THE INTERNATIONAL JOURNAL OF HUMANITIES & SOCIAL STUDIES

Constraints in Efficient and Speedy Trial Process in Nigeria: The Case of Criminal Justice Administration

Samson Erhaze
Senior State Counsel, Edo State Ministry of Justice, Benin City, Edo State, Nigeria
Daud Momodu
Lecturer, Department of Humanities and Social Sciences, Auchi Polytechnic, Auchi, Edo State, Nigeria

Abstract:
It is a fundamental constitutional requirement provided for under the Constitution of the Federal Republic of Nigeria that every litigant shall be entitled to a fair hearing within a reasonable time by a court or other tribunal established by law. The importance of prompt dispensation of justice cannot be over emphasized. A judge must therefore ensure that everything is done to give effect to this all important provision of the constitution. It is axiomatic that justice delayed is justice denied. This saying is of utmost relevance in Nigeria, having regard to the general social, political and economic trends which could have far reaching effect on the outcome of litigation. A judge should therefore accord priority attention to prompt dispensation of justice. The prevailing practice in Nigerian criminal justice system has been that cases linger on for years. As a result, many prefer to resort to self help rather than wait for a lethargic and laborious justice system. This paper therefore attempts to examine the causes of the delay in quick dispensation of justice in criminal trials and how it has impeded progress in the Nigerian criminal justice system. With the ultimate aim to proffering a way forward, an attempt will be made to examine this multifaceted concept as it applies to pre-trial criminal process, namely, report and investigation of complaints, legal advice from the Ministry of Justice, arraignment and trial in a court of law.

Keywords: *Crime, criminal trial process, justice and delayed justice in trial, miscarriage of justice.*

1. Introduction

The police, State prosecutors from the office of the Attorney General and the courts are independently established agencies set up for the administration of justice. As far as criminal justice administration is concerned, these agencies work in collaboration with each other in bringing offenders to justice. The criminal justice system is structured in such a way that such collaboration and coordination between the agencies is indispensable for its optimal performance.

In reality, however, we find that due to lack of synchronization and several other reasons, the criminal justice system has performed below expectation. Such poor score sheet is noticeable in the monumental delays experienced in the system and the technical discharge of the accused in most cases.

In Nigeria, it is not surprising for a simple case of assault occasioning harm to last for years. Instances where cases have lasted between ten to fifteen years are legion. The cause of this delay could, apart from the delay in investigations, be either the prosecution or defence lawyer who is usually in the habit of seeking unmerited adjournments from courts mostly where he is not prepared to go on with the case or the court itself in a rare occasions. Although it is a principle of law that adjournments are not granted as a matter of right, the courts very often oblige lawyers when they apply for adjournment of cases, sometimes on very flimsy reasons. Unfortunately, this practice has also robbed off on Judges and Magistrates many of whom are commonly seen arriving courts very late or failing to come to Court for some days without any extenuating or compelling reasons. The cumulative effect of this is that litigants continue to groan under this debilitating scenario of undue delays in the dispensation of justice. Accordingly, this "slow motion judicial process" has adverse effect on the quest for the quick dispensation of criminal justice in Nigeria.

This study investigates the reasons for the delay in the criminal justice system in Nigeria. This is premised on the fact that there is usually a clog on the speedy trials of criminal cases which may have resulted from the inadequacies in the extant institutional and legal framework on the prosecution of criminal cases generally in Nigeria. This is more so when reference is made to the criminal process which necessarily entails an infraction or curtailment of certain rights of citizens. The criminal process by its very nature is constructed in such a manner as to give full effect to the inquisitorial system being practiced in the country. One of the requirements of this system is the application of necessary rules and provisions for the protection of the rights of an alleged offender which include that every litigant shall be entitled to a fair hearing within a reasonable time by a court or other tribunal established by law.

2. The Concept of Crime

Crime as a concept is almost impossible to be given a complete and satisfactory definition as its definition varies from one author to another. However, a crime could be seen as an act or omission involving breach of duty to which by the law of the land, a sanction is attached by way of punishment in the public interest (Fakayode, 1977). Whatever way a crime is defined, the fact remains that it is an act or omission proscribed by the state that has a punishment for its occurrence. Under section 2 of the Criminal Code Act, (1990), a crime is referred to as an act or omission which renders the person doing the act or making the omission liable to punishment under the code or under any Act or Law.

For the purpose of punishment, crimes are classified into felonies, misdemeanors and simple offences. On the other hand, for the purpose of trial, we have indictable and summary offences under the Criminal Code Act (1990). A felony is an offence which is declared by law to be a felony or is punishable, without proof of previous conviction with death or with imprisonment for three years or more. A misdemeanor is any offence which is declared by law to be a misdemeanour, or is punishable by imprisonment for not less than six months, but less than three years. All other offences other than felonies and misdemeanours, are simple offences.

According to Section 2 of the Criminal Procedure Act (2004), the term "indictable offences" means any offence which on conviction may be punished by a term of imprisonment exceeding two years, or which on conviction may be punished by imposition of a fine exceeding two hundred Pounds or which is not declared by the written law creating the offence to be punishable on summary conviction. A summary conviction offence means any offence punishable by a magistrate's court on summary conviction, and includes any matter in respect of which magistrate's court can make an order in the exercise of its summary jurisdiction. "Summary trial" means any trial by a magistrate and a trial judge in which the accused has not been committed for trial after a preliminary inquiry (Criminal Procedure Act, 2004).

3. The Concept of Justice

The Black's Law Dictionary, 7th Edition defines justice as "The fair and proper administration of laws"**.** Our courts have attempted to define the concept of justice in a plethora of judicial authorities. Thus, Augie J.C.A. in Obajimi v. Adedeji (2008), stated thus:

Justice means fair treatment and the justice in any case demands that the compelling rights of the parties must be taken into consideration and balanced in such a way that justice is not only done but must be seen to be done.

In criminal trial, the concept of justice is not different. In the case of Josiah v. State (1985), Oputa J.S.C. beautifully articulated the concept of justice in a criminal trial, when he posited thus:

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

In the Nigerian Legal jurisprudence, it is not uncommon to hear of "Substantial Justice", "Technical Justice" and "Miscarriage of Justice". Law Reports are replete with the usage of these terms and their application and meanings have been given by the various courts of the land.

While substantial justice could be interpreted to mean administration of justice according to the rules of substantive law, regardless of any procedural errors not affecting the litigant's substantive rights, a fair trial on the merits, technical justice could be said to be administering justice based on technicalities and which might not afford the court/tribunal the opportunity of looking into the merits of a party's case.

4. Miscarriage of Justice

Miscarriage of justice occurs when there is primarily an undue delay in the prosecution of an accused or conviction and punishment of a person for a crime he did not commit or when a person who actually commits an offence is discharged and acquitted based on the lapses of prosecution or the error of the court. The term can also apply to errors in the other direction like criminal justice systems where technical justice prevails over substantial justice.

The above judicial pronouncements demonstrate clearly the whole essence of justice.

Under the Nigerian legal system, adequate provisions have been made for attaining criminal justice in the system. The court held in Sele v. The State (1993) that as a matter of practice, the offender is charged under the substantive law in force as at the time the offence was allegedly committed while at the time of arraignment, it is the procedural law in force that would apply. In spite of these provisions which tend to pave way for the smooth prosecution of an offender, there are still unexplainable delays in the dispensation of justice in criminal trials which are in most cases traceable to the prosecution who usually faces challenges which are almost beyond his control personally due to the fact that the Nigerian legal system just like that of most jurisdictions the world over, did not vest the powers to investigate and prosecute crimes in the hands of the same persons.[i]

According to the Police Act, the police is vested with the power to prevent and investigate crimes in the state[ii] while the legal officers in the chamber of the Attorney-General of the state are to prosecute the offender. The proper investigation of a crime is fundamental to the success or failure of the case. Sometimes, a case is won or lost even at the investigation stage.

5. Delay in Trial

"Delay" according to the Chambers Dictionary is to deter, to hinder or retard, to pause, to linger, to temper, dilute and weaken. The Black's Law Dictionary, 7th Edition defines delay as the act of postponing or slowing. An instance at which something is postponed or slowed (the delay in starting the trial made it difficult for all the witnesses to attend).

With the foregoing in mind, delay cannot but be considered in terms of its negativity. Delay in the scheme of things, generally and in legal parlance, is like a clog or a plague being avoided by everybody. This apathy towards delay is reflective of the various legal maxims which include "delay, defeats equity", "when there are two equities, the first in time prevails" and "equity aids the vigilant and not the indolent", etc.

Apart from law of equity, the Nigerian legal order expressed in codified laws abhors delay. Some of these statutes include the Criminal Code Act (see section 218), whose section bothering on defilement of a girl under thirteen years, provides mandatorily that the prosecution of the offence must begin within two months after the offence is committed "else same shall be statute barred (emphasis is ours)". The Public Officers Protection Act, the Limitation Laws of State and Rules of Court respectively, also abhor delay in trials. The rationale behind statute of limitation has been well captured in a plethora of cases. In the case of Kolo v. Attorney General of Federation (2003), the court held as follows:

The principle of statutes on limitation of action is that no one should remain under threat of being sued indefinitely. Accordingly, time limits are imposed within which Plaintiff must issue their writs and these limits vary with different kinds of action.

In the case of U.B.N. Ltd. v. Oki (1999), the court held thus:

The rationale for application of the statute of limitation is that barring of actions by effluxion of time will encourage and secure reasonable diligence in litigation and to prevent Defendants from stale claims when the evidence which might have awaited has perished. It is also to give peace to a Defendant after a lapse of time. Eternal vigilance is the price of freedom.

It is, however, noteworthy that judges who administer our laws have discretion to facilitate the hearing of an action pending before them. In the case of Jonason Triangles Ltd. v. Charles Moh & Partners Ltd (2002), Ejiwunmi JSC held thus:

It must be remembered that it is part of the duty of a judge to see that everything is done to facilitate the hearing of an action pending before him. In so doing, he has to exercise his discretion on any power which undoubtedly belongs to the trial judge. The exercise of this discretionary power to facilitate the hearing of the action pending before him may however be challenged on appeal. But it is settled principle that a Court of Appeal ought to be very show indeed to interfere with the discretion of a trial judge.

5.1. Causes of Delay in the Administration of Criminal Justice in Nigeria

It is beyond doubt that several factors are responsible for delay in the administration of criminal justice in Nigeria. Some of these factors could be found in the following.

5.1.1. Police Investigation

The proper investigation of a criminal case by the police is fundamental to the success of the case. Most times, a case is won or lost right from the investigation stage no matter how brilliant and skilled the prosecutor may be. This claim is based on the fact that in the Nigerian system where the prosecution is not involved at the stage of investigation, the prosecuting counsel is expected to face a lot of problems when the matter is eventually charged to court. The police in most cases do shoddy investigations and thereby leaves a lot of loopholes that can be capitalized on by the defense to destroy the case of the prosecution in the course of trial. The police some time neglect or delay in transmitting original case file or other vital documents need for the proper commencement of the case to the office of the DPP even when same has been demanded in writing to the appropriate office.

One sour area of our administration of justice is the inefficient and corruption prone Law Enforcement agencies particularly the police. There is an apparent lack of will power to do that which is right in most cases by these agents. Matters that ought not to be subject of criminal investigations are pursued and pushed to the magistrate courts. It takes unduly long time for case files to be duplicated and when it is done, it is another battle, sending same to the Director of Public Prosecution for advice. Sometime, when the advice is sent, it may be suppressed if it does not accord with the pre-determined expectation of the agency. Many a time, these agencies are used to settle personal scores and in the process, the magistrate courts are inundated with frivolous charges.

The police often fail sometime to take statements from a vital and material witness whose evidence would have helped to prove the case of the prosecution beyond a reasonable doubt which is the standard of proof required of him by law. In other cases, the police usually don't investigate alibi at the time it is pleaded by the suspect. They also fail or negligently omit to ensure that statements are signed or even get attested to when and where such is required. In Aigbadion v.The state (2001), Uwais, J.S.C commented on the manner the investigation was carried out as follows

"It is pertinent to mention that the investigation of this case by the police, that is PWI, leaves much to be desired"

He went on to enumerate all that the police failed to do and concluded as follows:

"All these are necessary steps which ought to have been taken if the prosecution were to prove their case against the,Appellant beyond reasonable doubt in other words, the investigation of the police was shoddy and incomplete"

The court has ruled in plethora of cases that there is the need for the police to investigate alibi before trial wherever it is possible to do so (Oguola v. The State, 1991; Onuchukwu & Ors. V. The State (1998)). It is also trite that where the prosecution fails to investigate alibi, there is no duty on the accused to prove same and as such, the alibi remains unrebutted provided the accused has given some particulars of same. The cases of Umani v .The state (2005) and Akor & ors v. the state (1992), are instructive on this point. In these cases the cases of the prosecution were destroyed in spite the weight of the available evidence against the accused persons, the diligent police investigation before trial is fundamental the success of the prosecution's case.

5.1.2. The Private Prosecution

A prosecutor is a person who takes proceedings against another in the name of the crown (state). The prosecutor may be private person who has obtained the fiat of the Attorney General to prosecute a case. It was held in Gani Fawenhimi v. Akilu (1986) that the

power to prosecute is conferred on any person in the society. But such private person must satisfy the conditions as provided for under section 342 of CPA thus:

The registrar shall receive an information from a private person if –

a) It has endorsed thereon a certificate by a law officer to the effect that he has seen such information and declines to prosecute at the public instance the offence therein set forth; and
b) Such private person has entered into a recognizance in the sum of One hundred Naira, together with one surety to be approved by the registrar in the like sum, to prosecute the said information to conclusion at the times at which the accused shall be required to appear and to pay such costs as may be ordered by the court, or in lieu of entering into such recognizance shall deposit One hundred Naira in court to abide the same conditions.

It may be observed that obtaining such fiat may involve administrative red-tapes which may discourage private prosecution. This may account for the few cases we have of such private prosecution. However of note is that the A.G. does not have the discretion not to endorse a certificate to the effect that he declined to prosecute. Mandamus will lie to compel him to carry out this public duty (A.G. Anambra v. Nwobodo 1992).

5.1.3. The Police Prosecution

In Nigeria, the police is responsible for the prosecution of the bulk of criminal cases to which the inferior courts have jurisdiction even though they are not strictu sensu restricted to prosecuting only in these inferior courts by the law F.R.N v. Osahon (2006). Because of the obvious lapses in the police prosecution which is due to the fact that most of the prosecuting police personnel lacks the requisite knowledge and skill, various calls have been made that only legally qualified persons should be allowed to prosecute cases before the magistrate courts. It is a fact that many policemen that prosecute before these courts are not versed in procedure with the attendant problem of delays and loss of otherwise good cases. The prevalent allegations of corruption against these non lawyer prosecutors are also a source of worry. Consequently, the Attorney –General and Commissioner for Justice of Delta State, in exercise of his powers under section 211 of the 1999 Constitution, directed that with effect from 1st February, 2011, the police should cease from prosecuting any cases at the magistrate and lower courts in the State (Amaize, E., 2011).

On the other hand, the fact that the Police is a federal institution is one of the challenges bedeviling the criminal justice system because the Police is not answerable to state institutions like the State Attorney- General, DPP or the state judiciary. The uncooperative attitude of the police to reform of criminal justice system at the state level stems from the non recognition of state police by the Constitution. Unless and until this position is changed success in the reform of the criminal justice system will be a slow, painful and perhaps futile exercise.

5.1.4. The Attorney General and the Law Officers

By virtue of the Constitution, it is the function of the Attorney General to undertake criminal prosecutions. Sections 174 and 211 of the Constitution authorize the Attorney General of the Federation and the states in that order, to institute, and undertake, take over, and continue or discontinue criminal proceedings against any person before any court of law in Nigeria. These overriding powers of the Attorney General, which he may exercise in person or through officers in his department, can be subject to abuse as a result of corruption.

At the superior courts level, the Attorney General or any law officer in his chamber commonly known as State Counsel or Law Officers, prosecutes criminal cases irrespective of the nature of offence. They represent the State in criminal matters, mostly in the superior courts. The State Counsel advises the police on criminal cases; writes legal opinions on cases; appears on behalf of the State in motions, for example, filling counter affidavits to bail applications at the superior courts; exercises the discretion whether or not to prosecute; files information and proofs of evidence, where a prosecution has been decided, and goes on to prosecute. The police usually asks the DPP for legal opinion, at least in very serious matters, after the investigation, to advise them on sufficiency of evidence; if a prima facie case has been established, and to go ahead and file proofs of evidence in the High Court. With all these, the State Counsel has enormous say on the fate of a criminal case. Unfortunately, these State Counsel have not been able to effectively discharge these burdens, In most cases, they are constrained to always ask for adjournment because they are either not ready to go on with the case for lack of witnesses in court or where there are witnesses, the prosecutor has not gotten the time to do a pre-trial with such witness. In order to creditably discharge this burden the DPP and its staff must be up to date in training and forensic advocacy as the inadequacies in these requisite prosecution knowledge and skills have actually led to delay in the criminal justice system and thereby cause series of miscarriages of justice.

5.1.5. The Defense Counsel

The ethics of the profession enjoins lawyers to assist the court in the attainment of efficient and quick justice. In most instances, the rules are observed in the breach. Lawyers that perceive that they have a bad case, rather than advise their clients properly, resort to 'foul is fair' tactics including asking for unnecessary adjournments. A lot of unwholesome practices, go on among lawyers before the courts. The hard economic environment has added to the malaise. Touting and outright chicanery are very common feature of the practice of most defense lawyers who in the bid to earn more money from their client apply for unnecessary adjournments from the court and thereby delaying the trial.

5.1.6. Inadequacy of the Courts and Judicial Personnel

It cannot be disputed that in Nigeria, the increase in population in some major cosmopolitan cities and growing small towns has not been met with corresponding increases in the number or size of court buildings. Also, the remuneration offered to those on the bench is poor, which has made it difficult to attract competent judicial officers. The performance of some of them leaves a lot to be desired. Some are lazy, while others are not committed, and cases are adjourned at the slightest excuse.

5.1.7. Corruption among Judicial Personnel

For a successful operation of the rule of law, and the dispensation of justice, a judicial officer is expected to be incorruptible. A corrupt judicial officer is one who dishonestly uses his position as a judge to gain some unmerited advantage.

The advantage could be monetary, promotion, sexual or in any other form. A corrupt judge or magistrate is a morally bankrupt officer. He is a dishonest and an indecent being.

It should be borne in mind that upon appointment, an oath is administered on a judge by which he covenants with the State and indeed the Almighty God that his actions and decisions on the bench will not be informed by affection or ill will or any other kind of consideration. This is what is called the judicial oath. Corruption, unfortunately, signals the commencement of a gradual breach of the oath taken by a judicial officer. This is because corruption leads a judge to perpetrating injustice. His vision becomes blurred and impaired and he is momentarily inclined to tilt the scale of justice in favour of the person or authority who has induced or participated in any way in the process of getting the judge corrupted. A judge is expected to absolutely observe the code of conduct for judges.

It should be noted that judges of superior Courts of record are regulated by a code of conduct. They are equally expected to subscribe to judicial oath set out in the constitution. By virtue of 318(1)(b) of the 1999 Constitution, all members of staff of Magistrate Court are deemed to be public officers in the public service of the State. It follows therefore, that Magistrates are expected to observe the Code of Conduct for Public Officers which is set out in the Constitution under part I of the Fifth Schedule. For purpose of clarity, a Magistrate/Judge is not expected to put himself in a position where his personal interest conflicts with his duties and responsibilities. He is especially expected not to ask for or accept property or benefits of any kind for himself or any other person on account of anything done or omitted to be done by him in the discharge of his duties. See paragraph 6(1) of part I of the fifth schedule 1999 Constitution. By virtue of paragraphs 8 and 9 of the same Schedule, no person shall offer a public officer any property, gift or benefit of any kind as an inducement or bribe for the granting of any favour or the discharge in his favour of the public officer's duties. The public officer is equally under a duty not to do or direct to be done, in abuse of his office, any arbitrary act, prejudicial to the right of any other person, knowing that such act is unlawful or contrary to any government policy. The breach of the Code of Conduct is Delay in the Administration of Justice.

It is apparent from the foregoing that a judicial officer is not expected to be corrupt otherwise, he would be operating contrary to the tenets of the calling of his office.

Speaking at a conference Honourable Justice Okay Achike (1993), Justice of the Court of Appeal (as he then was and of blessed memory) delivering a paper on the topic "Administration of Justice under the Military" commented as follows concerning a corrupt judge:

…while an incompetent judge is a misfit, a corrupt judge is a disgrace to his peers and a curse to our noble profession.

Therefore, a Judge who grants bail based on receipt of bribe whether in cash or kind, who grants and vacates interlocutory orders, and the one who gives judgment to the highest "bidders" is not deserving of staying a day longer on the bench. He ought to be flushed out, because he is a disgrace to his peers and a "black-sheep," indeed there is a corresponding duty on both the litigant's counsel and fellow judicial officers to ensure that he is exposed and made to face the full wrath of the law. For justice being a sacred thing is not meant to be sold. Therefore, it is the expectation of the common man that judicial officers would be free from corruption, so that his confidence in the operation of rule of law and indeed in civil government would be kept intact. A judge should never accept gifts from litigants, their friends or relations before, or after he has tried their case because a judge's habit can never be hidden.

5.1.8. Lack of Deep Knowledge of the Judge on both the Statutory and Procedural Laws on the Part of the Judicial Officers

It is expected of a judge/magistrate to be knowledgeable and well grounded in the Laws, since that is the instrument through which he is expected to dispense justice. Accordingly, a Judge/magistrate is expected to be versed in the kind of law he is expected to administer. For the Magistrate, he is expected to be learned in the law applicable within his sphere of jurisdiction as at the time of his appointment. Furthermore, a Magistrate should as a matter of challenge and necessity be made to undertake continuing Legal Education as he is not expected to know all especially at the time of his appointment as a Magistrate.

The Judge must master the Penal and Criminal Code Laws, the provisions of the Evidence Act, the applicable procedure to his court and the rules of common law. Little knowledge will be a disservice to a judge no matter the grade. Learned counsel of various post call experience will appear before him and he must be prepared intellectually to meet the expectation of all.

According to Honourable Justice A. O. Obaseki (n.d.),

"The judgment seat in any court of law cannot be allowed to be occupied by any anyone not versed in the art and science of judging. The resolution of any dispute between two persons even in the simplest of societies is not allowed tobe undertaken by any person or tribunal ignorant of or untutored in the norms or rules and custom regulating the relationship and dealing among members of the society Judging is a science in that it is governed by laws, rules and regulation with which it must comply in order to be acceptable in the society It is an art in that its arrangement is dictated by logical reasoning in a legal climate and environment…"

An ignorant judicial officer is not only going to be in perpetual cul-de-sac in attempting to function in that capacity, but will also spell doom for the fate of the innocent man who is at the mercy of his judgment. This concern is well said in a Latin maxim which says

"ignorantia judices est calamitus innocienti" i.e. the ignorance of the judge is a calamity for the innocent. It is therefore essential that the system for appointing a judicial officer must be careful to take proven competence into consideration before such appointment.

5.1.9. Independence of the Judge

The judge is expected to be independent. By this it is meant that the judge decides cases before him in line with his own understanding governed by his conscience.

It should be borne in mind that the Constitution of Federal Republic of Nigeria, 1999 in clear terms vests the judicial power of the Federation and the States in Courts established under the Constitution. It would therefore portend a dangerous trend for a judge to fail to utilize fully this constitutional provision. A judge should therefore ensure that he is neither blackmailed, coerced, intimidated or in any other way influenced to decide in a particular way or the other. Both the individual citizen, non-citizens and indeed government and authorities should have no influence over the Court's proceedings and decision. A judge will do well to bear in mind in the discharge of his functions that, what must be of paramount importance to him at all times is the law governing a particular transaction or case before him, the cold facts as presented before him and his conscience. He should be less concerned with alleged events that transpired outside of the precinct of the Court room.

A dangerous trend seems to have penetrated the judiciary in recent times. The sad trend if

not quickly checkmated has the tendency of eroding confidence in the judicial system. This unfortunate trend is the practice where discretion is unduly fettered or judgment influenced because of perceived "state's interest in a case". This has manifested itself more in bail applications before lower Courts including Magistrate courts. On such occasions, bail is often refused, so that the executive arm of the state or indeed a few highly placed citizens would feel satisfied that bail has been refused in politically motivated offences, which are ordinarily bailable under our laws.

5.1.10. Nominal Complaints

Many Nigerians still believe that the laying of criminal allegations against others is a weapon to score political or other points. Many people make allegations that are neither sustainable nor factual. In such instances, cases that ought not to get to the magistrate courts are pushed there and for years are pending. In some instances, the nominal complainant who is the star witness for the prosecution may just vanish into thin air or just decide to abandon the complaints for various reasons. Our family structures play a part in this. Many a time, the complainant is pressured to drop the complaint, but rather than inform the prosecution, he may just decide to abandon attendance in the court.

5.1.11. Archaic Laws and Rules

There are some of the provisions in our laws and rules in the magistrate court that are obsolete and they stand in the way of expeditious determination of cases. The problem of holding charges is still with us. The use of the first information report in the states of the North engenders some delay in criminal trials.

5.1.12. Inadequate Funding

A visit to many of the courtrooms in Nigeria will reveal the state of dilapidation of the system. Courtrooms are inadequate, stationeries where available, are rationed, record books are no more available and basic needs to make the system function are not available. In many states, magistrates sit in shifts notwithstanding the important fact that most of the criminal cases that found their ways, into the magistrate court end up there. The materials with which to do a thorough and quick work are lacking. Records of proceedings are taken in long hand in very hot and humid atmosphere. There are no proper places to keep court records and exhibits.

6. The Way Forward in the Administration of Criminal Justice in Nigeria

6.1. Proper and Adequate Funding

The various states governments must as a matter of national urgency, fund the magistrate courts properly and adequately. It is suggested that the funding may be taken up by the National Judicial Council to make for uniformity or each state government should devote not less than 5% of its annual budget to the court. There should be adequate and quality courtrooms, provision of basic working tools, like stationeries and well furnished chambers are sine qua non for efficient delivery of justice by the court. There is the need for those in charge of the funds if and when made available, that there is judicious use of the resources. The needs of the court should be prioritized and attended to.

6.2. Welfare of the Judicial Officers

A work force that is not properly motivated cannot give its best. The provisions of good official cars, furnished accommodation, adequate security and conducive environment, for judges/magistrates are not out of place. The hazardous nature of the job with the attendant risk to lives and property are compelling enough, to make the government to make adequate arrangement for the well being and welfare of the magistrates. Given the present day reality of our economy and high rate of inflation, the least paid magistrate should not earn less than N150,000.00 per month, tax free. One advantage of paying the magistrates well, is the fact that it will remove the temptation of corruption and unwholesome practices, apart from promoting prompt and efficient delivery of justice.

6.3. Law Reform

The various states governments should urgently embark on the reform of all laws and rules that deal with the magistrate courts. The introduction of suspended sentence and its full implementation is long overdue. There should be other methods of penal punishment other than imprisonment. It is not out of place, to create large farm settlements, where convicts can be sentenced to, to do forced labour for specified period. Each convict will be paid a percentage of the money realized from the harvest of whatever he sows on the farms.

6.4. The Public

Members of the public either as complainant or witness or bystander should appreciate the essence of justice and fair play. Unfunded and unsubstantiated allegations of bias and corruption, should not be made against a Magistrate. We should always remember that Magistrates can only be seen, they cannot be heard. We should appreciate that in any legal duel, one party will win and the other lose. All the parties to litigation cannot win in the same cause. We should appreciate that adjudication is an imperfect human attempt at attaining justice.

7. Conclusion

In this paper, we have tried to call attention to the problems surrounding the administration of justice in Nigeria. These problems, as earlier highlighted, touch on the paucity of proper expertise at prosecutorial stage as well as unwarranted delays inadvertently encouraged or unduly indulged by courts. These have direct bearing on the speedy dispensation of justice and the quality of confidence the common man reposes on the Nigerian justice system. An accused person is innocent until proven guilty. This is the core premise upon which the need to enhance the expedited and efficient dispensation of justice is laid. Thus, the current situation whereby accused persons are held without trial for long periods or where trials are unnecessarily protracted is a reflection of the shortfalls, inadequacies and gross inefficiencies in the Nigerian judicial system. The bulk of cases that continue to drag on sluggishly year in year out is another painful reflection of this ugly problem. This paper has put forth some recommendations to address this cankerworm, which though may not be the talisman to end the troubles of delay in dispensation of criminal justice in Nigeria, but with proper commitment of all stakeholders, should chart a new course for efficiency and expedition in the delivery of justice in the Nigerian criminal justice system.

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vii. Aigbadion v.The state (2001) 2 ACLR,48 at 60.
viii. Akor & ors v. the state 16. [1992] 4 N.W.L.R. Pt. 234, 198 at 208.
ix. A.G. Anambra v. Nwobodo (1992) 7 NWLR Pt. 256 p. 711.
x. F.R.N v. Osahon (2006) 5 N.W.L.R. Pt. 973, p. 361.
xi. Gani Fawenhimi v. Akilu (1986)11 – 12 SCNJ 151.
xii. Josiah v. State (1985) 1 NWLR (Pt. 1) 125 at 141.
xiii. Jonason Triangles Ltd. v. Charles Moh & Partners Ltd (2002) 9 – 10 SC 163 at 164.
xiv. Kolo v. Attorney General of Federation (2003) 10 NWLR (Pt. 829) P. 624 Paras D – E, 630 Paras G – H.
xv. Obajimi v. Adedeji (2008) 3 NWLR (Pt. 1073) 1 at 19 – 20.
xvi. Oguola v. The State [1991] 2 N.W.L.R. Pt.175 503, at 521.
xvii. Onuchukwu & Ors. V. The State (1998) 56 L.R.C.N. 3392 at 3410.
xviii. Sele v. The State (1993) I N.W.L.R. part 269, 276 at 293.
xix. U.B.N. Ltd. v. Oki (1999) 8 NWLR (Pt. 614) P. 253 – 254 Paras H – A.
xx. Umani v .The state 15. (2005) 4 A.C.L.R. 67.

[i] Reflecting on the cul-de-sacs often encountered by Investigating Police due to new forms of criminality and the ever-increasing complexities of substantive and procedural law, Dr. Despina Kyprianou observed that there has been a gradual change of thinking regarding the prosecutor's non-involvement in investigations. The Police in many common law jurisdictions are increasingly cooperating with prosecutors with the result that the latter now has some influence in the investigation itself. However, more formal responses to the need for a more active involvement of the prosecutor in investigation have emerged. Reviews such as the Narey Report in 1997 and the Glidewell Report in 1998 have emphasised on the need for coordination, partnership and integrated working between the police and prosecutor. Statutory steps have been taken in this direction too in some countries. In Germany the law provides that the prosecutor is to perform acts of investigations or to request the police to do so. They can also give general instructions to police regarding how particular cases are to be handled and can set areas of priority of investigation. In Scotland, section 17(3) of the Police (Scotland) Act 1967 places Chief Constables under a statutory duty to comply with the lawful instructions of the prosecutors. For further readings, see Kyprianou, D. (2008), Comparative Analysis of Prosecution Systems (Part II): The Role of Prosecution Services in Investigation and Prosecution Principles and Policies. *Cyprus and European Law Review 7*.

[ii] The Economic and Financial Crime Commission (EFCC), The State Security Services (SSS) and other Agencies with similar functions are also vested with the powers to prevent and investigate crimes by their enabling Acts or Laws.