

# Strengthening Access to Justice through Court Administration and Case Management in Nigeria

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**Abstract-** Access to justice is essential in any given society. As a result, nations often attempt to put up structures that will help enhance access to justice for its citizens. In achieving this desire, the court system often sits at vantage position to ensure that justice is well dispensed to all persons not minding one's status. However, the manner in which courts are managed is equally essential in ascertaining if citizens are able to access justice or not. It is against this background that this study examines the role of the court administration as well as case management system in strengthening access to justice in Nigeria.

**The findings from implementation of the court administration and case management project in Nasarawa State by Public and Private Development Centre (PPDC) through the grant from United State Agency for International Development through the**

**Bureau of International Narcotics and Law Enforcement. (USAID/INL) reveal that access to justice in Nigeria is largely a far cry from how it should be. This is because many persons who desire to access justice cannot due to sundry reasons including the court administration and case management systems. While, there are a few initiatives with projects to address some of these challenges, the efforts are largely constrained by a number of factors. Against these surmountable challenges, some solutions are proffered.**

**Keywords:** Access to Justice, Court Administration, Case Management, Nigeria.

## INTRODUCTION

Since the adoption of the Universal Declaration of Human Rights in 1948,<sup>1</sup> there has been a global clarion call toward ensuing access to justice by persons across the world. This is because access to justice is an essential component of every society that seeks to grow and advance.<sup>2</sup> In the contemporary era, the Sustainable Development Goal adopted in the year 2015 incorporates access to justice in its 16<sup>th</sup> development agenda.<sup>3</sup> Goal 16 is 'both an outcome and enabler of sustainable development'.<sup>4</sup>

Article 8 of the Universal Declaration of Human Rights provides that: 'Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the Constitution or by law.'<sup>5</sup> Speaking on what constitute justice, it has been observed that "justice is

<sup>1</sup> Universal Declaration of Human Rights, 1948

<sup>2</sup> A state without access to justice can be likened to the Aristotle's state of nature which is said to be short, brutish and nasty. There cannot be development is

<sup>3</sup> Steven D (2018) History and prospects: the pathfinders for peaceful, just and inclusive societies. Available at: [https://cic.nyu.edu/sites/default/files/pathfinders\\_hist](https://cic.nyu.edu/sites/default/files/pathfinders_hist)

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<sup>4</sup> Olusegun, O. O., & Oyelade, O. S. (2022). Access to justice for Nigerian women: A veritable tool to achieving sustainable development. International Journal of Discrimination and the Law, 22(1), 4-29. <https://doi.org/10.1177/13582291211043418>

<sup>5</sup> Article 8 of the Universal Declaration of Human Rights, 1948

*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.*<sup>6</sup>

As opined by Okogbule, access to justice implies access to social and distributive justice. It consolidates the constitutional assurances and guarantees for the protection of fundamental rights as enshrined under the Nigerian laws<sup>7</sup> as well as international instruments.<sup>8</sup>

In achieving access to justice in Nigeria, some institutions of the State have also been established to give effect to Government's policy in this regard.<sup>9</sup> Meanwhile, while a number of factors affect access to justice within the context, Nigeria<sup>10</sup> the focus of the study shall be limited to the delay in the administration of justice system often occasioned by the case management system and the court management system in Nigeria.

Speaking on the relevance of court management system to access to justice, the Court of Appeal in *Idris v Agumga*<sup>11</sup> averred that access to court is synonymous to approaching the court without restraint. Equally, Chief Justice of Nigeria who noted that:

*The Court shall encourage and welcome public interest litigation in the human rights*

<sup>6</sup> Godwin Josiah v The State<sup>15</sup> (1985) 1NWLR (Pt. 11) 125 at 141

<sup>7</sup> Laws established to enhance access to justice in Nigeria include- the 1999 Constitution of the Federal Republic of Nigeria (as amended), the Police Act, Fundamental Rights Enforcement Rules, Fundamental Rights (Enforcement Procedure Rules) 2009, Legal Aid Council Act, Police Act, Public Complaint Commission Act etc.

<sup>8</sup> Universal Declaration of Human Rights 1948, African Charter on Human and Peoples' Rights. It is a long settled principle of law that even where some issues bothering on rights not expressly stated in the Nigerian constitution is affected, it is possible to now to enforce rights under international instruments that Nigerian subscribe to. (See Fawehinmi v President, FRN (2007) 14 NWLR (Pt. 1054) 275 and Bewaji v Obasanjo (2008) 9 NWLR (Pt. 1093) 540).

*field and no human rights case may be dismissed or struck out for want of locus standi.*<sup>12</sup>

The drafters of the 1999 Constitution of the Federal Republic of Nigeria have in their wisdom, made provided constitutional support to ensure safeguard access to court.<sup>13</sup> However, while mindful of the fact that court administration system could be deliberately made slow and frustrating, the constitution specifically provides has ample provisions to protect litigants whose time may be wasted in court, thus contrary to the provision of Rule 2 (A) (6) of the Code of Conduct for Judicial Officers which enjoins all judicial officials to proactively ensure that they "promptly dispose of the business of Court."<sup>14</sup>

Section 36(1) also provides that:

*in the determination of his civil rights and obligations...a person shall be entitled to a fair hearing within a reasonable time by a court*

Also, Section 36 (4) further guarantees that:

*whenever any person is charged with a criminal offence, he shall unless... a charge is withdrawn be entitled to a fair hearing within a reasonable time by a court or tribunal.*

<sup>9</sup> Institutions saddled with the task of ensuring access to justice in Nigeria among other include- the Nigerian Police Force, National Human Rights Commission, Public Complaint Commission, Legal Aid Council

<sup>10</sup> C A Oputa, Rights in the Political and Legal Culture of Nigeria 2 nd Idigbe Memorial Lectures (Lagos: Nigerian Law Publications Ltd, 1989), p.50.

<sup>11</sup> *Idris v Agumga* [2015] 13 NWLR (Pt.1417) 441 at 463.

<sup>12</sup> Paragraph 3(e) Fundamental Rights (Enforcement Procedure Rules) 2009

<sup>13</sup> Josephine Nkeonye Egemonu (2022) Role of The Judiciary in Promoting Access to Justice in Nigeria, *Global Journal of Politics and Law Research*, 10(5)1-16

<sup>14</sup> Rule 2 (A) (6) of the Code of Conduct for Judicial Officers

Besides election matters where election matters are to be concluded within stipulated time, generally, no time is stipulated as to when matters before courts are to be concluded. This therefore leaves the timing to courts and counsels who may deliberately be absent in courts and make frivolous requests for adjournments.

While there have been a few of studies on access to justice in general in Nigeria, perusal of literature revealed dearth of scholarship on how case management system and court administration strengthen access to justice in Nigeria. This study is therefore designed to fill in this gap.

#### COURT ADMINISTRATION AND CASE MANAGEMENT SYSTEM

Just on the 25<sup>th</sup> of September, 2023, there was an inferno at a section of the Supreme Court of Nigeria.<sup>15</sup> Paper documentations kept in the arena of the court gutted by fire would have been lost forever. This speaks eloquently about the state of Courts in Nigeria where court records are still manually been process across majority of the Nigerian courts with all the attendant negative consequences.

Ordinarily, courts are established with the primary role of promoting access to justice and attainment of justice among citizens.<sup>16</sup> It is “*to secure the just, speedy, and inexpensive determination of every action*’.<sup>17</sup> In the performance of this duty, the court has enormous task to ensure that the sanctity of right of persons is maintained at all times.<sup>18</sup> However, as critical as courts are in the

implementation of effective justice system, the court system in Nigeria lacks basic facilities and equipment in courts.<sup>19</sup> Also noted by Igwe Onyenbuchi and Agbor Bassey, accessibility to court is negatively where poverty thrives due to unequal distribution of the collective resources of that society.

However, a cursory look at the manner in which court is managed and cases handled in court may occasion miscarriage of justice in Nigeria. Largely speaking, across majority of courts in Nigeria, cases are managed using the traditional manual filing system which is largely laborious and time consuming. In the era of front loading where all court records, in civil cases are expected to be front loaded, a proper cases management system which adopts the use of technology could largely help to resolve this challenge.

#### ROLE OF COURT ADMINISTRATION AND CASE MANAGEMENT

Over the years, access to justice has continued to be constrained by a number of factors<sup>20</sup> which make access to justice difficult in attaining.<sup>21</sup> However, this study focuses on court administration and case management system which often affect access to justice in Nigeria.

Court administration is essential towards achieving access to justice. It is trite that court is the last hope of the common man. Its doors should be open and accessible to all. However, in Nigeria, it has been observed that case management system has been

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<sup>15</sup> Solomon Odeniyi.2023. Breaking: Fire Guts Section of Supreme Court. PUNCH Newspaper of 25<sup>th</sup> September, 2023. Retrieved 27<sup>th</sup> of September, 2023 via <https://punchng.com/breaking-fire-guts-section-of-supreme-court/>

<sup>16</sup> *ibid*

<sup>17</sup> Rule 1 of the Federal Rules of Civil Procedure of the United States cited in William W Schwarzer & Alan Hirsch, *The Elements of Case Management: A Pocket Guide for Judges* (Second Edition), Federal Judicial Center 2006

<sup>18</sup> Fatai Williams CJN (as he then was) in *A.G. Bendel State v A.G.F and 22 Ors.* (1983) 3 NCLR 1 at 40

<sup>19</sup> Hadiza S. Sa’eed.2019. *The Use Management in Improving the Performance of Judicial Officers*, National Judicial Council at the Refresher Course for

Magistrates held 2 April 2019, at the National Judicial Institute, Abuja.

<sup>20</sup> Obstacles to access to justice in Nigerian civil justice system are challenging. These obstacles include: delays, cost of litigation, complex legal rules and procedure, lack of awareness and legal knowledge. See generally: AMADI, JOHNSON, *Enhancing Access to Justice in Nigeria with Judicial Case Management: An Evolving Norm in Common Law Countries* (March 22, 2009). Available at SSRN: <https://ssrn.com/abstract=1366943>

<sup>21</sup> Olusegun, O. O., & Oyelade, O. S. 2022. Access to justice for Nigerian women: A veritable tool to achieving sustainable development. *International Journal of Discrimination and the Law*, 22(1), 4-29.

fraught with so many challenges, thereby, making the process of filing very herculean.

#### EFFORTS MADE AT ENGAGING ACCESS TO JUSTICE IN NIGERIA

##### Enactment of legal instruments

There are a few legislations and practise procedure to ensure enhance access to justice through case management system and court administration. For example, the Chief Justice of Federation and some Chief Judges gave practice directives which enabled courts to engage in virtual hearing. As a follow-up to this, decisions of some of the election petition tribunals are now being delivered virtually. Regrettably, many courts lack the basic amenities that will allow them fully embrace virtual hearing.<sup>22</sup> Similarly, a few courts are in the trial stage of test running case management system which allows lawyers and litigants in general to file their cases. While this is at the cradle stage in few courts, majority of courts in Nigeria are still lagging behind in this regard. The benefit of this development is that issues related to evasion of service of court processes and the usual unnecessary adjournments that attend to it are dispensed with, therefore facilitating access to justice. Also, in courts that have adopted this practice, the major system adopted is largely on electronic filing and not on the progression of these cases.

##### Support by non-state actors

Over the years, a few non state actors<sup>23</sup> such as; CLEEN Foundation, Centre for Social Justice, Civil Liberties Organization (CLO), Constitutional Rights Project (CRP), Committee for the Defence of Human Rights (CDHR), HURI Laws, Catholic Institute for Development Justice and Peace (CIDJAP), Federation of International Women Lawyers (FIDA), National

Association of Democratic Lawyers (NADL), Society for the Welfare of Women Prisoners (SWEWP), Legal Research and Resources Development Centre (LRRDC), Legal Defence and Assistance Project (LEDAP), *etc and* recently Public and Private Development Centre (PPDC) have continued to champion the course of access to justice and improved case management systems. These actors, although, largely constrained have been on the front line in the efforts towards ensuring access to justice in Nigeria.

Despite the gains recorded in the journey towards enhancing access to justice in Nigeria,<sup>24</sup> a major challenge has to do with the structure of the nation, being a federation with the federal government and States having control in the management of court systems in Nigeria. By implication, there has been lack of synergy required in efforts towards achieving a common goal.

#### RECOMMENDATIONS

Against the backdrop of the issues raised in this research, the following are recommended:

- [1] There is need to engage in aggressive awareness campaign on the need to adopt electronic filing within the courts. This is very important, most especially, amongst the decision makers. A lot is dependent on their willingness to implement policies that will ensure that the court management system is positioned to be able to enhance access to justice in Nigeria.
- [2] Multi-layer engagements between the federation and states of the federation. The positioning of the justice system in Nigeria is layer, meaning that both the Federal Government of Nigeria and the component States have jurisdictions of courts within their respective spheres of influence. It is

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<sup>22</sup> The benefit of this is that in places where virtual hearing held, the delivery of the judgments could have been delayed or delivered at another jurisdiction due to projected security threat that often characterise the delivery of election tribunal decisions. The choice of the virtual delivery has then helped to prevent either the delay in the delivery of the judgement or cost that may be incurred by the litigants having to go to another location outside the State for the judgement.

<sup>23</sup> These non-state actors range from non-for-profit making organisations, the organized private court to professional bodies such as the Nigerian Bar Association and Association of Judicial Workers in Nigeria.

<sup>24</sup> Olusegun, O. O., & Oyelade, O. S. 2022. Access to justice for Nigerian women: A veritable tool to achieving sustainable development. *International Journal of Discrimination and the Law*, 22(1), 4-29.

only when the two tiers of government join hands together that there could be impact.

- [3] There is need to engage in multi-sectoral collaborations of the relevant stakeholders in the justice sector in Nigeria. These relevant stakeholders include the bar, the bench and the gate keepers. For example, it may be essential to partner with the National Universities Commission (NUC) to develop the curricular of the institutions such that specialised trainings can be provided for staff of courts who will help manage the records. Also, non-for-profit making organizations can also partner with the court management system. With these multi-sectoral collaborations, there could be collective efforts towards achieving.
- [4] Capacity building of the staff of the courts etc. This can be by way of access to on-the-job and refresher trainings etc. While a lot could be achieved through the government in the provisions of the needed training, it is also essential to encourage the trade unions of the court officials to organise trainings in this regard.
- [5] There is need to invest massively into the building of ICT-enabling infrastructures around the courts, such as reliable internet access, constantly power supply, servers, computers etc. This is highly essential as most courts, particularly, the inferior and lower courts lack basic and essential facilities required to fast track case management system.
- [6] Due to the role of non-state actors towards ensuring access to justice in Nigeria, it is recommended that they should be supported by donor agencies to be able to intensify their efforts across courts in length and breadth if Nigeria.