courts are caused by a number of factors, including a lack of resources, corruption, and a backlog of cases. These delays can have far-reaching effects, as they may result in the denial of justice for victims of crimes, increased costs for litigants, and a general lack of faith in the judicial system. In addition, delays can lead to the release of dangerous criminals, as their cases are not heard in a timely manner. The impact of delays on the Nigerian justice system is significant, and it is important to address these issues in order to ensure that justice is administered fairly and efficiently. Addressing these issues requires a comprehensive approach, involving reforms to the judicial system, increased resources, and an emphasis on transparency and accountability. One of the most significant impacts of delays is the denial of justice to victims of crime. In many cases, victims of crime may have to wait years for their cases to be heard, during which time they may suffer economic hardship, psychological distress, and other negative effects. This can create a sense of hopelessness and frustration among victims, who may feel that the justice system has failed them. In some cases, victims may even resort to taking the law into their own hands, leading to further violence and conflict. Another serious impact of delays in the Nigerian justice system is the release of dangerous criminals. In some cases, suspects who are accused of serious crimes, such as murder or rape, may be released on bail while their cases are pending. This can put the public at risk, as these individuals may commit further crimes while they are out on bail. Additionally, the long delays in the judicial process can lead to a lack of faith in

the justice system. When people see that criminals are not being held accountable for their actions in a timely manner, they may lose confidence in the ability of the justice system to protect them and to ensure that justice is served. One of the key causes of delays in the Nigerian justice system is the lack of resources available to the judiciary. There is a severe shortage of judges and other judicial officers, which means that cases take longer to be heard. In addition, there is a lack of funding for the judiciary, which means that courts are often understaffed and overburdened. This can lead to a backlog of cases, as well as delays in the resolution of cases. There is also a lack of infrastructure, such as courtrooms and computer systems, which further slows down the judicial process. Another major issue contributing to delays in the Nigerian justice system is corruption. Corruption is widespread in the judiciary, with judges, lawyers, and other officials often engaging in unethical behavior in exchange for bribes. This can include accepting bribes to delay cases, to give favorable verdicts, or to engage in other types of misconduct. In addition, the police and other law enforcement officials may be involved in corruption, which can further hinder the justice system. In *F.R.N v Nganjiwa*<sup>1</sup>, On What constitutes misconduct in respect of judicial officer, the Supreme Court stated that Any misconduct, criminal, private or professional, which reveals lack of the character and integrity essential for the judge's position, constitutes a basis for discipline. Misconduct is dereliction of a duty or improper behaviour. It is a public officer's corrupt violation of assumed duties by misconduct in office or official Corruption. It is also Corruption in office. When a judicial officer is said to have misconducted himself in office, it means he has corruptly violated his duties. Whenever a breach of judicial oath occurs, it is a misconduct itself. The National Judicial Council is the appropriate body to investigate such breaches by the judicial officer and if so found to be so, such judicial officer shall face disciplinary action and the Council may recommend the removal of such a judicial officer to

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<sup>1</sup> (2022) 17 NWLR (Pt. 1860) 407

the appropriate authority which is either the President in the case of the Federal judicial officer or the Governor of a State in the case of a State judicial officer and/or take other actions appropriately. When this is done and accepted by the appropriate authority in compliance with the provisions of the Constitution, then the relevant law enforcement agent or agency is at liberty to make the judicial officer face the wrath of the law. (P. 467, paras. A-F) Per NWEZE, J.S.C. at pages 467-468, paras. G-B: "Where, as in the instant case, a judicial officer is alleged to have committed a series of fraudulent and corrupt practices, amounting to offences, during his subsisting office - actions that cannot by any stretch of the imagination, be rationally deemed judicial or official acts - it would, indeed, be sadly anomalous to conclude that the judiciary cannot cleanse itself of such unfit member on any theory that judicial robes protected such conduct. An allegation that one judge is corrupt and accepts bribes is an allegation on the entire judiciary.

### **3.2 REPERCUSSIONS OF DELAYS ON THE ATTAINMENT OF JUSTICE IN NIGERIA**

Delays in the attainment of justice in Nigeria have several significant repercussions, which affect individuals, businesses, and the overall functioning of the legal system. Some of the repercussions of delays on the attainment of justice in Nigeria include:

**3.2.1. Undermining the Rule of Law:** elongated delays in the judicial process can lead to lack of public confidence in the legal system and the rule of law. The moment people perceive that justice is constantly Lingered or denied, it can result in lack of trust in the legal system and the authorities saddled with the responsibility for upholding the law. In *Odo v C.O.P*<sup>2</sup>, the court of appeal held The rule of law is the substratum of any meaningful democracy and it cannot thrive where there is neglect of individual liberty no matter the magnitude of the offence allegedly committed by the person whose liberty is curtailed. In the

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<sup>2</sup> (2004)8 NWLR (pt.874)46.

instant case, the appellant had been kept in detention without trial for over five years, thereby undermining his liberty and this fact constituted a gross detraction from the rule of law.

**3.2.2. Impingement on the Development of the Economy:** Delays in the determination of commercial disputes have a negative effects on business and investment. Prolonged legal processes can dissuade both domestic and foreign investors from venturing in business activities, holding back economic growth and development.

**3.2.3. Breach of Human Rights:** Delayed justice can result in lengthy pretrial detention, which may result in the violation of individuals' rights. It can also lead to the suffering of victims awaiting resolution in cases involving human rights abuses, domestic violence, and other forms of injustice. The court has the responsibility to ensure that Human rights of aren't breached. Per Uwaifo JCA in *Nemi v AG Lagos State*<sup>3</sup> expressed that If those rights guaranteed under Chapter IV of the Constitution are to be meaningful, they must be thoroughly examined from every angle and determined in an action complaining of their breach. When an individual's rights are violated, they should be able to seek redress, or compensation, in an appropriate manner. This could take the form of monetary compensation, restoration of rights, or other forms of restitution. The specific redress that is appropriate will depend on the nature of the violation and the needs of the individual. In all cases, it is important that the individual is able to seek redress in a timely and fair manner.

In this connection let me say that it is not enough that we have ratified the African Charter on human and Peoples rights or some Universal human rights. As a society, we must work together to ensure that all people have access to the rights that they are entitled to. This means taking concrete steps to ensure that everyone has the opportunity to enjoy their rights and freedoms, regardless of their background or circumstances. In other words, we must not leave anyone behind as we work towards a more just and equitable world. While the Executive may

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<sup>3</sup> (2009) 3 NWLR (Pt. 1128) 342.

take steps to examine, or to set in motion, ways of improving human rights situation, the Judiciary should actively show its impetuous readiness to complement or indeed surpass the efforts of the Executive by an inspiring judicial approach to, or definition and recognition of, circumstances of human rights where appropriate and feasible. In *Statmak v C.O.P*<sup>4</sup> the CA held The human rights law of Nigeria is contained, inter alia, in two major documents. These are the Constitution of the Federal Republic of Nigeria, 1999 and the African Charter on human and Peoples' rights, domesticated as the African Charter on human and Peoples' rights (Ratification and Enforcement) Act, Cap. 10, Laws of the Federation of Nigeria 1990 .Chapter IV of the 1999 Nigerian Constitution, also known as the "Fundamental Human Rights" chapter, protects a range of civil and political liberties, including the right to life<sup>5</sup>, liberty<sup>6</sup>, and the security of the person; the right to fair trial<sup>7</sup> and due process<sup>8</sup>; and the right to freedom of expression<sup>9</sup>, religion<sup>10</sup>, and movement<sup>11</sup>. These rights are considered foundational to the functioning of a democratic society and are considered to be essential for the protection of all other rights and freedoms. . It is the Duty of the court to protect these rights.

**3.2.4. High Rates Case Backlog:** Delays can lead to the gathering of pending cases, which can result in a backlog and can further stretch an already overloaded judicial system. This backlog can aggravate delays in the determination of new cases and impede the efficacious administration of justice. In May 2018, the Chief Judge of Lagos State, Honourable Justice Opeyemi Oke, noted that there were over 3,000 pending cases in the courts of the state, which she described as a worrying situation. The Chief Judge stated that she would make

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<sup>4</sup> (2020) 9 NWLR (Pt. 1728) 176.

<sup>5</sup> CFRN 1999, S33(1).

<sup>6</sup> CFRN 1999, S35(1)

<sup>7</sup> CFRN 1999,S36(1)

<sup>8</sup> CFRN 1999,S36(4)-(12)

<sup>9</sup> CFRN 1999,S39(1)

<sup>10</sup> CFRN 1999,S38(1)

<sup>11</sup> CFRN 1999,S41(1)

every effort to reduce the backlog and improve the efficiency of the judicial system, in order to restore public confidence and deliver justice more quickly. This statement highlights the pressing need to address the backlog of cases and improve the administration of justice in Lagos State.<sup>12</sup>In *Agbaisi &ors v Ehikorefe*<sup>13</sup> which originated in the High Court of Edo State in 1975 was finally determined by the Supreme Court on April 16,1997.

**3.2.5. Social Uneasiness and Dissatisfaction:** When people accept that they have been rejected access to justice in a timely manner, they become frustrated and disappointed. This can result in social unrest and bring about lack of trust in the legal system. Such situation usually has the capability to make society unstable and create divisions between different groups. To maintain social unity, it is expedient to make sure that justice is carried out in a timely manner.

**3.2.6. Economic and fervid Burden :** long legal proceedings can lead to a significant financial and emotional burden on litigants, especially in cases where they are unable to access a timely resolution of their legal disputes.

In addressing the problem of delays in the attainment of justice in Nigeria usually requires comprehensive reforms which is aimed at improving the efficiency of the judicial system, enhancing legal infrastructure, and addressing systemic challenges such as inadequate resources, procedural inefficiencies, and corruption. Efforts to simplify court processes, invest in judicial infrastructure, and prioritize judicial reform are crucial in mitigating the repercussions of delays on the attainment of justice.

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<sup>12</sup> <<https://lagosstate.gov.ng/blog/2018/05/17/lagos-cj-decries-backlog-of-court-cases/>> accessed February 2024..

<sup>13</sup> *Agbaisi &ors v Ehikorefe* Appeal no .250/90.

### 3.3 HOW DELAYED JUSTICE AFFECTS DEFENDANTS, VICTIMS AND THE OVERALL FAIRNESS OF JUSTICE SYSTEM

Delayed justice can have significant negative effects on defendants. Here are some ways in which it can impact them:

#### On Defendants

**3.3.1. Mental and fervid Stress:** Extended delays in the justice system can lead to elongated periods of distrustfulness and apprehension for defendants. The steady expectation of a trial or verdict usually have an effect on the mental and emotional well-being of the defendant. *Barker v Wingo*<sup>14</sup>, the Supreme Court expressed that using the 'Barker test' that the defendant's right to speedy trial had been violated which could cause the defendant mental and emotional stress. In *Doggett v United States*<sup>15</sup>, the Supreme Court held that an excessive delay in bringing defendants to trial may violate the defendant's constitutional right to speedy trial. In this case, the court considered the defendant emotional and mental stress caused by delay as a factor in its decision. *United States v Lovasco*<sup>16</sup> The Supreme Court ruled that a defendant must show specific prejudice resulting from the delay in order to claim a violation of the right to speedy trial. In *Strunk v United States*<sup>17</sup>, The Supreme Court held that the defendant's mental and emotional stress caused by lengthy delay in trial can be considered as a factor in determining whether the defendant's constitutional right to a speedy trial has been violated.

**3.3.2. Pecuniary weight:** Defendants usually have to bear the financial weight of legal fees, court costs, and other expenses usually associated with their case. Elongated delays can heighten these financial pressures, because they may have to continue paying for legal

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<sup>14</sup> No 71 -5255 SC 407 U.S. 514(1972)

<sup>15</sup> No .90 -857 SC 505 U.S. 647(1992)

<sup>16</sup> No.75 -1844 SC 431 U.S. 783(1977)

<sup>17</sup> No.72 -5521 SC 412 U.S 434(1973)

representation and related costs for an extended period of time. In *Griffin v Illinois*<sup>18</sup> the Supreme Court held that the state must provide indigent defendants with a free transcript of their trial to ensure effective access to the appellate process. The court recognized that the inability to pay for a trial transcript would otherwise create an unconstitutional financial burden on defendants.

**3.3.3. Blemish on Character and Kinship:** When a person is accused of a crime, it can lead to a lasting negative impact on their reputation, regardless of the outcome of the case. The length of time a case is delayed can exacerbate this effect, affecting their personal relationships and career prospects. A lengthy legal process can be a burden on individuals and their families, leading to financial and emotional stress. Even if the case is eventually resolved in the defendant's favor, the damage to their reputation may still be difficult to overcome.

**3.3.4. Impact on Daily Life:** When someone is charged with a crime and their case is ongoing, they may face restrictions on their freedom, such as travel limitations or the requirement to regularly check in with law enforcement<sup>19</sup>. These restrictions can have a significant impact on the person's life, making it difficult to pursue education or employment opportunities, or to maintain personal relationships. The restrictions can create a sense of isolation and disrupt the person's daily life, potentially causing stress and anxiety.

**3.3.5. Unequal Access to Justice:** The impact of delayed justice is often felt more acutely by defendants from marginalized communities or those who lack financial resources. These individuals may not have the knowledge or resources to navigate the legal system effectively, which can lead to further delays and injustices. They may also face additional barriers to obtaining legal representation, making it more difficult to ensure that their case is handled

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<sup>18</sup> No 95 SC 315 U.S 12(1956)

<sup>19</sup> CFRN 1999,S 41(2)(a)

fairly. The compounding effects of these factors can create a significant burden for individuals already facing difficult circumstances.

It is important to note that the impact of delayed justice can vary depending on the specific circumstances of each case and the resources available to the defendant. However, in general, the lengthy delays in the justice system can have significant adverse effects on defendants, impacting their mental well-being, financial stability, relationships, and overall quality of life.

**3.3.6 On the victims:** Delayed justice can have significant negative impacts on victims in the following ways:

**3.3.6. Elongated fervid and Mental discomfort:** Victims of crimes often suffer from the emotional and psychological trauma associated with the incident itself. Delayed justice can prolong this trauma, as victims may have to wait for an extended period of time for the legal process to reach a resolution. During this period of uncertainty, victims may experience increased anxiety, stress, and fear. This can make it difficult for them to move on from the incident and heal emotionally. For victims of crime, delays in the legal process can be a source of great stress and uncertainty. Having to recount their experiences in court can be traumatic, and delays can make this process even more difficult and prolonged. Victims may feel that justice is being delayed or denied altogether, which can have a profound impact on their mental health and well-being. In addition to the emotional toll, delays can also have practical implications for victims. They may not be able to access support services or move on with their lives until the case is resolved. This can lead to a range of negative effects.<sup>20</sup>

**3.3.7 Lack of faith and trust in the Justice System:** Delayed justice can erode a victim's trust in the justice system. When cases take a long time to be resolved, victims may feel that their experiences and suffering are not being taken seriously or that justice is being denied. This lack of trust can impact their willingness to cooperate with authorities, participate in

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<sup>20</sup> <[https://www.lexology.com/library/delays in the crown court: Where is justice](https://www.lexology.com/library/delays%20in%20the%20crown%20court%3A%20Where%20is%20justice)> Accessed February 11th

legal proceedings, or seek justice in the future. The failure to deliver justice can have far-reaching implications, leading to disillusionment with the justice system responsible for upholding the law. This can result in a loss of faith in the court system, the police, and the government more broadly. This breakdown in trust can lead to a loss of confidence in the ability of these institutions to protect the rights of citizens and provide a fair and just society<sup>21</sup>.

**3.3.8 Incessant susceptibility and Anxiety:** For victims of crime, the delay in achieving justice can be a source of ongoing distress. If the perpetrator is not apprehended during the lengthy legal process, victims may continue to feel vulnerable and fearful. The uncertainty and anxiety associated with an unresolved case can make it difficult to resume normal life. The emotional toll of living with these feelings for an extended period of time can be profound.

**3.3.9 Pecuniary and Practical Weight:** Victims may face significant financial and practical challenges as a result of delayed justice. The legal process can be costly, and taking time off work to attend court hearings or provide testimony can place further strain on victims' finances. Additionally, the prolonged nature of delays can exacerbate the financial burden, as victims may need to continue accessing support services such as legal assistance, therapy, or other forms of support for a prolonged period. Crime victimization can have significant financial consequences, including medical expenses, litigation costs, counseling costs, and lost income. In the United States, the cost of crime is estimated to be hundreds of billions of dollars per year. For example, researchers estimate that the cost of a single murder is \$9 million, while a single rape costs \$240,000 and an aggravated assault costs \$100,000. These costs are significant, and they demonstrate the need for policies and programs that can reduce victimization and its financial consequences.

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<sup>21</sup> <<https://www.Quora.com/What-are-the-effects-of-the-lack-of-justice>> Accessed February 11th 2024

It's important to note that these are just estimates, and the true cost.<sup>22</sup>

**3.3.10 Diminished Closure and Healing:** For victims of crimes, the timely administration of justice can play a crucial role in the healing process. Having a resolution to their case can provide a sense of closure and allow them to begin to move forward with their lives. However, when justice is delayed, the healing process can be prolonged and victims may be forced to repeatedly relive their trauma as the legal proceedings drag on. This can have a significant impact on their emotional health and overall well-being. According to Dr. Mukwege, a Nobel Peace Prize laureate, he emphasizes the importance of justice for victims of sexual violence, particularly those in Eastern Congo. Prof. Kizilhan and Nadia Murad, another laureate, add that legal justice is crucial for the psychological healing of women who have suffered trauma. They argue that without legal justice, the emotional wounds of these women will remain unhealed.<sup>23</sup>

To minimize the negative effects of delayed justice, it is important to prioritize the needs of victims and provide them with the necessary support. This includes minimizing delays in the legal system, providing resources to help victims navigate the system, and ensuring that cases are resolved in a timely manner. By taking these steps, the impact of justice delays on victims can be reduced, and they can begin to heal and recover from their experiences.

### **On the Justice system**

Delayed justice has a significant impact on the overall fairness of the justice system in Nigeria in the following ways:

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<sup>22</sup> <<https://www.study.com/academy/lesson/financial-consequences-of-victimization.html>> Accessed February 2024

<sup>23</sup> Schubert T. Sklavinnen des IS - Suche nach Gerechtigkeit (2019). [cited 2020 Jan 21]. Available from: <<https://www.piqd.de/flucht-und-einwanderung/sklavinnen-des-is-suche-nach-gerechtigkeit>> Accessed February 2024

**3.3.11 Weaker confidence in the justice system:** Timely justice is critical for a fair and effective legal system. Without timely justice, there is a risk of innocent people being imprisoned, evidence being lost or forgotten, and witnesses losing their memory of events. In addition, delayed justice can lead to increased costs for the justice system, as well as causing stress and frustration for victims, witnesses, and others involved in the legal process. In *U.C.H.B.M V Morakinyo*<sup>24</sup> The Court of Appeal held that justice should not only be done, but should manifestly and undoubtedly be seen to be done. justice must be rooted in the criminal justice system and confidence is destroyed when right minded people go away thinking that the judge is biased. The 2009 assessment of Nigerian banks exposed large-scale fraud by several CEOs. In response, the Central Bank took over a number of institutions, spent billions bailing out others, and laid criminal charges against five CEOs. However, more than ten years later, only one case has been successfully prosecuted. The others have been dismissed, appealed, and retried repeatedly. This saga highlights the fact that Nigeria's justice system is not working .This can lead to lack of confidence in the Justice system <sup>25</sup>. There are several reforms that could help to improve the situation. For example, judicial reform could involve increasing salaries for judges and prosecutors to reduce the temptation of corruption, as well as increasing the number of judges and prosecutors to reduce delays. Education and training of judges and prosecutors could also help to improve the quality of decision-making and the delivery of justice.

**3.3.12 Refusal of fundamental rights:** Delayed justice denies individuals their fundamental right to a speedy trial, as guaranteed by the Nigerian Constitution. This delay can result in the prolonged detention of accused persons, violating their presumption of innocence and subjecting them to unnecessary hardship. It also denies victims the right to timely resolution

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<sup>24</sup>( 2014) 16 NWLR (Pt. 1434) 589

<sup>25</sup> <<https://qz.com/africa/1322762/nigeriasbankingcrisiswasavictimofaweakjudicialsystem>> Accessed February 2024

and redress for the harms they have suffered, undermining their confidence in the system. One of the challenges individuals seeking redress for their rights being infringed upon is that the judicial system is often slow and stringent with their procedures and also grant series of adjournment. The Court is the last hope of the common man, however an individual who hopes to seek timely redress on the infringement of his rights might not get justice due to the delay and his rights might be further infringed upon.<sup>26</sup>

**3.3.13 Backlog of Cases:** Delayed justice contributes to a backlog of cases in the Nigerian courts, leading to a strain on the judicial system. This backlog hampers the efficient administration of justice and can result in significant delays in resolving cases. It leads to a situation where cases take years to be concluded, with serious implications for access to justice and the rule of law.

**3.3.14 Impunity and unjustness:** Delayed justice can create a culture of impunity and injustice. When perpetrators of crimes are not held accountable promptly, it sends a message that they can evade consequences for their actions. This can embolden criminals, perpetuate a cycle of crime, and undermine the deterrence effect of the justice system. It also denies victims and their families the sense of closure and justice they deserve.

**3.3.15 Unequal Access to Justice:** Delayed justice has a disproportionate impact on those who are already disadvantaged, as they may not have the means to navigate the legal system effectively however the Constitution has empowered the National Assembly to make provision for the rendering of financial assistance to any indigent citizen of Nigeria where his right under this Chapter has been infringed or with a view to enabling him to engage the services of a legal practitioner to prosecute his claim<sup>27</sup>. Wealthy and powerful individuals can

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<sup>26</sup>Zainab O. Balogun, Synopsis: Enforcement of fundamental human rights under the Nigerian Constitution <<https://www.aachambers.com/articles/an-analysis-on-the-enforcement-of-fundamental-human-rights-under-the-nigeria-constitution>> Accessed February 2024

<sup>27</sup> CFRN 1999,S46(4).

afford to prolong legal battles, while less privileged individuals may not have the resources to do so. This results in a system in which those with greater means are able to exert greater influence over the legal process, further exacerbating inequalities. The principle of equal access to justice is compromised when delays are allowed to persist, as it creates a two-tiered system of justice.

To address the problem of delayed justice in Nigeria, it is important to address the root causes. This includes improving judicial infrastructure and funding, and implementing reforms to improve case management systems. By making these changes, Nigeria can create a more effective and efficient justice system that is able to provide timely resolution of cases. This will help to restore public confidence in the judicial system and ensure that all people have equal access to justice.

### **3.4 LEGAL FRAMEWORK AND REFORMS AIMED AT ADDRESSING DELAYS IN THE CRIMINAL JUSTICE SYSTEM**

The Nigerian Constitution and various laws provide the legal framework for addressing delayed justice<sup>28</sup>, and a number of reforms have been implemented to improve the efficiency of the criminal justice system. These include reforms to the bail system<sup>29</sup>, plea bargaining<sup>30</sup>, and case management. In addition, there are efforts to increase the number of judges and prosecutors, and to improve judicial infrastructure. All of these measures are aimed at improving access to justice and ensuring that cases are resolved in a timely manner. In terms of the reforms to the bail system, the Administration of Criminal Justice Act (ACJA) 2015 introduced a number of changes aimed at reducing pre-trial detention. These include the introduction of a time limit for bail hearings, as well as the option of granting bail on self-recognition. The ACJA also includes provisions for bail conditions to be tailored to the

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<sup>28</sup> CFRN 1999, S36 (4).

<sup>29</sup> ACJA 2015, S32(3)

<sup>30</sup> ACJA 2015, S270 (2).

individual circumstances of the accused, and provides for an expedited appeal process in cases where bail is denied.

In addition, the ACJA introduced reforms to the plea bargaining process, which allows for cases to be resolved more quickly and efficiently. Under the ACJA, case management judges are responsible for ensuring that cases are handled efficiently and in a timely manner. They are tasked with monitoring the progress of cases and ensuring that they are not delayed unnecessarily. The ACJA also requires the courts to set time limits for the completion of each stage of the judicial process. This helps to ensure that cases are not delayed due to lack of organization or efficiency. The ACJA also introduced reforms to judicial infrastructure, such as the establishment of more courts and the provision of funding for the construction and renovation of court facilities. The ACJA also provides for the use of alternative dispute resolution (ADR). The ACJA encourages the use of ADR to resolve disputes without going to trial. This includes the use of methods such as mediation, arbitration, and conciliation. ADR can be beneficial in cases that would otherwise be lengthy and costly to resolve through the traditional court system. It also allows for greater flexibility and creativity in resolving disputes, which can lead to more satisfactory outcomes for all parties involved. The ACJA also provides for the training of judges and lawyers in the use of ADR.

Overall, the ACJA has introduced a number of reforms aimed at reducing the problem of delayed justice in Nigeria. While there is still work to be done to fully implement these reforms, they have made significant progress in addressing the issue of delayed justice. According to a study by the International Bar Association, the average time for a criminal case to be resolved has been reduced from around 4 years to less than 2 years since the ACJA was enacted. This is a significant improvement, and is a positive step towards ensuring that all Nigerians have access to a fair and efficient justice system. The Legal Aid Act also provides for the establishment of the Legal Aid Council and the appointment of public

defenders to provide legal representation for indigent persons. This helps ensure that all defendants have access to legal representation, reducing delays caused by lack of legal representation.

**The various Reforms introduced to address the issue of delay in the Criminal Justice System in Nigeria shall be examined below.**

### **3.4.1 The Administration of the Criminal Justice Act**

The Administration of Criminal Justice Act, 2015 is a game changing law that aims to overhaul the Criminal Justice System in Nigeria. The ACJA is useful to both judges and Lawyers.

The Act was passed into law May 2015. It has Four hundred and Ninety-five(495) section law which is splited into fourty nine parts. It provides for the administration of criminal justice and for matters related in the courts of the Federal Capital Territory and every other Federal Courts in Nigeria. With the introduction of ACJA, Nigeria has a peculiar and centralized law which is applicable in all federal courts and with respect to offences found in Federal Legislations. The ACJA replaced the former Criminal Procedure Act which was applied in the South and the Criminal Procedure (Northern states) Act, which was applied in the North and the Administration of Justice Commission Act.

The ACJA, by combining the significant provisions of the two central criminal justice legislations in Nigeria, that is CPA and CPC, conserves the subsisting criminal procedures while introducing novel provisions which will improve the productiveness of the justice system and help fill the gaps and challenges experienced in these laws over the course of several decades.

ACJA has been portrayed as the much hoped for and anticipated change in the criminal justice arena due to the fact that the criminal justice system which existed before the coming into force of this law has lost its ability to reply hastily, the needs of the society, reprimand

the rising waves of crime, speedily bring criminals to book and safeguard the victims of crime.

Section 1 of the ACJA states that the purpose of the Act is to promote a criminal justice system that is efficient, speedy, and fair. It also emphasizes the need to protect society from crime, while also protecting the rights and interests of those accused of crimes and victims of crime. The ACJA recognizes the need for a balanced approach to criminal justice that protects everyone involved.

The ACJA marks a significant shift away from punishment as the main goal of the criminal justice system, instead emphasizing restorative justice. This approach emphasizes the importance of meeting the needs of society, victims, and vulnerable people, and upholding human dignity. It recognizes that the criminal justice system should not just focus on punishing offenders, but also on addressing the harm caused by crime and helping to rehabilitate offenders.

The ACJA places a strong emphasis on the dignity of human beings, as evidenced by its use of the term "defendant" instead of "accused" and its provisions for humane treatment during arrest<sup>31</sup>. The focus on human dignity is not limited to the language used in the ACJA. Rather, it is also reflected in the Act's other provisions, such as its protections for the rights of those accused of crimes and its commitment to treating victims of crime with dignity and respect. Overall, the ACJA makes clear that human dignity is a central concern throughout the criminal justice process. Above all, the ACJA reinstates the importance of human dignity throughout the criminal justice process. To its various provisions for speedy trial, to

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<sup>31</sup> ACJA 2015,S8(1).

suspended sentencing<sup>32</sup>, community service<sup>33</sup>, parole<sup>34</sup>, compensation to victims of crime and so-on<sup>35</sup>.

ACJA was introduced to address the issue of delays in the Criminal Justice System, Its reforms shall be discussed below.

One of the purposes of the Act is the enhancement of speedy administration of criminal justice. According to Chief Justice Walter Onnoghen<sup>36</sup>, delays in the administration of justice are a major challenge facing the Nigerian judicial system. He made this statement in an interview with the Vanguard Newspaper on July 24, 2017. Delay has long been a problem that has impeded the speedy and effective delivery of justice in Nigeria. The ACJA was enacted in an effort to address this issue and others. The delays in the criminal justice system have led to overcrowding in prisons across Nigeria. A report from the National Bureau of Statistics found that Awaiting Trial Persons (ATPs) account for a staggering 73% of the total prison population. The delays have had a significant impact on the rights of those accused of crimes, as well as on victims and society as a whole. To address this problem, the ACJA introduced several innovative provisions aimed at speeding up the trial process and disposing of criminal cases in a timely manner. These provisions are designed to protect the rights of all parties involved, and to ensure that the justice system functions efficiently. The provisions include, among other things, time limits for trials, expedited procedures for certain types of cases, and a requirement that cases be heard in the court closest to where the crime occurred. The ACJA's provisions for speedy trial and quick disposal of criminal cases serve not only the interest of the defendant and the victim, but also the larger society. A speedy trial protects the rights of the accused, while quick disposal ensures that the justice system does not

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<sup>32</sup> ACJA 2015,S460(1).

<sup>33</sup> ACJA 2015,S460(2).

<sup>34</sup> ACJA 2015,S468.

<sup>35</sup> ACJA 2015,S314,S319.

<sup>36</sup> Former Chief Justice of Nigeria

become bogged down with a backlog of cases. This benefits everyone involved in the process, including the police, prosecutors, and judges. In addition, it helps to create a more efficient and effective criminal justice system, which is in the best interest of society.

### **Several Innovative Provisions Adopted by the Administration of Criminal Justice Act Aimed at Speeding up the Criminal Justice Process**

ACJA sets a timeline for criminal trials in Magistrates' Courts. According to the Act, a trial must begin within 30 days of the case being filed, and must be concluded within a reasonable time. If a trial is not commenced within 30 days or concluded within 180 days of arraignment, the details of the case must be sent to the Chief Judge, along with an explanation for the failure to start or complete the trial within the required timeframe. The Act defines "reasonable time" as not more than 180 days from the date of arraignment<sup>37</sup>. This ensures that there is an accountability mechanism in place if a trial is not conducted in a timely manner. This timeline is designed to ensure that cases are resolved in a timely manner, and that defendants are not subject to prolonged periods of incarceration while awaiting trial. The Act also specifies that the trial court must give reasons for any delay in the commencement or conclusion of a trial. In addition, the ACJA requires that the interval between each adjournment should not exceed 14 working days<sup>38</sup>. If it is not possible to complete the trial after both parties have taken five adjournments each, the Chief Judge must be notified and a date set for a hearing to determine the reason for the delay. This is designed to prevent unnecessary or excessive delays in the trial process. Once the trial is underway, the Act requires that any further adjournments be no longer than seven days, including weekends<sup>39</sup>. This ensures that the trial proceeds as quickly and efficiently as possible. In this way, the Act helps to prevent unnecessary delays and ensures that the rights of the accused are protected.

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<sup>37</sup> ACJA 2015, S110.

<sup>38</sup> ACJA 2015, S396(4)

<sup>39</sup> ACJA 2015, S396(5)

The Act requires the court to award reasonable costs to the party that has been unfairly affected by unnecessary adjournments. This helps to discourage the practice of taking unnecessary adjournments, which can delay the trial process and cause unnecessary costs for all parties involved<sup>40</sup>. This is another way that the ACJA is designed to streamline the criminal justice system and make it more efficient.

In addition to adjournments, another major factor that has contributed to delays in the conclusion of criminal trials is when a case has to be tried de novo (from the beginning) because the judge hearing the case has been elevated to a higher court. This can lead to significant delays and further costs for all parties involved. The ACJA seeks to address this issue by allowing for the transfer of a case to another judge in the same court, rather than starting the trial over again. Such circumstances had received cure. Under the ACJA, if a High Court judge is elevated to the Court of Appeal, they can still hear a criminal case that was pending before them at the time of their elevation<sup>41</sup>. This provision is designed to prevent delays in the trial process and ensure that cases are heard and decided in a timely manner. It also allows for the efficient use of judicial resources, since the elevated judge can continue to hear cases that they were already familiar with. The case must however be concluded within a reasonable time. There has been some debate over whether the ACJA's provision for an elevated judge to continue hearing a case goes beyond the bounds of the Constitution of the Federal Republic of Nigeria. Some have argued that the Constitution does not make provision for this scenario, and that the ACJA is therefore ultra vires the Constitution. However, others have argued that the provision is constitutional, as it does not conflict with any provision of the Constitution. Section 1(1) and (3) of the Constitution provides thus;

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<sup>40</sup> ACJA 2015,S396(6)

<sup>41</sup> ACJA 2015,S396(7)

The Constitution is Supreme and its provisions shall have binding force on all authorities and persons throughout the Federal Republic of Nigeria.<sup>42</sup>

If any other law is inconsistent with the provisions of the Constitution, this Constitution shall prevail and that other law shall to the extent of the inconsistency be void”<sup>43</sup>

### **3.4.2 Legal Aid Act**

The Legal Aid Act of 2011 provides for the establishment of a fund to provide financial assistance for indigent citizens seeking access to justice. The fund is administered by the Legal Aid Council, which also has the authority to license paralegals to provide legal services in appropriate situations. The Council is also empowered to partner with non-governmental organizations and law clinics that provide legal aid or assistance. This ensures that a wide range of people have access to legal aid, regardless of their financial resources.

The Legal Aid Act of 2011 provides for the licensing of paralegals to provide certain legal services.<sup>44</sup> These services are limited to situations where they are appropriate, such as in cases where the person being served is indigent or has a limited understanding of the law. The Act also authorizes the Council to partner with or engage the services of non-governmental organizations and law clinics that are already providing legal aid or assistance. This helps to ensure that a wide range of people have access to the legal services they need. The act provides free legal representation to indigent persons accused of criminal offenses. By ensuring adequate legal representation, this act seeks to address delays caused by the inability of accused persons to hire lawyers.

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<sup>42</sup> CFRN 1999, S1(1)

<sup>43</sup> CFRN 1999,S1(3)

<sup>44</sup> LAA 2011,Part IV S17

## **Several Innovative Provisions Adopted by the legal aid act aimed at Speeding up the Criminal Justice Process.**

The Council (Legal Aid Council) will provide legal aid, advice, and access to justice in three main areas: criminal defense, civil matters, and community legal services. The provision of these services is subject to a test of merit and a test of indigence, to ensure that they are provided to those who are most in need<sup>45</sup>. This means that the Council will only provide legal aid, advice, and access to justice to those who meet both tests. This section connotes that the Legal Aid Council is established to provide Justice for indigent persons so as to speed the justice process.

The Council will establish, maintain, and develop a service known as the Criminal Defense Service to assist indigent persons involved in criminal investigations or proceedings specified in the Second Schedule of the Act<sup>46</sup>. This service will provide access to advice, assistance, and representation as the interest of justice requires. It is important to note that the Council is not required to provide this service to every indigent person involved in a criminal matter. Rather, the Council will determine whether a person is eligible for assistance on a case-by-case basis. The council is therefore established to assist indigent persons who cannot provide Legal representation. The council also provides that A legal practitioner or other legal service provider who has provided services to a person receiving legal aid will be paid for those services from the legal aid fund. The legal practitioner or service provider may not charge the person receiving legal aid for their services, or collect any amount from that person<sup>47</sup>. This will speed the Justice process because indigent persons will not have to wait to gather money before they can proceed to begin their matter in court. A legal practitioner or other legal service provider who has provided services to a person receiving legal aid will be paid for

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<sup>45</sup> LAA 2011,S8(1)

<sup>46</sup> LAA 2011,S8(2)

<sup>47</sup> LAA 2011,S15(1)

those services from the legal aid fund. The legal practitioner or service provider may not charge the person receiving legal aid for their services, or collect any amount from that person. This will also ensure Fair Trial to the defendant when charged for an offence but do not have the resources to hire a lawyer. A legal practitioner who represents someone who is entitled to legal aid under this Act must register the case with the Council, which will keep records and monitor the progress of the case<sup>48</sup>. The goal of this provision is to ensure that the Council is aware of all cases in which it provides legal aid, and can track their progress to ensure that the person receiving legal aid is receiving the appropriate level of service. This will also ensure speedy justice because the council will be monitoring the progress of the case. The Council and its designated lawyers have the right to visit and interview suspects who are detained in prisons, police stations, or other places of detention in Nigeria. Such lawyers are also entitled to be present during the interrogation of suspects, in accordance with the constitutional rights of suspects<sup>49</sup>. This provision ensures that suspects have access to legal representation and that their rights are protected throughout the legal process. By ensuring that suspects have access to legal aid and representation, this provision helps to ensure that cases are resolved in a fair and timely manner.

### **3.4.3 Judicial Practice Directions**

PRACTICE DIRECTION ISSUED BY THE CHIEF JUDGE OF THE FEDERAL CAPITAL TERRITORY, HON. JUSTICE ISHAQ USMAN BELLO, In exercise of the powers conferred on me by section 259 of the Constitution of the Federal Republic of Nigeria, 1999, section 490 (g) of the Administration of Criminal Justice Act 2015 and all other powers enabling me in that behalf, I, Ishaq Usman Bello, Honourable Chief Judge of the Federal Capital Territory High Court, make the following Practice Direction .

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<sup>48</sup> LAA 2011,S18(1)

<sup>49</sup> LAA 2011,S19(3)

The Chief Judges of various Nigerian states have issued practice directions aimed at reducing delays in the criminal justice system. These directions provide guidelines on case management, document handling, and timelines for the completion of different stages of the trial process.

### **Several Innovative Provisions Adopted by the Judicial Practice Directions Aimed at Speeding up the Criminal Justice Process**

The purpose of this Practice Direction is to carry into effect and ensure compliance with the Overriding Objective of the Administration of Criminal Justice Act 2015 as expressed in section 1(1) of that Act, particularly in:

- a. Ensuring efficiency and speed in the case management of criminal trials and dispensation of justice,
- b. Protecting the interests and fundamental human rights of the defendant, victim, witnesses and society; particularly the right to fair hearing, and
- c. Ensuring active participation of all parties to focus on matters that are genuinely in issue for trial thereby reducing delays and expense at trials.<sup>50</sup>

The essence of this section is to provide guidance on how the ACJA should be put into practice in order to fulfill its goals. The section clarifies the ACJA's purpose and intent, and provides direction on how to carry out its provisions. It's essentially a guide to implementing the ACJA in a way that ensures that its goals are achieved and its objectives are met so as to encourage speedy Justice and prevent slow court trials which will lead to delayed Justice. Moreso, The Chief Judge, or a judge nominated by the Chief Judge, or the most senior judge present, must assign cases for trial within five business days of receiving the charge<sup>51</sup>. The

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<sup>50</sup> Order 1 Rule 1 PRACTICE DIRECTION ISSUED BY THE CHIEF JUDGE OF THE FEDERAL CAPITAL TERRITORY, HON JUSTICE ISHAQ USMAN BELLO. Took effect on the 25th day of April 2017.

<sup>51</sup> Order 2 Rule 2 PRACTICE DIRECTION ISSUED BY THE CHIEF JUDGE OF THE FEDERAL CAPITAL TERRITORY, HON JUSTICE ISHAQ USMAN BELLO. Took effect on the 25th day of April 2017.

goal of this provision is to ensure that cases are assigned for trial in a timely manner, so that trials can proceed without delay. This helps to promote efficiency and reduce backlogs in the justice system. Once a case is assigned to a court, the court must serve a notice of trial on all relevant parties within 10 working days. This notice must be served on the prosecuting authority, the defendant if they are on bail, and the defendant's legal representatives, if applicable. If the defendant is in custody, the court must issue a production warrant and serve the notice of trial through the officer in charge of the place of detention. This notice must be served no more than three days after it is issued<sup>52</sup>

The purpose of this section is to ensure that all relevant parties are notified of the trial date in a timely manner to prevent delays and high rate of case backlogs

Unless directed otherwise by the court, the charge sheet must be served on the defendant within seven days of being filed.<sup>53</sup> This requirement is designed to ensure that the defendant is promptly notified of the charges against them and has an opportunity to prepare a defense. It also allows the court to move forward with the trial in a timely manner. The court must issue a trial notice for an arraignment and case management hearing within 10 working days of the case being assigned to the court<sup>54</sup>. This notice is sent to all relevant parties to ensure that they are aware of the upcoming hearing and can prepare accordingly. It also helps to keep the case moving forward in a timely manner. At the arraignment and case management hearing, the court will consider all the issues raised by the parties. The court will then make a decision on these issues in the interests of justice, within five working days of the hearing<sup>55</sup>.

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<sup>52</sup> Order 2 Rule 3 PRACTICE DIRECTION ISSUED BY THE CHIEF JUDGE OF THE FEDERAL CAPITAL TERRITORY, HON JUSTICE ISHAQ USMAN BELLO. Took effect on the 25th day of April 2017.

<sup>53</sup> Order 2 Rule 4 PRACTICE DIRECTION ISSUED BY THE CHIEF JUDGE OF THE FEDERAL CAPITAL TERRITORY, HON JUSTICE ISHAQ USMAN BELLO. Took effect on the 25th day of April 2017.

<sup>54</sup> Order 3 Rule 2 PRACTICE DIRECTION ISSUED BY THE CHIEF JUDGE OF THE FEDERAL CAPITAL TERRITORY, HON JUSTICE ISHAQ USMAN BELLO. Took effect on the 25th day of April 2017.

<sup>55</sup> Order 3 Rule 5 PRACTICE DIRECTION ISSUED BY THE CHIEF JUDGE OF THE FEDERAL CAPITAL TERRITORY, HON JUSTICE ISHAQ USMAN BELLO. Took effect on the 25th day of April 2017.

The purpose of this section is to ensure that the court addresses all relevant issues in a timely manner and reaches a fair and just outcome for all parties involved. A trial must be completed within a reasonable time, and in no case later than 180 days from the date it begins.<sup>56</sup> This requirement is in place to ensure that trials are conducted in a timely manner and do not drag on for an unreasonable amount of time. This helps to ensure that justice is served in a timely and efficient manner. The prosecution must provide the defendant with all materials, information, or proof of evidence that it intends to use to prove the charge against the defendant, no later than five working days before the date of the arraignment.<sup>57</sup> This requirement is designed to ensure that the defendant has a fair opportunity to prepare for the trial and make any necessary arguments. It will also speed up the trial process. The court and parties involved in a case shall prevent unnecessary delays as much as possible, and therefore, no more than five adjournments may be allowed from the time of arraignment to the final judgment<sup>58</sup>. This is meant to help keep the case moving forward in a timely manner and avoid any unnecessary delays that might prevent justice from being served. The hearing of cases should be scheduled for consecutive days, if possible, so that the case can proceed as quickly and efficiently as possible.<sup>59</sup> This provision is intended to avoid any delays caused by long gaps between hearing dates. If a lawyer who was present previous hearing and agreed on the date of the next hearing fails to attend the next hearing without good reason or sufficient notice, the court may impose costs on the lawyer.<sup>60</sup> This provision is designed to discourage

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<sup>56</sup> Order 3 Rule 10 PRACTICE DIRECTION ISSUED BY THE CHIEF JUDGE OF THE FEDERAL CAPITAL TERRITORY, HON JUSTICE ISHAQ USMAN BELLO. Took effect on the 25th day of April 2017.

<sup>57</sup> Order 5 Rule 3 PRACTICE DIRECTION ISSUED BY THE CHIEF JUDGE OF THE FEDERAL CAPITAL TERRITORY, HON JUSTICE ISHAQ USMAN BELLO. Took effect on the 25th day of April 2017.

<sup>58</sup> Order 7 Rule 3 PRACTICE DIRECTION ISSUED BY THE CHIEF JUDGE OF THE FEDERAL CAPITAL TERRITORY, HON JUSTICE ISHAQ USMAN BELLO. Took effect on the 25th day of April 2017.

<sup>59</sup> Order 7 Rule 2 PRACTICE DIRECTION ISSUED BY THE CHIEF JUDGE OF THE FEDERAL CAPITAL TERRITORY, HON JUSTICE ISHAQ USMAN BELLO. Took effect on the 25th day of April 2017.

<sup>60</sup> Order 7 Rule 4 PRACTICE DIRECTION ISSUED BY THE CHIEF JUDGE OF THE FEDERAL CAPITAL TERRITORY, HON JUSTICE ISHAQ USMAN BELLO. Took effect on the 25th day of April 2017.

lawyers from missing hearings without a valid reason, and to ensure that the trial proceeds in a timely manner.

#### **3.4 4 National Prosecution Policy**

The policy covers topics such as the role of the Attorney General, the role of prosecutors, and the prosecutorial process. It also provides guidelines on charging decisions, plea bargains, and trial preparation. The National Prosecution Policy in Nigeria aims to ensure that all cases are handled fairly and consistently, and that justice is delivered in an efficient and effective manner. The policy also aims to promote public confidence in the criminal justice system. In terms of the prosecutorial process, the policy outlines the roles and responsibilities of various stakeholders, such as the Attorney General, prosecutors, and law enforcement agencies. It also outlines the steps involved in prosecuting a case, from the initial investigation to the trial and any appeal. One of the key objectives of the policy is to ensure that charging decisions are made in a fair, just, and consistent manner. To this end, the policy outlines the factors that prosecutors should consider when making charging decisions, such as the seriousness of the offense, the strength of the evidence, and the likelihood of conviction. It also sets out the process for seeking legal advice and consulting with victims and witnesses. In terms of plea bargains, the policy provides guidance on when and how plea bargains should be considered, and the factors that should be taken into account. This policy also sets out guidelines for efficient and effective prosecution of criminal cases. It encourages prosecutors to adopt a proactive approach, minimize delays, and promote the early resolution of cases through plea bargaining and alternative dispute resolution mechanisms.

## **Several innovative reform strategies adopted by the National Prosecution Policy Aimed at Speeding up the Criminal Justice Process**

The prosecutor shall endeavor to reduce to a minimum the number of adjournments both before and after the commencement of a trial. Every effort should be made to ensure a trial is not delayed at its commencement and continues on consecutive working days until conclusion. Applications to adjourn should be opposed unless they are absolutely unavoidable. It is not the duty of the prosecutor to obtain counsel for an accused person or put forward the case of a defendant. However, the prosecutor shall assist the court and the defendant if the interests of justice so require. The prosecutor shall ensure that the prosecution's case is fully ready for the time fixed for trial. This includes ensuring that:

- (a) the prosecution case is known thoroughly
- (b) all legal, evidential and procedural issues are known, researched and ready for presentation to or argument before the court;
- (c) the prosecution has complied with the duties of a prosecutor to avoid and prevent unnecessary delays in accordance with any relevant rules of court or Practice Direction in Force.
- (d) proper and timely response to each request and question reasonably raised by the defense and the timely supply of all materials reasonably requested by the defense; witnesses are available and attend court,.
- (f) each required exhibit held by the prosecution is in court, whether for the prosecution or defense;
- (g) there are copies of all relevant documents for all persons who need them, where appropriate; and
- (h) an assessment has been made of the likely defences and how these can be properly countered.

This provision is based on the Federal High Court (Criminal) Practice Direction 2013 particularly paragraphs 4 and 6 thereof;

### **3.4.5 Case Management System**

The Nigerian judiciary has implemented case flow management systems in some states to facilitate the tracking and monitoring of cases. These systems aim to ensure timely hearings, reduce adjournments, and promote case prioritization.

#### **Several Innovative Reform Strategies Adopted by the Case Management System Aimed at Speeding up the Criminal Justice Process**

Case management in the criminal justice system is a complex process that involves multiple stakeholders, including the accused person, the police, the courts and judiciary, prosecuting lawyers, the Ministry of Justice, prisons, and others. In the context of criminal justice, case management focuses on how the case of an accused person is handled from the time of arrest by the police until the case is prosecuted and resolved in the courts. Once an accused person is arrested, a case file is opened for them, the case file contains a variety of communications, data, and information that are added and processed as the case progresses. How this information is used and managed to resolve the case is the central concern of case management in the criminal justice system. This system involves the movement of the accused person's case file from the police station to the Ministry of Justice and then to the courts, and beyond if necessary, to the prisons. Case management is therefore a complex and multi-faceted process that seeks to ensure the efficient and effective resolution of criminal cases. The case file must be made available to the relevant parties, such as the prosecution, the defense, and the court, as well as other interested parties, in a way that allows for appropriate access and control. This is the case management system in the criminal justice sector, which seeks to ensure the efficient and effective management of cases. The goal is to

ensure that all parties have the information they need to make informed decisions, and that the case can be resolved in a timely and fair manner. To accelerate the criminal justice process and improve efficiency in Nigeria's increasingly complex criminal justice sector, the United Kingdom Government's Department for International Development<sup>61</sup> has implemented a modern case management system through the Justice for all programme<sup>62</sup>. This program is being piloted in Enugu State, aiming to register ongoing criminal and civil cases into a system that can efficiently manage the storage and retrieval of information, data, and communications. The ultimate goal is to facilitate the swift delivery of criminal justice. The Justice for All Program's introduction of a modern case management system in Enugu State is a welcome development in the Nigerian criminal justice system. The program recognizes that the criminal justice system has a wide range of stakeholders, including the Nigerian Police, Judiciary, Ministry of Justice, Nigerian Prisons Service, Nigerian Bar Association, Legal Aid Council of Nigeria, and others. To address the inefficiencies and delays in the current system, a technology-driven case management system is being implemented under the program's "Speeding up the Criminal Justice System in Enugu State of Nigeria" project. The goal of this new system is to streamline the criminal justice process and make it more efficient, so that justice can be delivered in a timely manner. The new system is expected to reduce bottlenecks and delays, and improve communication and collaboration between the various stakeholders. With this system in place, it is hoped that the criminal justice system will be able to deliver justice in a more effective and transparent manner. The new case management system introduced by Justice for all is a multi-user, interactive database management system designed to meet the needs of all organizations involved in the criminal justice process. The system is designed to streamline, automate, and

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<sup>61</sup> Otherwise known as DFID

<sup>62</sup> Otherwise known J4A

speed up decision-making by providing accurate and up-to-date information about criminal cases. This helps to ensure that justice is delivered to accused persons in a timely and efficient manner. By providing accurate and consistent data, the new system helps to reduce errors and delays, and ultimately leads to better outcomes for all involved. The Central Case Management System<sup>63</sup> is an open-source software solution designed for the paralegal sector. It enables multiple organizations and paralegal offices to access, input, and modify a centralized database of case records. In the future, the CCMS can be adapted to be a web-based application that does not require software installation or maintenance at each office. This centralized system helps to ensure consistency and accuracy of information, while also reducing the need for duplicate data entry. Thanks to the Justice for All program, the new case management system has been installed for key stakeholders in the criminal justice system in Enugu State, including the judiciary, the Ministry of Justice, the Nigerian Police, and the Nigerian Prisons Service. This system is a significant improvement over the previous analogue system, and provides modern information technology equipment and facilities that make criminal case management and record keeping more efficient and effective. By streamlining these processes, the new system helps to improve the overall efficiency and effectiveness of the criminal justice system in Enugu State. The installation and commissioning of the new Case Management System in Enugu State was undertaken in response to the identified gaps and needs of the criminal justice institutions in the state. The six intervention areas targeted by the program included speeding up effective criminal investigations, speeding up the prosecution process, speeding up the court trial process, enhancing the transportation of remand prisoners to court, improving the attendance rate of witnesses in criminal cases, and enhancing legal representation for remand prisoners. The new Case Management System makes it easy to collate and manage information related to

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<sup>63</sup> Otherwise known as CCMS

ongoing cases across the various stakeholders in the criminal justice system, including the courts, police, Ministry of Justice, and prisons. With just a few clicks, the system provides easy access to all relevant data, improving the efficiency and effectiveness of information management.

The new system offers several benefits, including rapid access to case data, tracking of cases, and facilitating data sharing between different sectors. The system begins with the entry of case information on the Case Registration and Amendment Form, once the initial information has been entered, it is then updated using the Case Update Form, which contains a comprehensive set of data fields that cover all relevant aspects of the case. The information entered on the Case Update Form is then stored in the Case Management Unit (CMU), which acts as a central database for all case-related information. This makes it easy to retrieve and share information across the criminal justice system. The case tracking system is designed to allow for the accurate capture and recording of key case-related court transactions on a daily basis, and to generate management information reports based on this data. These reports can be generated on a monthly, quarterly, or annual basis, or on demand, and can be compared with previous data to track changes over time. For example, the Judiciary can use the case management system to produce reports at the level of individual courts, or for all courts combined. The system helps to track and monitor the status of pending cases, court performance, and the progress of cases from beginning to end. The system also helps the Judiciary to produce monthly performance reports and reports for the Nigerian Judiciary Commission. Enugu State is the first state in Nigeria to benefit from this type of project. Overall, the case tracking system helps to improve the efficiency and transparency of the Judiciary's operations, and enables it to track and report on its progress and performance over time. The DFID-funded Nigeria Justice for all programme and its partner organization,

Prisoners Rehabilitation & Welfare Action<sup>64</sup>, have been working with government and non-government actors in Enugu State since 2011 to reduce the length of time it takes for criminal cases to be resolved. The goal of the intervention is to identify the root causes of delays in the criminal justice system, and to develop and implement solutions that involve all relevant stakeholders, including state and non-state actors. This includes actors such as the police, Ministry of Justice, prisons, judiciary, legislature, civil society organizations, and traditional rulers. The aim is to improve the efficiency and effectiveness of the criminal justice system, and to ensure that the rights of all those involved in the process are respected. By working with all relevant stakeholders, the intervention seeks to improve communication and collaboration between different actors in the system, and to build trust and confidence in the justice system as a whole.

### **3.5 THE EFFECTIVENESS OF THESE LEGAL FRAMEWORK AND REFORMS**

The adequacy of the legal framework and policies in tackling the challenges of delays in the Nigerian criminal justice system, especially within the court, has been an enduring concern. Protracted delays in justice often give rise to numerous problems, including prolonged detention of suspects, infringement of rights, accumulation of pending cases, and a compromised public faith in the justice system.

Efforts have been made by the Nigerian government towards resolving the matter of delays in the criminal justice system. Notably, the Administration of Criminal Justice Act (ACJA) was put into effect in 2015, with the objective of accelerating criminal trials and mitigating delays. The ACJA brought in inventive provisions like mandatory day-to-day trials, limitation of adjournments, and set timeframes for various phases of the criminal process.

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<sup>64</sup> Otherwise known as PRAWA

Despite the ACJA's intent to improve efficiency in the criminal justice system, its implementation has been challenging. Some of the main obstacles to its success include inadequate infrastructure and resources, such as overcrowded courts and insufficient facilities. There is also a lack of trained personnel, leading to delays and backlogs in the system. Furthermore, corruption and inefficiency are widespread, resulting in bribery and manipulation of court processes. Pretrial detention is another significant issue, as many people are held for long periods while awaiting trial. This is often due to slow investigations, a lack of legal representation, and limited access to bail also contributes to the problem of pretrial detention. Additionally, the large number of cases and insufficient judicial manpower further exacerbate the delays. These issues have led to a backlog of cases and a prolonged wait for justice, often resulting in frustration and dissatisfaction among the public.

The lack of collaboration and coordination between different agencies involved in the criminal justice system has been a significant obstacle to improving efficiency. There needs to be better communication and cooperation between the police, prosecutors, and the judiciary in order to ensure timely investigations, prosecutions, and adjudication of cases. However, these agencies often operate in silos, leading to delays and inefficiencies. In order to address these challenges, it is essential to implement comprehensive reforms that include increased funding for the justice sector, improved infrastructure, and better training and resources for judges, prosecutors, and court personnel. Additionally, there must also be a concerted effort to combat corruption within the justice system and promote transparency and accountability. It is also crucial to strengthen oversight mechanisms and ensure that justice sector institutions are held to high standards of conduct. In addition, public awareness and education about the rights of suspects and defendants must be improved, so that they are aware of their rights and how to access justice.

Alternative dispute resolution (ADR) mechanisms like plea bargaining and mediation can be used to speed up the resolution of cases. These approaches can reduce the workload of the courts and encourage the parties involved to come to an agreement sooner. Furthermore, public education and awareness campaigns can help build trust in the criminal justice system and encourage people to participate actively. Educating the public about their rights and the importance of reporting crimes promptly can lead to early investigations and a reduction in delays.

In summary, while the legal framework in Nigeria aims to address the issue of delays in the criminal justice system, there are still many challenges to overcome. These include the need for improved infrastructure, coordination between agencies, and better training and resources for the criminal justice system. Public education and awareness programs, as well as alternative dispute resolution mechanisms, can help to ensure timely and effective justice delivery. In short, while there are challenges to overcome, there is hope for improvement.

### **3.5.1 Challenges of these policies**

In the Criminal Justice System of Nigeria, the legal framework and policies are plagued with several challenges in addressing the issues of delays, most especially within the courts. Some of these challenges include:

**3.5.2. Archaic laws and Processes:** It is possible that the legal framework in Nigeria is not up to date with the needs of the modern world, which may result in inefficiencies and delays in the court system. In order to address this issue, it is necessary to update the laws and procedures to make them more efficient and effective. This could include simplifying the court process, introducing new legislation, and using technology to automate certain tasks. By taking these steps, it may be possible to improve the efficiency and effectiveness of the justice system in Nigeria. As clearly stated in the Constitution of Nigeria which states that, "no person shall be convicted of a criminal offence unless that offence is defined and the

penalty for it prescribed in a written law, and in this subsection, a written law refers to an Act of the National Assembly or a Law of a State."<sup>65</sup> This section of the constitution makes it clear that any person charged with a criminal offense must be convicted under laws that are clearly defined and up-to-date, not under outdated or obsolete laws.

**3.5.3. Absence of Resources:** A lack of funding for the criminal justice system in Nigeria can have a significant impact on its efficiency and effectiveness. This can lead to a shortage of key resources, such as courtrooms, judges, prosecutors, defense attorneys, and support staff. These resource shortages can cause delays in case processing and trial scheduling, which can further exacerbate delays and backlogs in the system.

**3.5.4 Complicated legal procedures:** The intricate and lengthy nature of legal procedures and documentation can slow down the process of justice, leading to delays in court proceedings. To address this issue, there is a need to simplify and streamline legal processes, reducing the complexity and length of documentation required. This can help to speed up trials and reduce the backlog of cases.

**3.5.5 Ineffectual Case Management:** The absence of effective case management systems and the continued use of manual, paper-based processes can lead to significant delays in the legal system. This can result in inefficiencies and bottlenecks in the justice process. There is a need for digital, automated case management systems to increase efficiency and reduce delays. America has fully adapted case management system in their courts,<sup>66</sup> Nigeria can do same.

**3.5.6 Deficient legal representation:** In criminal cases, defendants may experience delays due to a shortage of qualified legal professionals, especially in remote or underserved areas. In addition, many defendants are unable to afford legal representation, which can lead to

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<sup>65</sup> CFRN 1999,S36(12)

<sup>66</sup> CJRA,1990 S479(c)(1)-(3)

delays as they navigate the complex legal system without assistance. This is particularly problematic for indigent defendants who are at a disadvantage compared to those who can afford legal counsel.

**3.5.7 Excessive adjournments:** Delays caused by frequent adjournments in criminal cases can have serious consequences, as trials are dragged out for months or even years. This is often due to procedural or administrative issues, such as missing paperwork or witnesses, rather than substantive legal issues. The result is a protracted process that can cause significant stress and anxiety for defendants, as well as frustration and distrust in the justice system.

**3.5.8. Judicial Putrefaction and ineffectiveness :**Corruption and inefficiencies in the judicial system can have a detrimental effect on the swift administration of justice. When judges, prosecutors, or other court officials are corrupt, they may be motivated to delay cases or otherwise prevent them from being resolved in a timely manner. Additionally, inefficient case management practices and trial procedures can further exacerbate delays and create a backlog of cases. This is a serious problem that undermines the integrity of the judicial system and undermines public confidence in the rule of law.

To address the challenges facing the Nigerian criminal justice system, a range of reform measures are needed, including legal and policy reforms to streamline procedures and reduce delays. Increased funding for the justice system and improved training for legal professionals are also essential. In addition, implementing modern case management systems and anti-corruption measures can help to improve efficiency and prevent undue delays. Finally, improving access to legal aid and promoting alternative dispute resolution mechanisms can further alleviate delays and backlogs in the system.

### 3.6 SOLUTIONS TO THESE CHALLENGES

Addressing the challenges facing the Nigerian criminal justice system's legal framework and policies requires comprehensive reforms and interventions. Some potential solutions to improve the system and reduce delays in the courts include:

**3.6.1. Legal and Policy Reforms:** It is important to conduct a thorough review of existing laws, regulations, and court procedures, and to update them to streamline and modernize the legal framework. This may involve legislative amendments, policy changes, or the adoption of best practices from other jurisdictions. By taking these steps, it is possible to improve the efficiency of the criminal justice system, making it more effective and responsive to the needs of the Nigerian people. This will ultimately improve the delivery of justice and help to create a more just and peaceful society. The Chief Justice of Nigeria (CJN), Olukayode Ariwoola, has advocated an amendment to the Nigerian constitution to stop most cases from getting to the Supreme Court. Mr Ariwoola spoke against the backdrop of the enormous workload the 10-member Supreme Court currently grapples with, with many civil and criminal cases lingering for years before being decided. The CJN said this on Monday in Abuja at the special session of the Supreme Court to mark the commencement of the 2023/2024 legal year and conferment of the rank of Senior Advocate of Nigeria (SAN) on 58 lawyers.

“I have made it clear at different occasions that it is not every dispute that must find its way to the court, and it is not every matter that must come up to the Supreme Court on appeal,”

Mr. Ariwoola said. our laws have to be amended to make most appeals end at the Court of Appeal,” he added, saying the appellate court is competent to adjudicate on all cases.

Mr. Ariwoola also urged Nigerians to be less litigious and embrace alternative dispute-resolution mechanisms. There have been futile calls by retiring justices of the Supreme Court for a reduction in the type of cases that get to the Supreme Court. However, only amendments

to the Nigerian constitution and other relevant laws by the parliament can achieve that if signed into law by the president. Giving a breakdown of cases that were decided and those pending at the court, the CJN said a total of 1,271 appeals and motions were filed in the outgone year.

“Out of these, we heard 388 political appeals, 215 criminal appeals, and 464 civil appeals. Similarly, the court considered a total number of 49 criminal motions, 153 civil motions, and political motions,” he said.<sup>67</sup>

The CJN disclosed that the Supreme Court, between September 2022 and July 2023, delivered a total number of 251 judgements.

**3.6.2. Investment in Resources:** To improve the efficiency of the criminal justice system, it is essential to increase funding and resources for the courts. This includes building more courtrooms, recruiting and training additional judges, prosecutors, defense attorneys, and support staff, and investing in technology and case management systems. By improving the infrastructure and resources available to the courts, it will be possible to reduce delays and make the system more

**3.6.3. Streamlined Legal Processes:** In order to make the legal process more efficient, it is necessary to simplify and streamline procedures. This could include standardizing and digitizing case filing and documentation, as well as evidence management. By reducing the complexity and bureaucracy of these processes, it will be possible to expedite court proceedings and reduce delays.

**3.6.4. A better Legal Representation:** To improve access to legal representation for defendants, it is important to increase funding for legal aid programs, train and support public defenders, and encourage lawyers to provide pro bono services. With these efforts, more

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<sup>67</sup><https://www.premiumtimesng.com/news/646839-cjn-wants-amendment-of-nigerian-laws-to-stop-most-cases-at-appeal-court-2.html> Accessed February 2024

individuals will be able to have effective legal representation, which will help to ensure a fair and just criminal justice system.

**3.6.5. Case Management Efficaciousness:** By implementing case management systems that are based on modern technology, it is possible to automate many aspects of court administration, such as scheduling, tracking, and monitoring of cases. This can help to reduce the amount of paperwork, eliminate redundant tasks, and improve the efficiency of court dockets.

**3.6.6. Addressing Adjournment Abuse:** Measures can be taken to reduce the incidence of excessive and unjustified adjournments, such as setting strict timelines for case resolution, encouraging early case assessment, and imposing penalties for frivolous adjournments. These measures can help to speed up the court process and reduce delays, while also ensuring that cases are handled in a fair and timely manner.

**3.6.7. Judicial drill and ethics:** It is essential to provide ongoing training and professional development opportunities for judges, lawyers, and court personnel. This can help to improve judicial efficiency, case management skills, and ethical standards. It can also help to reduce corruption and improve the overall quality of the judicial system. Speaking on the need for judges to be upright, the CJN said integrity remains an essential quality of a judicial officer. He urged judges to exhibit “the standards of integrity, morality, and good behaviour” in the discharge of their duties. “In a situation where a judge decides a case wrongly out of motives, it shakes the faith of the litigant public; and by extension, the whole society.” Mr. Ariwoola noted that a corrupt judge “has no right to continue to occupy the chair as a judicial officer.” He admonished judges to “lead a disciplined and principled lifestyle that will enhance their trust and integrity quotient.” Public confidence in the Nigerian judiciary has plummeted in recent times because of allegations of corruption against judges.

A former President of the Nigerian Bar Association (NBA), Olumide Akpata, recently spoke about corruption and other ills plaguing the country's judicial system. While also retiring from the Supreme Court bench last month, Dattijo Muhammad criticised the Nigerian judiciary for alleged corruption that he said permeated its hierarchies. He also criticised some recent decisions of the Supreme Court and other Nigerian courts, as well as the flawed and arbitrary appointments of judges in the country. He made scathing comments about the alleged corrupt handling of the judiciary's funds and the judiciary's affairs in the Supreme Court and other courts down the hierarchy of the Nigerian judiciary<sup>68</sup>

Implementing these solutions will require sustained commitment from policymakers, legal professionals, civil society organizations, and the public to bring about meaningful and sustainable improvements in the Nigerian criminal justice system.

**3.6.8. Alternative Dispute Resolution:** Alternative dispute resolution mechanisms, such as mediation and arbitration, can be encouraged to help resolve cases outside of the traditional court system. This can alleviate the burden on courts, reduce delays, and lead to faster and more cost-effective dispute resolution.

**3.6.9. Public tutelage and engagement:** Increasing public awareness of legal rights and responsibilities, the importance of a fair and timely justice system, and the role of the judiciary in upholding the rule of law can foster support for reforms and enhance public trust in the legal system. This can be achieved through public education campaigns, increased transparency, and other efforts to engage with the public.

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<sup>68</sup> Ibid.

### **3.7 CONCLUSION**

The impact of delays in the Nigerian criminal justice system is far-reaching and affects all parties involved, including defendants, victims, and the justice system itself. Delayed justice can lead to further victimization, a lack of confidence in the legal system, and an erosion of public trust. While legal framework and reform efforts have been made to address these issues, they have not been fully effective due to a lack of resources, corruption, and inefficient processes. Despite these challenges, it is crucial to continue working towards solutions that will improve the efficiency and effectiveness of the criminal justice system, ensuring that all parties have access to timely, fair, and effective justice. This will require ongoing efforts to improve the legal framework, enhance training for legal professionals, and address corruption. Additionally, reforms should focus on improving case management systems, increasing transparency, and promoting alternative dispute resolution mechanisms. With these measures in place, the Nigerian criminal justice system can become more efficient and responsive, delivering justice in a timely and effective manner. Addressing delays in the Nigerian criminal justice system is not only important for the parties involved, but also for the rule of law and for the well-being of society as a whole. When justice is delayed, it creates a culture of impunity, and this can have a ripple effect throughout society. It is therefore vital to continue working towards reforms that will reduce delays and ensure that all parties have access to a fair and effective justice system.



## CHAPTER FOUR

### 4.1 INTRODUCTION

Every country faces the problem of crime, and while the methods used to combat crime vary from country to country, the impact of crime on a nation's security, economy, and education remains the same. Developed countries like England, America, and Germany have more advanced criminal justice systems that have helped them achieve relative stability in terms of security and contributed to economic and educational growth. In contrast, developing countries still struggle with security issues and the effects of crime. The effects of crime can be devastating for both individuals and society as a whole. For individuals, the effects can include physical injury, emotional trauma, and loss of property or income. For society, the effects can include increased fear and insecurity, reduced economic productivity, and decreased trust in the justice system. It's important to consider the individual and societal costs of crime when evaluating the effectiveness of a country's approach to crime. When it comes to measuring the effectiveness of a country's approach to crime, public confidence is certainly an important factor. But it's not the only factor to consider. Other factors that could be used to measure effectiveness include the crime rate, the recidivism rate, and the cost of the criminal justice system. The cost of the criminal justice system can have a significant impact on a country's economy and public finances. For example, the cost of incarceration can be extremely high, and in some cases, it may be more cost-effective to invest in prevention and rehabilitation programs. Additionally, the cost of law enforcement, prosecution, and other criminal justice services can also add up. So it's important to consider the cost of these services when evaluating the effectiveness of a country's approach to crime.

## **4.2 COMPARATIVE ANALYSIS**

Every country grapples with the challenges of crime and terrorism, and Nigeria is no exception. While these issues are prevalent worldwide, with no nation free from lawbreakers, countries, including developed ones, have made strides in mitigating criminal activities, even if complete eradication remains unattainable. Nigeria can adopt strategies used by these nations in combating crime. The criminal justice systems of England, America, and Germany are examined in the following discussion.

### **4.2.1 The Administration of Criminal Justice in England**

In England, which is part of the United Kingdom, the laws of criminal justice that apply to the entire country also apply to England. Like in Nigeria and the United States, the English criminal justice system has three main parts: the courts, the police, and the correctional system.

**The Court:** The role of the courts in England is to interpret the law and to sentence those who are found guilty of crimes. The courts also have the power to determine whether or not an accused person is innocent of a charge that has not been proven. In cases where a defendant is found guilty, the court has the authority to impose sentences ranging from imprisonment to the death penalty.

The Crown Prosecution Service is the main organization responsible for prosecuting criminal cases in England. The police conduct investigations that provide the CPS with the evidence needed to successfully prosecute cases<sup>1</sup>. By working together, the CPS and the police play an important role in upholding the rule of law and protecting the public.

In England, the courts follow an adversarial system in which lawyers for each side present their arguments and question witnesses to build their case. The judge's role is to listen to the

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<sup>1</sup> G.C Barclay 'Criminal Justice System in England and Wales, Second Edition's' US Department of Justice. Office of Justice Programs <<https://www.OJP.gov/ncjrs/virtual-library/abstracts/Criminal-justice-system-england-and-wales-second-edition>

arguments and decide based on the evidence presented. The court system in England is hierarchical, with decisions made by lower courts subject to appeal in higher courts. The lowest courts are the Magistrates' courts, followed by the High Court, the Court of Appeal, and finally the Supreme Court, which is the highest.

If a party is dissatisfied with the decision of a lower court, they have the right to appeal to a higher court. In England, like in the United States, the jury system is used, with juries randomly selected from among members of the public<sup>2</sup>. Jurors consider the evidence presented by both sides and reach a verdict based on their assessment of the facts. This system allows for public participation in the justice system and helps to foster a sense of patriotism and civic engagement. It also allows for public input into the laws, ensuring that the laws reflect the values of the society. The jury system also plays an important role in ensuring that the rights of individuals are protected, as juries must be convinced beyond a reasonable doubt that the defendant is guilty before they can convict.

The police: In England, the police force works alongside the Crown Prosecution Service to maintain order and protect lives and property. The police in England have a wide range of powers and responsibilities, including investigating crimes, apprehending criminals, and protecting the public. They also have the authority to use force if necessary to carry out their duties. The police force is an essential part of the legal system in England, working to ensure that the law is enforced and that justice is served. The powers of the police in England are largely defined by statute law, with the Police and Criminal Evidence Act 1984 and the Police Act 1996 as the main sources. The main duty of the police is to investigate crimes, but they are not responsible for prosecuting the cases they investigate. This allows them to focus on their primary duty while the Crown Prosecution Service focuses on prosecution. This

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<sup>2</sup> Sally Lloyd - Bostock 'The Jury in the United Kingdom Juries and Jury Research in context' De Gruyter <<https://www.degruyter.com/document/doi/10.1515/9783110879483349/pdf>>

division of responsibilities helps to ensure that crimes are thoroughly investigated and that the prosecution is conducted in an efficient and effective manner.

Correctional centres in England: In England, there is a well-established system in place to ensure that offenders are punished and rehabilitated. The Rehabilitation of Offenders Act 1974 makes provisions for the rehabilitation of offenders, in addition to their punishment. This approach is intended to reduce recidivism and help offenders reintegrate into society. This approach has also been adopted in Nigeria, with the Administration of Criminal Justice Act 2015 providing for the rehabilitation of offenders in addition to their punishment.

In England, the severity of a crime determines the punishment and the length of imprisonment. There are three categories of crimes: summary, either way, and indictable offences<sup>3</sup>. Summary offences are less serious crimes that are tried in a Magistrates' Court and have a maximum sentence of six months in prison. Either way offences can be tried in either a Magistrates' Court<sup>4</sup> or a Crown Court, and the maximum sentence can be up to two years in prison. Indictable offences are the most serious crimes and they are always tried in a Crown Court. The maximum sentence for an indictable offence can be life imprisonment. These three categories of offences are similar to the categories used in Nigeria, which are minor offences, ordinary offences, and capital offences.

In conclusion, the administration of criminal justice in England and Nigeria have some key similarities. Both countries have the three main organs of the criminal justice system: the courts, the police, and the correctional facilities. These institutions work together to ensure that justice is served and offenders are rehabilitated, with the overall goal of reducing crime and keeping society safe. The process of criminal justice in these countries is similar in this regard.

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<sup>3</sup> Joanne Cestaro 'Types of Criminal Offences in the UK : Summary only, Either way & Indictable only' Lawton's Solicitors 11th June 2019 <[www.lawtonslaw.co.uk](http://www.lawtonslaw.co.uk)>

<sup>4</sup> Ibid

### **4.2.2 The Courts of England and Wales**

The court system in England and Wales is made up of five levels:

- The Supreme Court (formerly the House of Lords) and the Judicial Committee of the Privy Council
  1. The Court of Appeal
  2. The High Court
  3. The Crown Court and County Courts
  4. The Magistrates' Courts and the Tribunals Service.

Each level has its own jurisdiction and deals with different types of cases. The Supreme Court is the highest court, and its decisions are binding on all lower courts.

#### **Judicial Committee of the privy Council**

The Judicial Committee of the Privy Council is the final court of appeal for Commonwealth countries that have retained their appeals to the Queen in Council or to the Judicial Committee. It also acts as the court of last resort for Scotland in cases relating to devolution. The Supreme Court took over some of the functions of the Judicial Committee in 2009. This new court is the highest court in England and Wales, and its decisions are binding on all lower courts.

#### **Supreme Court (Formerly House of Lords)**

In 2009, the Supreme Court took over from the House of Lords as the highest court in England, Wales, and Northern Ireland. Like the House of Lords, the Supreme Court hears appeals from the Court of Appeal and the High Court (only in exceptional circumstances). It also hears appeals from the Inner House of the Court of Session in Scotland. Appellate hearings are typically heard by five Justices, but this number can range from three to nine Justices.

## **The Court of Appeal**

The Court of Appeal is made up of two divisions: the Criminal Division and the Civil Division. The decisions of the Court of Appeal can be appealed to the Supreme Court (formerly the House of Lords). The Criminal Division deals with appeals against decisions of the Crown Court, while the Civil Division deals with appeals from the High Court and County Courts.

### **Civil Division**

The Civil Division of the Court of Appeal considers appeals relating to civil law and family justice. These appeals can be from the High Court, from Tribunals, or in some cases from the County Courts. The Civil Division deals with cases relating to commercial and property law, personal injury claims, and family law matters such as divorce and child custody.

### **Criminal Division**

The Criminal Division of the Court of Appeal hears appeals from the Crown Court.

## **High Court**

The High Court consists of three divisions: the Chancery Division, the Family Division, and the Queen's Bench Division. The decisions of the High Court may be appealed to the Civil Division of the Court of Appeal.

### **Chancery Division (Companies Court)**

The Companies Court is a sub-division of the Chancery Division that deals with cases involving commercial fraud, business disputes, insolvency, corporate governance, and the disqualification of company directors. The Companies Court plays a vital role in ensuring that businesses are run fairly and responsibly, and that those who abuse their position in a company are held accountable.

### **Chancery Division (Divisional Court)**

The Divisional Court is another sub-division of the Chancery Division, and it deals with cases relating to equity, trusts, contentious probate (wills and estates), taxation, partnerships, bankruptcy, and land ownership. These are complex legal areas, and the Divisional Court plays a key role in resolving disputes and ensuring that the law is applied fairly and consistently.

### **Chancery Division (Patents Court)**

The Patents Court of the Chancery Division handles cases that concerns intellectual property, copyright, patents and trademarks, including passing off.

### **Family Division(Divisional Court)**

The Divisional Court of the Family Division handles cases on all matrimonial matters, including custody of children, parentage, adoption, family homes, domestic violence, separation, annulment, divorce and medical treatment declarations, and with uncontested probate matters.

### **Queen's Bench Division: (Administrative Court)**

The Administrative Court of the Queen's Bench Division hears judicial reviews, statutory appeals and application, application for habeas corpus, and applications under the Drug Trafficking 1984 and the Criminal Justice Act 1988. It also oversees the legality of decisions and actions of inferior courts and tribunals, local authorities, Ministers of the Crown, and other public bodies and officials.

### **Queen's Bench Division (Admiralty Court)**

The Admiralty Court of the Queen's Bench Division handles cases that deals on shipping and maritime disputes, including collisions, salvage, carriage of cargo, limitation, and mortgage disputes. The Court can arrest vessels and cargoes and sell them within the jurisdiction of England and Wales.

### **Queen's Bench Division (Commercial Court)**

The Commercial Court of the Queen's Bench Division deals with cases arising from national and international business disputes, including international trade, banking, commodities, and arbitration disputes.

### **Queen's Bench Division (Mercantile Court)**

The Mercantile Court of the Queen's Bench Division handles cases that deal with national and international business disputes that involve claims of lesser value and complexity than those heard by the Commercial Court.

### **Queen's Bench Division (Technology and Construction Court)**

The Technology and Construction Court of the Queen's Bench Division is a specialist court that deals principally with technology and construction disputes that involve issues or questions which are technically complex, and with cases where a trial by a specialist TCC judge is desirable.

### **County Courts**

The County Courts deal with all except the most complicated and the most simple civil cases (including most matters under the value of £5000), such as claims for repayment of debts, breach of contract involving goods or property, personal injury, family issues (including adoption and divorce), housing issues (including recovery of mortgage and rent arrears, and re-possession), and enforcement of previous County Court judgments. Cases are heard by a judge, without a jury. Decisions of the County Courts may be appealed to the appropriate Division of the High Court.

### **Crown Court**

The Crown Court handles cases that deal with indictable criminal cases that have been transferred from the Magistrates' Courts, including hearing of serious criminal cases (such as murder, rape and robbery), cases sent for sentencing, and appeals. Cases are heard by a judge

and a jury. Decisions of the Crown Court may be appealed to the Criminal Division of the Court of Appeal.

### **Magistrates' Courts**

The Magistrates' Courts handles cases that deal with summary criminal cases and committals to the Crown Court, with simple civil cases including family proceedings courts and youth courts, and with licensing of betting, gaming and liquor. Cases are normally heard by either a panel of 3 magistrates or by a District Judge, without a jury. Criminal decisions of the Magistrates' Courts may be appealed to the Crown Court. Civil decisions may be appealed to the County Courts.

### **Tribunals Service**

The Tribunals Service makes decisions on matters including asylum, immigration, criminal injuries compensation, social security, education, employment, child support, pensions, tax and lands. Decisions of the Tribunals Service may be appealed to the appropriate Division of the High Court.

### **Courts in Scotland**

#### **The hierarchy of courts in Scotland**

The court system in Scotland can be considered as consisting of 4 levels:

Supreme Court (formerly the House of Lords) and the Judicial Committee of the Privy Council

Court of Session and the High Court of Justiciary

Sheriff Courts

District Courts

### **Judicial Committee of the Privy Council**

In addition to its role as the court of final appeal for Commonwealth countries, the Judicial Committee is also the court of final appeal for the High Court of Justiciary in Scotland. Some functions of the Judicial Committee were taken over by the new Supreme Court in 2009.

### **Supreme Court**

In addition to its role as the highest court in England, Wales and Northern Ireland, the Supreme Court also hears appeals from the Inner House of the Court of Session in Scotland.

### **Court of Session**

The Court of Session is the supreme civil court for Scotland, and serves both as a court of first instance and as a court of appeal. The Court of Session consists of 2 houses, the Inner House and the Outer House.

### **Inner House**

The Inner House of the Court of Session mainly deals with appeals, though it also deals with a small range of first instance business. Appeals are heard from the Outer House, from the Sheriff Court, and from certain tribunals and other bodies. Appeals are heard by at least 3 judges, without a jury. Decisions of the Inner House may be appealed to the Supreme Court.

### **Outer House**

The Outer House hears cases at first instance on a wide range of civil matters, including tort, contract, intellectual property, commercial cases and judicial review. Cases are presided over by a judge, when appropriate with a civil jury. Decisions of the Outer House may be appealed to the Inner House.

### **High Court of Justiciary**

The High Court of Justiciary is the supreme criminal court for Scotland, and serves both as a court of first instance and as a court of appeal. When sitting as a court of first instance, the Court deals only with the most serious crimes such as murder, rape, culpable homicide,

armed robbery, drug trafficking and serious sexual offences, particularly those involving children, and cases are tried by a judge and a jury. When sitting as an appellate court, the court consists of at least 2 judges, without a jury. Decisions of the High Court of Justiciary that concern devolution may be appealed to the Privy Council; there is no right of appeal for any other matters.

### **Sheriff Courts**

The Sheriff Courts deal with more serious criminal cases than the District Courts, but not with the most serious ones, which are heard in the High Court of Justiciary. The Sheriff Courts also deal with civil matters such as probate, adoption and bankruptcy; the most serious civil cases are heard by the Outer House of the Court of Session. Cases are presided over by a judge, with a jury when appropriate. Civil decisions may be appealed to the Sheriff Principal and then to the Outer House of the Court of Session. Criminal decisions may be appealed to the High Court of Justiciary.

### **District Courts**

District Courts deal only with summary criminal matters such as breach of the peace, assault, vandalism, theft, speeding, vehicle excise, television licensing and electricity fraud. Cases are tried by one or 3 Justices of the Peace, or by one stipendiary magistrate, without a jury. More serious cases are tried in the Sheriff Courts or in the High Court of Justiciary. District Courts will be replaced by Justice of the Peace Courts in 2007.

### **Courts in Northern Ireland**

What is the hierarchy of courts in Northern Ireland?

The court system in Northern Ireland can be considered as consisting of 5 levels:

Supreme Court (formerly the House of Lords)

Court of Appeal

High Court

Crown Court and County Courts

Magistrates' Courts

### **Supreme Court**

In addition to its role as the highest court in England, Wales and Scotland, the Supreme Court also hears appeals from the Court of Appeal in Northern Ireland.

### **Court of Appeal**

The Court of Appeal deals with appeals in civil cases from the High Court and with appeals in criminal cases from the Crown Court. It also hears appeals on points of law from the County Courts and the Magistrates' Courts. Cases are normally heard by 3 judges, without a jury. Decisions of the Court of Appeal may be appealed to the Supreme Court.

### **High Court**

The High Court consists of 3 divisions, the Chancery Division, the Family Division, and the Queen's Bench Division. These courts hear complex or important civil cases, and also hear appeals from the County Courts. Cases are heard by a judge, almost always without a jury. Decisions of the High Court may be appealed to the Court of Appeal.

### **Chancery Division**

The Chancery Division hears cases involving trusts and estates, title to land, mortgages and charges, wills and companies.

### **Family Division**

The Family Division hears cases involving matrimony, adoption, children in care and undisputed wills.

### **Queen's Bench Division**

The Queen's Bench Division deals with most other civil law matters.

## **County Courts**

The County Courts deal primarily with civil cases, including most matters under a specified value, and with title to land, recovery of land, equity matters (such as trusts and estates), mortgages, sale of land and partnerships, negligence and trespass. The County Courts also hear appeals from the Magistrates' Courts in both civil and criminal cases. Cases are heard by a County Court judge, without a jury. Decisions of the County Courts may be appealed to the appropriate Division of the High Court.

## **Crown Court**

The Crown Court deals with all serious criminal matters. Cases that involve terrorism are heard by a judge without a jury. Cases that do not involve terrorism are heard by a judge with a 12-person jury. Serious cases are presided over by a High Court judge, and lesser cases are presided over by a County Court judge. Decisions of the Crown Court may be appealed to the Court of Appeal.

## **Magistrates' Courts**

The Magistrates' Courts hears all criminal cases. Serious criminal cases are transferred to the Crown Court after a preliminary hearing. Less serious cases criminal cases and those involving juveniles are tried in these courts. Some civil cases, including family proceedings, are also heard in these courts. Cases are presided over by one magistrate, who is legally qualified. Both civil and criminal decisions of the Magistrates' Courts may be appealed to the County Courts.<sup>5</sup>

In conclusion, the administration of criminal justice in England and in Nigeria share many similarities. Both countries have the three main components of the criminal justice system: the court system, the police, and correctional facilities. These three entities work together to maintain public safety and ensure that offenders are held accountable for their actions.

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<sup>5</sup> <<http://www.justcite.com/kb/editorial-policies/terms/uk-court-structure>>/Accessed February 2024

Despite some differences in specific procedures and practices, both systems strive to ensure that justice is served.

#### **4.2.3 The Administration of Criminal Justice in America**

The United States is a highly developed country, and this is reflected in its criminal justice system. The U.S. has three main components of its criminal justice system: the court system, the police, and the prison system. I'll focus more on the court:

### **4.3 THE AMERICAN COURT**

The federal judiciary functions independently from the executive and legislative branches, although it collaborates with them as mandated by the Constitution. Federal laws are enacted by Congress and approved by the President. The judicial branch is responsible for interpreting the constitutionality of federal laws and settling disputes related to them. Nevertheless, judges rely on the executive branch of the government to enforce court rulings. Courts are tasked with determining the facts of a case and deciding on appropriate actions. They ascertain whether an individual has committed a crime and determine the suitable punishment. Additionally, courts offer a peaceful means for resolving private disputes that individuals are unable to settle on their own. Depending on the nature of the dispute or crime, cases may be heard in federal or state courts. It is important to understand the various types of federal courts in order to gain a deeper insight into the legal system. It is important to note that Courts in America practice the jury system where the decision Making process is shared between the judge and the jury.

#### **Supreme Court**

The Supreme Court is the apex court in the United States. The U.S. Constitution created the Supreme Court and authorized Congress to pass laws establishing a system of lower courts<sup>6</sup>.

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<sup>6</sup> Article III Constitution of the United States 1789

In the federal court system's present form, 94 district level trial courts and 13 courts of appeals sit below the Supreme Court.

### **Courts of Appeals**

Below the U.S. Supreme Court are 13 appellate courts, called the U.S. Courts of Appeals. Each of the 12 regional circuits of the federal judicial system has its own court of appeals. The main task of the appellate court is to review the trial court's application of the law and determine whether it was applied correctly. The court of appeals is made up of three judges, and there is no jury. The purpose of the appellate court is to review the trial court's decision. The court of appeals hears challenges to decisions made by district courts located within its circuit, as well as appeals from decisions made by federal administrative agencies.

In addition, the Court of Appeals for the Federal Circuit has jurisdiction to hear appeals from specialized cases throughout the country, such as those involving patent laws, and cases from the U.S. Court of International Trade and the U.S. Court of Federal Claims. These specialized cases often involve complex legal issues that require the expertise of the Federal Circuit.

### **Bankruptcy Appellate Panels**

Bankruptcy Appellate Panels <sup>7</sup>are three-judge panels with the authority to hear appeals of bankruptcy court decisions. They are part of the federal circuit courts and must be established by the relevant circuit court. Currently, there are BAPs in the First Circuit, Sixth Circuit, Eighth Circuit, Ninth Circuit, and Tenth Circuit. These panels play an important role in the bankruptcy process by providing a specialized forum for bankruptcy appeals.

### **District Courts**

The U.S. District Courts, also known as the nation's 94 district or trial courts, play a crucial role in resolving disputes. These courts utilize legal principles and examine the facts to determine the truth and establish which party is correct. Within the trial courts, there is a

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<sup>7</sup> Otherwise known as BAPs

district judge responsible for presiding over the case, and a jury is involved in making the final decision. Additionally, magistrate judges assist district judges in preparing cases for trial and may even conduct trials for misdemeanor cases. In every state, including the District of Columbia, there is at least one district court, each of which comprises a U.S. bankruptcy court as part of its structure. The U.S. district courts in Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands handle federal cases, including those related to bankruptcy. Apart from the district courts, there are two distinct trial courts. The Court of International Trade focuses on cases concerning international trade and customs laws, while the U.S. Court of Federal Claims handles the majority of claims for monetary damages against the U.S. government.

### **Bankruptcy Courts**

Federal courts have exclusive jurisdiction over bankruptcy cases, which means that these cases cannot be filed in state court. Bankruptcy cases allow individuals or businesses who are unable to pay their debts to either liquidate their assets or reorganize their finances in order to pay their debts. Bankruptcy cases can be complicated and may require the help of a lawyer to ensure that the process is handled correctly.

### **Article I Courts**

Congress has established a number of Article I courts that do not have the full judicial power of Article III courts. Article III courts have the authority to be the final decider in all questions of Constitutional law, all questions of federal law, and to hear claims regarding habeas corpus. Article I courts include:

- i. U.S. Court of Appeals for Veterans Claims
- ii. U.S. Court of Appeals for the Armed Forces
- iii. U.S. Tax Court.

Article I courts have different subject matter jurisdiction<sup>8</sup>

Both the American and Nigerian criminal justice systems utilize the adversarial method and categorize crimes into felonies, misdemeanors, and simple offenses. They both consist of three main components - the court, the police, and correctional centers - and have laws that define crimes and their corresponding punishments. Additionally, they both have laws in place to prevent delays in criminal trials and protect the accused's right to a fair hearing and prohibit confessions obtained through force. However, a notable difference is that the American system employs a jury system, which is not utilized in Nigeria. Implementing a jury system in Nigeria could potentially enhance fairness in the trial process and increase citizen participation in the legal system.

#### **4.4 FACTORS AIDING EFFICIENCY IN THE CRIMINAL JUSTICE SYSTEM OF AMERICA**

A number of factors play crucial roles in the development of American criminal justice and these include.

**4.4.1 Their Regard for Human Rights:** In the US and other developed nations, there is a strong emphasis on safeguarding the rights of their citizens. These countries have been making notable advancements in upholding third generation rights, which grant their citizens the entitlement to development, peace, a healthy environment, the ability to partake in the exploitation of global common resources, communication, and humanitarian assistance<sup>9</sup>. In contrast, Nigeria faces challenges in enforcing the fundamental rights of its citizens. In Nigeria, citizens have limited access to basic rights like freedom of movement, right to life, fair hearing, freedom of speech, and conscience. Unlike citizens in developed countries,

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<sup>8</sup>< <https://www.uscourts.gov/about-federal-courts/court-role-and-structure>> Accessed February 2024

<sup>9</sup>Abdul Hannan '7 Interface between the third Generation Human Rights and Good Governance in a Globalization and Human Right Law <<https://academic.Oup.com/book/3695/chapter-abstract/145072030/>>

Nigerian citizens are not well-informed about their rights and face obstacles in taking necessary actions when these rights are violated.

**4.4.2 High rate of Literacy:** In developed countries like the United States, the literacy rate among citizens is high. This results in strong support for law enforcement in their efforts to prevent and address crime. Citizens actively engage in politics and demonstrate interest in national issues. Whereas in Nigeria, in the last presidential election 66% of eligible voters participated, while only 35% of registered voters took part in the last presidential election in Nigeria<sup>10</sup>. Nigeria still faces challenges in achieving high literacy levels among its citizens. However, the increasing number of Nigerian youths pursuing higher education provides hope for improvement in the future. As more young people obtain a good education, it will become easier for the government to involve citizens in the detection and investigation of crimes.<sup>11</sup>

**4.4.3 The Utilisation of Technology:** In developed countries, the rapid advancement of technology has resulted in improved efficiency in various areas, including the court system. Courts can now easily access and utilize relevant evidence thanks to technological advancements. Similarly, law enforcement agencies benefit from a favorable environment for conducting investigations, with access to advanced equipment such as surveillance vehicles and efficient telecommunication systems. This technological infrastructure aids in curbing the rate of crime in the country. Additionally, reliable electricity supply ensures the effective operation of CCTV cameras, which play a significant role in obtaining evidence and identifying criminals.

**4.4.4 Proper Education of investigators:** Investigators undergo extensive training to be successful in their jobs. They are skilled at using technical equipment to carry out their duties. In addition, they have psychological skills that allow them to spot inconsistencies in suspects'

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<sup>10</sup> Voter's turnout in Nigerian elections around 35% - INEC' 9th February, 2022. <[www.premiumtimesng.com](http://www.premiumtimesng.com)> (accessed February 2024)

<sup>11</sup> Ibid.

statements and to find connections between suspects and victims. Their ability to effectively use these skills is an important part of their job.

**4.4.5 There is a reasonable of Manpower:** In the United States, there is a goal of having one police officer for every 100,000 people in the country. This is to ensure that there are enough officers to respond to crime scenes and investigate thoroughly. This is an admirable goal that Nigeria could emulate in order to improve its own criminal justice system.

**4.4.6 A good court attitude:** In advanced countries around the world, there are systems of checks and balances in place, and governments are held accountable to their citizens. As a result, cases are usually resolved in a timely manner. In contrast, the judicial system in our country can be slow and inefficient, with cases sometimes taking years to be resolved. Proper checks and balances and greater government accountability could help to improve the speed and efficiency of our judicial system.

**4.4.7 Quality Security:** In the United States, security is taken seriously and there is a low incidence of terrorism due to the military's preparedness and ability to tackle security threats. This allows for other criminal justice system components to focus on the regular crimes that arise. This differs from countries like Nigeria, where the criminal justice system is often overwhelmed by security issues and is not able to focus on other types of crimes.

It's clear that there are a number of factors that contribute to the effectiveness of the criminal justice system in the United States and other advanced nations, including strong government institutions, separation of powers, and strong military and security forces. Nigeria still has work to do in these areas, but it is hoped that with time and effort, the country can develop a strong criminal justice system of its own.

#### **4.4 THE ADMINISTRATION OF CRIMINAL JUSTICE IN GERMANY**

Germany has a comprehensive criminal justice system that incorporates the court, police, and correctional centers, all working together to address and deter criminal activities within the

country. In Germany, there exists the penal code known as Strafgesetzbuch (StGB), which serves as a regulatory framework for crime and outlines specific penalties for offenses.

The German judicial system operates in a hierarchical structure, with the highest court being the federal court of justice, known as Bundesgerichtshof. It is followed by the higher regional courts (Oberlandesgerichte), then the regional courts (Landgerichte), and finally the ordinary courts (Amtsgerichte). Should a decision from a lower court be disputed, an appeal can be made to a higher court. This ensures that a fair trial is conducted, wherein the accused is neither wrongly convicted nor absolved. The right to a fair hearing is safeguarded through the opportunity for the accused to appeal.<sup>12</sup> Germany adopts an inquisitorial approach in its criminal proceedings, differing from Nigeria and the USA. In this method, the judge plays a proactive role in shaping the evidence, contrasting with the adversarial system where the judge acts as an impartial referee. Rather than simply overseeing the proceedings, the judge guides the parties and their counsels in presenting their case, ensuring compliance with legal standards regarding witness examination and evidence admission.

The inquisitorial system utilized in Germany offers the benefit of ensuring that criminal cases are determined fairly and impartially. In this system, both parties have an equal opportunity to present their case, and the judge remains independent and unbiased. This stands in contrast to the adversarial system, where the outcome of a case often hinges on the quality of legal representation, giving those with the financial means to hire top-tier lawyers a distinct advantage. Unlike the adversarial system, the evidence obtained by the judge in the inquisitorial system cannot be manipulated in favor of either party, as the judge remains impartial and does not have any affiliation with either party. This is due to the principle of "nemo iudex in causa sua," which means that no person should be a judge in their own case.

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<sup>12</sup><<https://www.ojp.gov/ncjrs/virtual-library/abstracts/german-and-american-prosecution>  
(accessed February 2024)

-of-Germany>

In Germany, there is no jury system, and instead, judges make decisions based on the evidence presented.

In Germany, crimes are categorized into three types: crimes (*verbrechen*), offences (*vergehen*), and violations (*ubertutung*). Crimes are the most serious type of crime and can carry the death penalty, offences can result in imprisonment, and violations are the least serious and can result in short-term detention or a fine<sup>13</sup>. This system is outlined in the German Criminal Code (RGSt) of 1871. In Germany, a preliminary investigation is conducted before proceeding to indictment, during which the prosecution presents its case to the court. If the court deems there to be sufficient grounds for indictment, the case is then transferred to the appropriate German court. At this stage, the judge evaluates the available evidence to determine whether it justifies proceeding with a trial. If the evidence falls short of warranting a trial, no trial takes place. However, if the evidence is deemed sufficient, a proper trial is conducted. This unique system in Germany allows the court to have awareness of the case's facts prior to the introduction of evidence in the courtroom. This stands in contrast to the American and Nigerian systems where judges typically learn of the case's facts during the presentation of evidence at trial.

In the German criminal justice system, victims have the right to prosecute a case on their own behalf, or to participate in the trial as intervenors or private prosecutors. They can be represented by legal counsel and can present evidence relevant to the case, as well as question witnesses. This gives victims a more active role in the criminal justice process, compared to some other countries. Germany's Justice System offers a noteworthy aspect wherein offenders are provided with the opportunity to work and afford essential items such as personal hygiene products. This approach aims to instill a sense of responsibility in them rather than leaving them idle, which could potentially lead to a relapse into criminal behavior

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<sup>13</sup> <https://www.britannica.com/topic/crime-law/classification-of-crimes> (accessed February 2024)

due to lack of gainful employment. By engaging in meaningful activities, they not only fill their time productively but also equip themselves mentally to combat the stigma often associated with ex-convicts. Ultimately, this initiative promotes their reintegration into society as responsible individuals, helping to dispel the perception of being lifelong criminals in the eyes of society.<sup>14</sup>

In Germany, the public prosecutor's office, known as the staatsanwaltschaft, is responsible for prosecuting criminal offenses. While this office is part of the judicial system, it has a separate function from the courts.

The police are responsible for investigating all criminal cases and submitting their findings to the public prosecution office, which then decides whether to pursue prosecution. This system is designed to ensure that criminal cases are thoroughly investigated and prosecuted by an independent body.

The German Intelligence Community is responsible for gathering information and assessing potential threats to Germany's national security. The Bundesnachrichtendienst, or BND, is the largest agency within this community and has a specific focus on gathering information about foreigners. The BND works to identify and alert the government of any potential threats posed by foreign entities.<sup>15</sup>

The various institutions of the German criminal justice system work together to prevent and punish crime, with the goal of maintaining justice and order in society. The structure of the system is designed to ensure that crimes are detected and prosecuted fairly and effectively. The stability of the system has a positive impact on the German economy, which benefits from the reduced risk of crime and disorder.

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<sup>14</sup> <<https://se-legal.de/criminal-defense-lawyer/criminal-procedure-law-in-germany/>>/ (accessed February 2024)

<sup>15</sup> <<https://gerlach.customs.com/customs.glossary/federal.intelligence-service/>>/ (accessed February 2024)

#### **4.5 CONCLUSION**

While no country has a perfect criminal justice system, there are lessons to be learned from the systems in place in countries like Germany, France, the United Kingdom, and the United States. These countries have established structures and procedures that have made their systems more effective than those of many developing nations. Nigeria could benefit from learning from these examples and adapting some of their practices to fit its own unique context.

## CHAPTER FIVE

### RECOMMENDATIONS AND SUMMARIES

#### 5.0 INTRODUCTION

In Nigeria, the criminal justice system relies heavily on the courts to administer justice. However, the criminal justice system in Nigeria is plagued by delays, which have a significant impact on justice. These delays can occur at various stages of the criminal justice process, from the investigation stage to the trial stage. The causes of these delays are numerous and complex, including a lack of resources, a backlog of cases, and a lack of coordination between different agencies. The delays in the criminal justice system have a number of negative consequences. One consequence is that it takes a long time for justice to be delivered, which can be frustrating and demoralizing for victims and their families. Another consequence is that the delays can cause innocent people to remain in prison for long periods of time. Additionally, the delays can create a backlog of cases that makes it difficult for the courts to keep up with the demand for justice. Finally, the delays can lead to a loss of faith in the criminal justice system.

Another consequence of delays in the criminal justice system is that it can lead to a loss of public confidence in the system. When people see that the system is not working effectively, they may lose faith in its ability to deliver justice. This can lead to a lack of cooperation with the system, as people may not feel motivated to participate in the criminal justice process. It can also lead to a loss of faith in the rule of law, as people may feel that the system is not capable of delivering justice. Ultimately, this can have a negative impact on the stability and security of society.

## **5.1 SUMMARY**

In order for a criminal justice system to be effective, it must be strong, independent, and impartial. A strong criminal justice system is one that is capable of addressing the needs of the community and providing fair and effective solutions to crime. An independent criminal justice system is one that is free from political influence and is able to make decisions based on the law and the facts of each case. An impartial criminal justice system is one that is free from bias and treats all individuals fairly and equally. When a criminal justice system is strong, independent, and impartial, it is more likely to earn the confidence of the citizens it serves. For a nation's criminal justice system to be effective, there are many factors that must be in place. First, the government must be free from corruption, so that the justice system is not influenced by personal interests or political agendas. Second, the court system must be well-structured and efficient, so that cases are processed quickly and fairly. Third, the police force must be properly equipped and trained, so that it can effectively investigate and prosecute crimes. If all of these factors are in place, it will ensure that trials are speedy and that justice is served. In order for a country to be healthy and successful, the government must be committed to protecting its citizens' lives and property. Security and a low crime rate are essential for creating a stable political system, improving the country's healthcare system, fostering a business-friendly environment, and promoting the development of the country's social and cultural life. Without these foundations, the country will struggle to grow and prosper. Therefore, the government must prioritize the safety and security of its people. For the police to effectively carry out their duties, they must be properly equipped with the resources and training they need to conduct thorough investigations and gather the necessary evidence for prosecution. Similarly, the court system must implement more efficient measures to reduce the number of adjournments and speed up the judicial process. This will help to ensure that justice is served in a timely manner, and that the rights of the accused are

respected. Additionally, the court system must be transparent and accessible to all citizens, regardless of their socioeconomic status.

The courts' procedures must be conducted within a reasonable time frame, so that the accused can either be punished or cleared of wrongdoing in a timely manner. This will prevent the accused from being detained indefinitely, and will ensure that the government is not burdened with the costs of their detention. In addition, the courts must adhere to the principle of "innocent until proven guilty," and must only convict the accused if there is clear and convincing evidence of their guilt. The accused's right to a fair trial must be protected, and they must be given the opportunity to defend themselves against the charges. For the court system to function effectively, it is important for the government to appoint judges who are of the highest moral and ethical standards. Additionally, the government must provide the court with the necessary resources and facilities to carry out its duties, including adequate funding, modern technology, and a well-trained support staff. This will help to ensure that the court can function in a fair, impartial, and efficient manner. For the court system to function effectively, it is important for the government to appoint judges who are of the highest moral and ethical standards. Additionally, the government must provide the court with the necessary resources and facilities to carry out its duties, including adequate funding, modern technology, and a well-trained support staff. This will help to ensure that the court can function in a fair, impartial, and efficient manner. It's important to create a supportive environment for the advancement of technology. Embracing and utilizing technology can greatly improve the precision and efficiency of criminal investigations and case resolutions. Nigeria can learn from countries like America, Germany, and England by studying their criminal justice systems. By identifying and avoiding pitfalls and adopting successful strategies, Nigeria can enhance its own criminal justice system. It is important to involve the public in efforts to achieve a peaceful society. They need to be informed and educated about their responsibility

to maintain peace and order by reporting criminal activities in their communities. Building public trust in the judicial system is crucial for gaining their cooperation, as people are unlikely to support a system they do not trust.

Ultimately, justice should be served and perceived to be served. Criminals must be held accountable, and innocent citizens should not suffer due to poorly conducted investigations or court delays. Society should be assured of safety and strive for a peaceful and orderly community where crimes are appropriately punished.

## **5.2 RECOMMENDATIONS**

1. The punishment for a crime should be proportional to the severity of the offense: Crime should be punished in a way that is proportional to the offense, as this will serve as a deterrent to future offenders. Retribution, or the idea that the punishment should fit the crime, is an important element of criminal law. When crimes are punished appropriately, it prevents victims from seeking revenge and seeking justice on their own. It also serves as a warning to others who might be tempted to commit similar crimes. Furthermore, punishment can lead to a sense of remorse and rehabilitation, helping to reduce the likelihood of reoffending.
2. Everyone, from the government and law enforcement to citizens and communities, must work together to reduce the incidence of crime: The police play a critical role in preventing, detecting, and investigating crime. However, they cannot effectively carry out their duties without adequate resources and support from the government. The government can help by providing the police with the necessary equipment and facilities, and by ensuring that they are adequately compensated for their efforts. In addition, the court system relies on the police to provide evidence and testimony, so it is important that the police are well-equipped to carry out their investigative duties.

Therefore, all parties involved in the criminal justice system must work together in order to achieve the goal of reducing crime and making society safer for everyone. That is, the entire community benefits from a well-functioning criminal justice system that is effective in deterring and reducing crime. When people feel safe and secure, they are more likely to participate in their communities and contribute to the overall well-being of society. In this way, a strong criminal justice system can have a positive impact on the quality of life for all members of society.

3. There should be a limit on the length of time that a trial can take: When justice is delayed, the defendant may be unjustly deprived of their freedom and liberty for an extended period of time. This can have a devastating effect on the accused, their family and friends, and may even lead to a breakdown in the accused's mental health. Furthermore, the delay can cause a backlog in the criminal justice system, resulting in a higher cost of running prisons and an increased risk of prisoner unrest. It is therefore essential that justice is served in a timely manner, so that these negative consequences can be avoided.
4. Restoration of public confidence: The erosion of public confidence in the criminal justice system is a pressing issue that must be addressed with urgency. The alternative of self-help, while tempting, is not only dangerous but can lead to further injustice. The public must be convinced that the court system is the best means of achieving justice, as it is designed to be impartial and fair. This requires the court system to demonstrate transparency, efficiency, and a commitment to upholding the rule of law.
5. Courts must have the necessary facilities to function effectively: In addition to the court facilities themselves, it is crucial to provide adequate facilities for criminal investigation. This includes vehicles for transport, communication devices such as walkie talkies, and appropriate weapons. Without these resources, law enforcement

officers will be hindered in their ability to effectively investigate and prevent crime. Court facilities must also be equipped with the necessary resources, such as a sufficient number of courtrooms and the latest technology. This will allow for the smooth and efficient running of the courts, and will help to reduce the backlog of cases.

6. Protection of defendants rights: The prohibition of torture is essential to preserving the integrity of the criminal justice system. Any confession made under duress is inherently unreliable, and the use of torture is a violation of basic human rights. It is also crucial that the defendant be given a fair and speedy trial, as a prolonged trial can lead to unnecessary hardship and prejudice.
7. The rule of law should be upheld at all times: In a country governed by the rule of law, there are no exceptions to the law - everyone is subject to it, regardless of their position or status. This includes government officials, who must not engage in criminal activity simply because they think they can get away with it. All crime, regardless of who commits it, should be condemned and punished accordingly. This includes the activities of groups like Boko Haram, who should not be allowed to violate the law with impunity. Finally, the security situation in Nigeria must be improved, so that the rule of law can be properly enforced.
8. People who demonstrate honesty and dedication should be acknowledged and compensated for their efforts: To ensure that the ministers of justice are motivated to perform their duties to the best of their ability, it is important to create a culture of meritocracy and transparency. This means that they should be rewarded for their hard work and dedication, regardless of their background or personal connections. Incompetence and corruption must be eliminated, and no one should be allowed to advance their own interests at the expense of justice.

9. Education of the public about their rights and responsibilities within the Criminal Justice System: To create a just society, citizens should be made aware of the important role that the rule of law plays in protecting their rights and maintaining order. They should also understand that while their religious beliefs are important, they must not be used to justify breaking the law or infringing on the rights of others. It is important to create a balance between religious freedom and the rule of law, so that everyone can live in a safe and peaceful society.
10. Government should seek outside assistance and expertise from other countries: It is true that many developed nations have made significant progress in a number of areas, including technology, economics, and military power. For Nigeria to improve its criminal justice system, it could collaborate with these nations to provide training and assistance in specific areas where the Nigerian police force is lacking. For example, training could be provided in the use of modern technology for crime detection and investigation, as well as strategies for preventing and responding to crime. This would help to close the gap between Nigeria and other countries, and make the Nigerian criminal justice system more effective.

### **5.3 CONCLUSION**

An effective criminal justice system is vital for maintaining peace and security in a nation, and is therefore worth the time, money, and effort required to achieve it. All parties involved in the criminal justice system in Nigeria from judges and lawyers to law enforcement officials and legislators must take responsibility for their role in ensuring that the system is fair, just, and efficient. This means ensuring that laws are enforced fairly and consistently, that court proceedings are transparent and accessible to all, and that the police and other law enforcement agencies are properly trained and equipped to carry out their duties effectively.

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