

CHALLENGES IN THE SPEEDY DISPENSATION OF CRIMINAL JUSTICE IN NIGERIA*

Abstract

The justice sector in Nigeria continues to be inalienable part of one of the arms of Government in Nigeria. Just like every other sector in Nigeria, the justice sector is not without its challenges; the judiciary which is the main arm of Government that administers this sector continues, each day, to grapple with these issues and challenges. This seminar paper will discuss some of the challenges and issues which, in recent times, have continued to be a clog in the wheel of progress of the administration of criminal justice in Nigeria. These challenges include but are not limited to executive suppression and intimidation of the judiciary, pervasive corruption, insecurity, poor standard of legal education in Nigeria. This study will further maintain the position that these challenges, even though extant, can be fought and defeated.

Keywords: Administration, Justice, Speedy Dispensation, Challenges

1. Introduction

The term 'justice' has become a household word such that whenever it is mentioned or used, it almost always does not need any definition. Clichés such as 'justice delayed is justice denied' and 'the court is the last hope of the common man' have become rife in the Nigerian criminal legal system. These clichés have inextricably linked our Law Courts and Justice that one does not need to be told that it is one of the main and sacrosanct duties of the Courts to administer justice. Suffice it to say, though, that justice is the fair treatment of people; the quality of being fair or reasonable; the legal system by which people and their causes are judge; the fair and proper administration of law¹. When bit come to the administration of Justice, judges are the only ones who have roles to play. Lawyers also have roles to play in ensuring that justice is administered.² And the importance of the competent, independent and impartial judiciary in preserving and upholding the rule of law cannot be over-emphasized³. Three major things play an important role in sustaining the judicial system of nation and by extinction the administration of justice. The three things are the public confidence in the independence of the judiciary, public confidence in the integrity of the judges that man such courts and the impartiality and efficiency in the administration of justice.⁴ Of course, to be achievable, steps must be taken to overcome the various challenges and issues militating against the administration of justice in Nigeria. Some of these challenges are briefly considered hereunder.

2. Challenges Militating against Administration of Justice in Nigeria

Pervasive Corruption as a Challenge to the Administration of Criminal Justice

Corruption is one of the many challenges to the administration of Justice in Nigeria. Generally speaking, it is believed that one who lives in Nigeria has a propensity towards becoming corrupt because corruption is almost unavoidable. The unavoidability of corruption is based largely on the fact that morality is relaxed the Nigerian society and many people struggle for survival without assistance from the Government.⁵ Sad to say that this same Government is supposed to be responsible for providing the foundation for survival for its populace. Looking at the Judiciary in microcosm, judicial officers are not immune to this pervasive corruption. This type of corruption found in the judiciary and which acts as a Challenge to the due administration of Justice can be categorized into two. The first include administrative corruption which arises when court administrative employees violate formal administrative procedures for their private benefit.⁶ This kind of corruption displays itself when, for example, an administrative staff of the judiciary takes bribe to steal or remove a document from the file which document is extremely essential to the success of a party's case or takes a bribe to steal or destroy the file of a particular case. Stories of files suddenly missing in Courts are not new to Practitioners.

The second aspect is operational corruption which takes place in grand corruption schemes where political and considerable economic interest are at stake.⁷ When that becomes the case, cherished legal norms are swept under the carpet just for economic gains. This type of corruption cripples the administration of justice, leading to unnecessary delays and adjournment; it also has far-reaching effects on the larger society. In this wise, the words

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¹ Bryan A Garner (ed), *Black's Law Dictionary* (11th edn, West Publishing Co 2019) 1033

² *Federal Republic of Nigeria v Segun* (2011) LPELR – 1453 (CA)

³ *Ibid*

⁴ *Mbadiwe v Independent National Electoral Commission* (2010) All FWLR (Pt. 547) 745 @ 773-775

⁵ VE Dike, 'Managing the Challenges of Corruption in Nigeria' (Jun, 2003) Available at <http://web.archive.org/web/20180412082414id/http://www.bridenigeria.com/wpcontent/uploads/2011/07/managing-corruption-in-Nigeria.pdf> Accessed on 27 November 2021

⁶ GI Ayodeji and SI Odukoya, 'Perception of Judicial Corruption: Assessing Its Implications for Democratic Consolidation and Sustainable Development in Nigeria' (2014) 16 (2) *Journal of Sustainable Development in Africa* 69

⁷ *Ibid*

of Uwais CJN are apt when he stated thus: 'A corrupt judge is more harmful to the society than a man who runs physically, but a corrupt judge deliberately destroys the moral foundation of society and causes incalculable distress to individuals through abusing his office while still being referred to as honourable'.

Executive Suppression and Intimidation of the Judiciary

Executive suppression and intimidation of the judiciary also impede the administration of Criminal Justice in Nigeria. When the executive suppresses and intimidates the Judiciary, it affects the way and manner of dispensation of justice by the Judiciary. Justice by the Judiciary. Justice would hardly be administered without fear or favour. Suppression and intimidation could be direct or subtle, it is direct when the executive brazenly attacks the Judiciary and it is clear to all and sundry that this is a frontal attack by the executive, just like we have seen in the recent goings-on in the judiciary where the homes of Judges are invaded by the law enforcement agents. Executive Suppressions and intimidation of the judiciary becomes subtle when the executive uses clever and indirect methods to get the judiciary to dance to its tune. In this way, this affects greatly the independence of the judiciary and determination to administer justice without fear. It is this type of subtle executive intimidation of the Judiciary that propelled Hon. Justice Benson C Anya of the Abia State High Court to give a restraining Order, *suo motu*, against the Department of State Security Services.⁸ This bravery is commendable.

Insecurity

Insecurity is also one of the challenges facing the administration of criminal Justice in Nigeria. In some parts of the Country Nigeria, it is becoming increasingly difficult to carry out the daily activities that characterize our lives without being in fear of the activities of criminal gangs and bandits. These activities continue to cripple the due administration of justice in those areas. And recently insecurity in Nigeria has assumed an alarming rate, affecting every facet of a Nigerian's life with no end in sight⁹. Judges have also, on occasion, been victims of this crimes in some of these insecurity-laden area. For instance, a Sharia Court Judge, Alhaji Hussaini Samaila, was reported to have been kidnapped, in the premises of the Court, in Safani Local Government Area of Kastina State.¹⁰ This type of action instill fear in the judicial officers who man courts in those area. It is sad to also state that the provision of security personnel for these judges does not completely help matters in a way that is expected.

Poor Standard of Legal Education in Nigeria

Poor standard of legal education is one of the leading challenges that the administration of Justice is facing in Nigeria. When practitioners go through a system of legal education that is poor, the result always manifests itself in Judges who are lacking in many respects not limited only to lack of proper knowledge of the law. To understand the effect poor legal education has on the administration of justice in Nigeria, consider this illustration: Imagine baking a cake in a pan that has a dent, no doubt the cake will have the same dent as the pan and every other cake subsequent thereto once it came from the pan. To bake a perfect bread, the dent in the pan must be fixed. Legal Education in Nigeria represents the pan in this illustration, the dent in the pan represents the poor state of legal education while the law students represent the cake baked from the pan. Legal education should be taken seriously because learning is so central to our existence and we will be acting out of share ignorance if we keep on proclaiming that we know much, when in actual fact, we know very little.¹¹

The Problem of Case flow Management

The overall objective of the court is a just and timely determination of every case that comes before the court. The court's process should be open, efficient, understandable and accessible. Case flow management processes are intended to contribute to the achievement of these objectives and in the process, to make a better day for those who work within the system and for the public they serve.¹² Each judge is expected to manage the cases filed before him or set to him in order to avoid congestion in his court. But when new cases come to him in rapid succession as does happen in some jurisdictions, congestion will build up and become unavoidable. However, even in such circumstances, one can easily discover a lazy judge from a hardworking judge. If a judge's output is low, the pending cases can build up which is not necessarily that many cases have been placed before him to

⁸ Mazi Nnamdi Kanu v. Federal republic of Nigeria and 7Ors Abia State, Benson C Anya, HIN/FR/14/2021 (19 November 2021). Following the barricade and blockage to the access road of the Abia State High Court occasioned by the act of the officers of the Department of State Security Service surrounding the entire Court premises, Hon. Justice Benson C Anya, who perhaps may have been disturbed by the presence of the Officers and had refused to be intimidated by their presence, gave an Order, *suo motu*, restraining them from, among other things, further barricading the court premises.

⁹ El Obarisiagbon, 'Insecurity Crisis in Nigeria: The Law Enforcement Agents a Panacea?' (2019) 7 (1) *Journal of Sociology and Social Work* 44

¹⁰ O Oyelude, 'Katsina Judge Kidnapped Inside Court' *Punch Newspaper* (Lagos, 18 May 2021); the Sharia Court Judge, who spent 53 days in the captivity of the kidnappers, has since been released. See M Babangida 'Interview: My Experience in the hands of Kidnappers-Katsina Judge' *Premium Times* (Lagos 13 August 2021)

¹¹ CIN Emelie 'Legal Education and Access to Justice in Nigeria' (2017) 2 (1) *Research Journal of Humanities, Legal Studies & International Development* 136

¹² Alabi A.A. (2004) 'Case Flow Management in Lower Courts – Problems and Solutions' in Conference of All Nigerian Judges of Lower Courts, 2002 (Lagos: My Professional Publishers.) at p. 57.

handle. Some judges crawl in writing, others engage in unnecessary arguments with counsel during hearing, while still others cannot sit for long at a stretch. All these and many more, bring their varied and variegated drawbacks to speedy criminal trials. For judges who prefer to have a call-over day, then, cases are fixed, sometimes with the judge's knowledge and sometimes without his knowledge. This is an area that will continue to create problems unless the judge can monitor the fixtures made by the Registrar. This is because some registrars can hardly turn down applications of lawyers who will prefer a particular date, which invariably will not be suitable for the court. Consequently, and with no intention to hamper the work of the court, more matters that cannot be dealt with in a day are fixed for that day.¹³

Some of the problems bordering on case flow are caused by the judge, albeit, oftentimes unwittingly. For instance, some judges make it a policy to fix only one case for a day, if it is set down for hearing. This is unwise because where an unforeseen impediment occurs, such as illness of counsel or inability to serve subpoenas; the result is that such a day is wasted. Some judges, due to pressure from counsel, neglect to endeavour to hear cases in accordance with their priority in time of filing; the result is that before they know it, cases that were filed about ten years ago are left pending. Eventually, the potential witnesses in the case become disenchanted and eventually stop attending the case, thus frustrating the justiceable decision that their evidence could have helped the court to achieve in the case. At some other instances, judges, in their bid to pave way for witnesses who are elderly or who come from outside the jurisdiction of the court to testify, in order to avoid losing their testimony, many inadvertently fix many of such cases on a particular day. The unfortunate result is that on such a date, he would find out that by the time he has treated just one case, the better part of the day is gone. This eventually accounts for reasons why some courts have too many part-heard matters whilst other judges, pile-up judgments, which will expire within days of each other. And where for any inextricable reasons, they are unable to write such judgments on schedule they soon find themselves being caught in the web of contravention of Section 294 of the Constitution of the Federal Republic of Nigeria 1999 (as amended)

Inadequate Courtrooms and Infrastructures Facilities and Poor working Conditions

The trials of accused persons, who are remanded in prison custody, are often adjourned due to either the lateness in the arrival or the non-arrival of such accused in court or dates fixed for trial. The lack of readily available vehicles with which to convey accused persons to court during trials account for such lateness or non-arrival of such accused persons in court. There is also the problem of inadequacy of infrastructural facilities. The court especially at the Magistrate level lacks adequate library facilities with which to promptly discharge their judicial finding. Consequently, cases suffer long adjournments during trials; where there is need to write well considered rulings. Some states lack adequate courtrooms, the facilities of such courtrooms are shared by more than one judicial officer. Some Magistrates may therefore find themselves sitting for only two hours, out of the expected six hours sitting period in a day. Suffice it to say that criminal cases suffer adjournment as a result of inadequacy of courtroom facilities. The chairman of the Ondo state Branch of the Nigerian Bar Association hence attested to this aspect of challenge thus a situation whereby some judges sit for a few hours in the morning only to give way for other judges in the afternoon does not augur well for quick dispensation of justice. It resulted in unnecessary adjournments of cases, which would have been disposed off in a matter of days. Closely interlinked with inadequate courtroom facilities, is the problem of failure to allocate judges and magistrates with staff quarters. Some of these judicial officers frequently, are not promptly allocated official staff quarters; the desire not to live in 'rural areas' has prompted some of these judicial officers to abandon the official residence allocated to them. Such judicial officers therefore spend precious time in shuttling between their personal residence and their rural duty post. Surely, an arrangement whereby a judicial officer travels a distance of 200 kilometers daily can hardly ensure an efficient and maximum utilization of human resources. Some states experience shortages of judicial personnel. Consequently, some magistrates sit in more than a court daily. Invariably such Magistrates shuttle from one court to the other resulting in the frequent adjournments of most cases on the cause lists.

A criminal day in the Magistrate Court reveals that they attend to variety of issues. Firstly, they attend to 'overnight cases', during which arrangements are proffered in support of and in opposition to the granting of bail to arraigned suspects. Quite a reasonable percentage of the sitting period is used in attending to 'overnight cases'. Consequently, most cases apart from those which are partly-heard suffer adjournments. Closely linked with inadequacy of infrastructural facilities is the negative attitude of some judicial officers to their judicial responsibilities. Principally, as a result of poor conditions of service, the judiciary has not been able to attract the good materials among those legal practitioners in private legal practice. To those private legal practitioners, the salaries and allowances of judicial officers are inadequate to ensure decent standard of living. Such private practitioners therefore shun judicial appointments either at the Magistrate or High Court levels. Invariably, some lazy, incompetent and corrupt members of the profession get appointed to the bench. In some cases, some state counsels perceive judicial appointments as elevation within the civil service structure, little wonder that the attitudes of some judicial officers to their responsibilities leave much to be desired. In some courts, the Magistrate

¹³ Olatawura O (1993) 'Organization of Characters – Fixing cases and Adjournment' in *Induction Course lectures for Newly Appointed Judges and Kadis* (Lagos: MCJ Professional Publishers Ltd.) at Pp. 138-139.

would fail to commence court sitting until 11.00am; when sitting should have commenced at 9.00am. These same courts will rise by 1.00pm as against the official time of 3.00pm.

The organs of administration of criminal justice in Nigeria, notably the police, judiciary, prison, and other law enforcement agencies like the National Agency for Food, Drug, Administration and Control (NAFDAC) and National Drug Law Enforcement Agency (NDLEA), are replete with cases of inadequate infrastructural facilities and poor working conditions that impede the smooth administration of criminal justice. As regards the police, one serious challenge in many police formations is lack of money to provide the necessary equipment to enhance police effectiveness. It is a regular defense, by the police to attribute their ineptitude to this particular factor. This manifests itself in lack of vehicles, lack of firearms and other gadgets.¹⁴ As regards the judiciary, Justice Sotuminu, a former Chief Justice of Lagos State once lamented that inadequate funding for provision of infrastructure is a recurring factor that keeps Chief Judicial officers continually pleading for funds from the executive. He posited a rhetorical question thus: Can a judiciary grabbling with poor working environment dispense justice effectively and expeditiously? We make bold to answer: not better than a poorly equipped dentist would extricate a worrisome tooth an improvised implement, a pair of pliers. Poor funding is at the root of the decay in the judiciary's infrastructure and the slow pace at which the administration of justice grinds.

Adeloye painted the deployable picture more lucidly when he uttered that 'In State Judicial Divisions, any shelter goes for a High Court Local Government Council Halls, Old Community Assembly Halls'. The poor conditions of service of Judges are depicted in the fact that: judges are quartered in hired houses and where no suitable accommodation can be secured, they commute between the court and their residential quarters, usually in the state headquarters and at some distance of over one hundred kilometers. Transportation, whether for Judges or for departmental use is grouped under capital projects in the state budget.¹⁵ In most States in Nigeria, provision of infrastructure has remained a mirage especially for the lower courts. Even the High Courts cannot be said to have fared better. Instances abound where, stormy winds had blown off parts of the roof, of the High Court buildings in some parts of the country, even when such matters are reported, no repairs of such are carried out. The lower court, fare worst in this orgy of neglect as apparently some buildings built by the colonialists in about 1950s are still in use, with no renovations and construction of new ones. Make-shift compact rooms are still been used as offices today in some parts of Nigeria. Inadequate court facilities and modern working tools has become the lot of the Judiciary in Nigeria and Law Enforcement Agencies. In days of yore, it was understandable and tolerable to sit in a courtroom with very poor facilities. With the advancement made in science and technology, there is hardly any good reason for not making the courts more comfortable. The old and archaic equipment used in most courts have the effect of slowing down the work of the court. They contribute in no small way to the congestion of cases in court. They cause delay and incidentally delay leads to a denial of justice.¹⁶

Delay by Legal Practitioners

Legal practitioners also cause delay in the administration of criminal justice. One major cause of delay on their part is lack of industry. Though it is a fact that most counsel have professional expertise, the problem is that some counsels do not sufficiently involve themselves in pre-trial preparations, and so, can hardly keep up with the tempo in court. Some defense counsel, deliberately delay trials by requesting for adjournments, purposely to ensure the full payment of their professional fees, prior to the conclusion of the trial. Some defense counsels who are paid on the basis of the number of court appearances, consciously delay criminal trials with a view to beefing up their fees. Aside the delay, due to non-payment of professional fees, the structural organization of the legal profession further contributes towards the delay of criminal trials. Most law firms are basically, sole practice in outlook. Private legal practitioners with sole practices, personally handle most of their cases. They either refuse to employ junior counsel or where they employ such juniors, they fail to entrust these juniors with the cases. Such legal practitioners frequently experience conflict of dates in different courts.

Where the conflict in the cases arise within the same Magisterial or judicial division, such private legal practitioners subsequently ask for some of their cases to be stood down to enable them attend to other cases. Such requests are either granted or refused. It is significant that the practice of requesting for stand down or adjournment constitutes a major contributory factor in the delay of criminal trials. The practice thrives despite the appeal that if he (counsel) was unable for any good reason to attend court, his duty everybody knows was to see that some other members of the Bar held his brief and was in a position to represent the accused person. One objectionable aspect of the above view is that a Counsel, who has either not been paid at all or fully paid his professional fees, can hardly be expected to arrange with another Counsel to hold his brief. This is in view of the fact, that a Counsel

¹⁴Alubo et al (2008) (eds) *Contemporary Readings in Governance and Society: Essays in Honour of (SIR) Mike Mbama Okirio*, Ibadan: Constellation (Nig.) Publishers.) at p. 281.

¹⁵ Adeloye S.F (1994) 'State High Courts and Judicial Control of Funding' in All Nigeria Judges Conference (Lagos Anatraco Ltd) at p. 88.

¹⁶ Akanbi M.M. (1996) *The Many Obstacles to Justice According to Law*; In 1995 All Nigerian Judges Conference Papers (Lagos: Mij Professional Publishers Ltd.) at p. 51.

who is requested to hold a brief expects some forms of remuneration for his services. In *Ndu v. The State*¹⁷, the case was bedeviled with several adjournments and at the instance of defense Counsel, giving various reasons such as his fees not being paid, ill-health, 'trying to procure witnesses and having to travel out of jurisdiction, among other frivolous reasons. The accused then appealed on the ground that he was not granted fair hearing. True to type, Honourable Justice Obaseki did not hesitate to show his displeasure at the lackadaisical attitude of the defense counsel when he said in his judgment that the attitude of the defense Counsel from the time the prosecutor closed his case has been one showing an unwillingness to proceed with the defense. The frequency of applications for adjournment was sickening and unbecoming of Counsel instructed to conduct the defense of an accused person charged with murder. The learned Justice further stated that murder is a capital offence once a trial of an accused person has opened, any defense counsel in the proceedings is not only bound to appear but also bound to perform his duty to his client, the failure of his client or inability of client to pay his fees notwithstanding. Indeed, the attitude of the learned counsel is despicable and ought to be condemned in no Uncertain terms. Lawyers are ministers in the temple of justice and must discharge their duties with utmost sense of responsibility. It is appreciated that adjournments are needful sometimes to ensure adequate preparation of cases but this must not be abused or be allowed to cause unnecessary delay.

Delay caused by Supporting Staff of Courts

Supporting staff represent an important arm of courts and they play very important roles in the administration of criminal justice. They perform the basic work that cramps the work of the court. Delay could arise from the attitude to work on the part of the supporting staff. This could be as a result of sheer laziness and nonchalant attitude towards work. For instance, some cases may be omitted in the cause list. Case files are misplaced sometimes. It has been found over the years that the delay in filing and completing the cases fixed for hearing are traceable to the bailiffs and some members of the staff of the registry. Affidavits of service are often omitted or misplaced in the case file. Oral testimonies of witnesses are not interpreted properly. Thus, where the judge does not speak nor understand the local language of a witness, he takes a long time to ensure that he is not misled by any misinterpretation of the, court staff so as not to commit a miscarriage of justice. Some staff resumes work late and close from work earlier than the official time. These and other avoidable misdemeanors committed by the supporting staff also greatly hamper the smooth administration of criminal justice.

Delay caused by Prosecuting Counsel/Officer of the Director of Public Prosecution

In criminal justice process, it is the state that prosecutes on behalf of the complainant. Thus, whether a case would be disposed of timorously depends largely on the efforts of prosecuting counsel. Furthermore, under the Nigerian Criminal Justice System, an accused person is presumed innocent until proven guilty. Consequently, the burden of proving his guilt rests on the prosecutor and not the accused to prove his innocence. The police, after conclusion of investigation of a case, send the case file to the Director of Public Prosecution's office for advice. This is not usually because such case files sent are not usually treated with dispatch. When eventually the trial is commenced, the case may suffer incessant adjournments which prolong the case unduly, simply because sometimes, the Counsels are not ready with their evidence or that they lack required infrastructure or fund to prosecute the case.¹⁸ Thus, the need for more manpower and modern gadgets to enable them prosecutes their cases diligently in court without undue delay.

Investigation and Detection of Crime

Substantial delays occur at the stage of investigation of crimes. A section of the police known as the Criminal Investigation Department (C.I.D) is usually in charge of investigation and detection of all crimes in Nigeria. Where investigation has been properly conducted, it contributes in no small measure to effective administration of criminal justice. The judiciary, one of the organs in criminal justice administration, can hardly function without the co-operation of efficient police officers. But often times, proper investigation of cases is hampered by a number of factors like:

Paucity and Frequent Transfer of Officers

The Nigerian Police is a federal set up. This invariably means that all officers in the force are subject to transfer to any part of the federation at any time. Most times, especially in rural and semi urban areas, police officers serving in police station, or divisions are very few, and are transferred without any regard to the assignments which they have at hand. Invariably, they might be at different stages of investigations. If they had gone far with investigations the cases might be handed over to another officer, but if the investigations are already completed, this would mean that the officer would have to return to the particular court at his former serving post to which the case was charged for trial, to testify whenever he was required to do so. However, most of the time, it turns out that the prosecuting police officer would inform the court that he had sent Hearing Notice to the Investigation Police Officer (I.P.O) but was yet to get any reply, while at some other time, the IPO himself might send a reply

¹⁷ *Ndu v. The State* (1990) 7 NWLR (pt. 164) 5

¹⁸ Craig E.B. (1988) 'Administration of Criminal Justice: Dismissal of Criminal cases in the lower courts', being paper delivered at All Nigeria Judges Conference 4th to 11th September 1988 Abuja FCT at p. 11

to such hearing notice to the effect either that he was already billed to appear before another court of co-ordinate or higher jurisdiction or that he would not be available to give evidence because of other urgent matters assigned to him in his new station. These excuses whether genuine or not have always caused challenge in the trial.

Sponsorship of Investigations

Police officers have always complained that expenses incurred during investigations such as traveling and night allowances are not refunded to them. Consequently, police officers invariably fall back on informants to sponsor the conduct of investigations and assembling of witnesses for the hearing of criminal cases. Thus, where informants are not able to meet their demands, police officers are not always keen on traveling far out of their stations to investigate any new facts or to cross check the old ones or to remind witnesses to appear in court on the day of hearing. The result is that many cases get adjourned from time to time to enable the police carry out further investigations or to assemble witnesses resulting in undue delay.

Deficient Prosecution of Criminal Cases in Court and Delay in giving Legal Advice

Delays are often caused in court because most police prosecutors have no basic legal training for prosecuting even simple offences. Sometimes they call a number of irrelevant witnesses and leave out the important ones. In most cases, they are advised to consult the Director of Police Prosecutors (DPP) for assistance. Where a case that has been charged to court involves serious offences that require the advice of the Director of Public Prosecutor (DPP) such as murder or rape, the relevant case file is usually duplicated and sent to the DPP, so that the police would be in a position to answer queries from the DPP, not necessarily queries on misconduct; but usually pertains to police giving clarification on certain ambiguous or insufficient aspects of investigations. Very often, prosecutors have complained that the police have not been able to ask for the DPP's advice because of lack of funds to duplicate the case files. Amongst the rank and file and officers of the police force, the decision of the Supreme Court in *FRN v Osahon*¹⁹ must have come as a relief as lawyers in the police force can now prosecute criminal cases even in the High Courts. As laudable as the decision may be, it is not in doubt that the incessant delays ordinarily experienced at the lower courts may likely extend to the High Courts because of the command structure of the force as is today in Nigeria. It is not uncommon for prosecuting police officer to ask for adjournment of cases, on the pretext that they had sought for the advice of the DPP and were awaiting his reply. The snag is that there is no means of ascertaining the truth or otherwise of such statements and invariably, the judge would have no choice but to adjourn the case. In some cases, it has been discovered that the DPP would have advised the police to discontinue prosecution against the accused person. But for some inexplicable reasons, the prosecuting officers would withhold the information from the court, with the result that such cases would continue to feature on the cause list thus, adding to already existing problem of decongestion. There is equally the problem of assembling witnesses. Ordinarily, there are two categories of witnesses to wit: Special witnesses and ordinary witnesses, Special witnesses include doctors, handwriting experts and forensic experts. Whilst ordinary witnesses are witnesses other than the special ones for instance, eyewitnesses of the subject matter of the charge or witnesses, such as bank clerks who are merely called to tender documents. There are often several cases in which some special witnesses are called upon to testify as experts. Some of these witnesses often pose problems to the courts. In the case of doctors, for instance, some medical officers who perform autopsies on deceased persons or who are in charge of psychiatric patients might have left the state at the time they were required to give evidence. Others might have resigned their appointments, or left the state for greener pastures elsewhere. Similarly, in the case of forensic experts, there is only one forensic laboratory in Nigeria.²⁰ It is situated at Oshodi in Lagos city, and it caters for the needs of all Government Departments and Securities Agencies. This means that a request from the police would have to take its turn. Prosecutors have often, used this excuse to ask for adjournment on many occasions. On the part of ordinary witnesses, when they might had been to court on some occasions probably three four or five times without being attended to, they lose interest in the case especially where they had to come to court from a distant place at their own expenses. It is a known fact that the police are no longer given special grant to enable them pay or offset the transport expenses of witnesses. Thus, in many cases in which the informants are unable to pay for the transport expenses of would-be witnesses, and the witnesses themselves are either unable, or refuse to bear the transport expenses for their attendance to court, such cases remain in court for a long time until they are eventually struck out for want of diligent prosecution. Most offices of the Director of Public Prosecution (DPP) in the states of Nigeria are understaffed with legal officers such that the few legal officers available are assigned so many cases to give legal advice on, that it turns out to adversely affect the desired speed with which they ought to give legal advice in normal situations and while the ensuring challenge persists, it is the accused persons, who are most of the time remanded, in prison custody awaiting legal advice in this cases that suffer the worst blunt.

Challenge Arising from Prison Authorities

Prison authorities also contribute to the problem of delay in the administration of criminal justice. This often arises in the area of pre-trial detention. In certain cases, accused persons are remanded in prison awaiting trial. There

¹⁹ *FRN v. Osahon* (2006) ALL FWLR (pt.312) at 1983

²⁰ Ola C.S. (2001) *Nigerian Criminal Law* (Lagos: CSS Ltd) at p. 208.

seems to be constant deviancy and criminality in the society as such the number of pre-trial detainees has become very large. Many suspects remain in prison custody awaiting their trial. Most intriguing is the fact that armed robbery and culpable homicide cases top the list. The general excuse for their remand is that investigation into their cases is yet to be completed. Some of the accused persons have been in prison custody for more than five years without trial. It is common to find trials being held up for days, weeks and even months because of the unavailability of accused persons in court to stand their trial. A number of reasons are responsible for this situation. First, is the lack of communication gap between the prison authorities, and prosecutors. Such a situation may occur when prosecutors do not give proper notice to prison authorities of the date of trial. Second, is the unavailability of vehicles to convey the accused persons to court. Third is, the poor medical facilities available to pre-trial detainees which result in their constant breaking down in health while awaiting trial. The result is that on the day of trial, an accused person is reported ill. Fourth, is the reluctance to work on the part of prison and police personnel to provide accused persons in court to face trial. This means that trials are delayed or protracted. This leaves the Magistrate or Judge with no option than the issuing of the usual bench instructions or orders which may not even be heeded to. Bearing in mind, the adjectival system of trial under the Nigerian Legal System, the trial court cannot proceed in the absence of the accused, the judicial process is slowed down and most of the time, to the detriment of the accused. There have also been reported cases of prison officials colluding with awaiting trial inmates to escape from custody either while they are in transit *enroute* to the court of trial, or by leaving prison doors loosely open or improperly guarded and feigning jail break among the detainees to enable them escape. This usually frustrates the entire trial and prematurely throws the accused persons back into the society to commit more havoc.

3. Conclusion and Recommendations

Criminal justice administration is akin to judicial activism that anchors on quick dispensation. It is incumbent on the Criminal Justice Committee of each state of the federation to liaise with their Attorney-General and work out a mechanism that will ensure that challenges in the dispensation of criminal justice is eradicated or reduced to its barest minimum. Importantly, human liberty is priceless. In the words of Justice Anthony Aniagolu, the police and judiciary need only to be cleaned up and the other arms of government will automatically follow suit. Once the police can be trusted to apprehend criminals and the courts entrusted to give them immediate trials and punishment, every member of society would soon wake-up and law and order established. Many academic inks have recommended solutions to the challenges of administration of justice in Nigeria. But the desired result can be achieved if we stop recommending and start acting. The following action is recommended, to wit:

To tackled the challenge of corruption in the administration of justice, corruption must first be tackled effectively in the society at large. Any effort to eradicate corruption in the administration justice without first rooting it out of the Society at large will always end in futility. This is because those who make up or will continue to make up the justice sector system will always be a product of the larger society. Much of the efforts in tackling judicial suppression and intimidation, lies mostly with the Judiciary. When Judges take held of opportunities available to them to frown at executive intimidation and suppression, they will drive home the point that the independence of Judiciary is sacrosanct.²¹ The Nigerian Bar. Association is not, however, left out. The efforts made so far by the Nigerian Bar. Association in standing with Judiciary is commendable. Laws must advance with the movement of the society to reflect current trends. Gigantic momentous changes are taking place around the globe; Nigeria must not be an exception. The Nigeria Government should realize the need of strengthening the criminal justice sector to meet the challenges of the 21st century. Laws at its substantive and procedural level, depends on its efficiency and effectiveness on the mandate of the lawmakers and the procedure of the law making and its relevance and acceptability of the people.

²¹ Ibid n 8