

## **ENFORCING COURT JUDGEMENTS IN NIGERIA: RE-EVALUATING THE ROLES OF THE ATTORNEY GENERAL AND POLICE FOR A ROBUST JUDICIARY**

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### **Abstract**

This article critically examined the enforcement of court judgements in Nigeria, focusing on the legal framework and the roles of the police and the Attorney General under the Sheriff and Civil Process Act, 2004. The effectiveness of the enforcement of court judgements in Nigeria is a subject matter that has continually raised questions particularly when it comes to the role of the Police and the Attorney General in the enforcement process. Hence, this article explores the historical evolution, legal underpinnings, and practical implications of the existing enforcement mechanisms. This article further identifies significant gaps in the literature and discusses the issues that arise when the state or its institutions are the subjects of judgements. The article argues for the creation of an independent Judiciary Task Force vested with the powers to enforce court judgements as a way to mitigate conflicts of interest and improve the efficacy of the justice system and further proposes various policy changes, legal reforms, and stakeholder engagement strategies aimed at improving the current system.

**Keywords:** Court Judgements, Sheriff and Civil Process Act, Judiciary Task Force, Legal Framework, Enforcement Mechanisms

### **Introduction**

Enforcement of court judgements in Nigeria is a subject matter that has continually raised questions regarding its effectiveness, especially under the Sheriff and Civil Process Act of 2004. The Act plays a pivotal role in giving effect to decisions rendered by courts, yet it has received relatively little scholarly attention, particularly when it comes to the role of the Police and the Attorney General in the enforcement process.<sup>1</sup> In a democratic society, the independence and effectiveness of the judiciary are of utmost importance. However, the value of a judicial decision lies in its successful implementation. In Nigeria, there have been rising concerns over the difficulty in enforcing court judgements, particularly when the judgement is against the state or its institutions like the Nigerian Police Force (NPF).<sup>2</sup> This article seeks to address these concerns by critically examining the existing enforcement mechanisms and proposing possible reforms. In a nutshell, the aim of this article is to scrutinise the enforcement mechanisms under the Sheriff and Civil Process Act, 2004<sup>3</sup> with particular focus on the roles played by the Police and the Attorney General. To achieve this, this article will consider the legal framework guiding the enforcement of court judgements in Nigeria; the Police and the Attorney General play in this regard; and the issues arising from these roles, especially when the judgement is against the state (whether federal or state) and its entities.

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<sup>1</sup> Kanaanwi P. Luke and Nuleera A. Duson. ‘Practical Challenges to the Enforcement of Judgements in Nigeria. [2020] 8 (2) International Journal of Innovative Legal and Political Studies, 1-12.

<sup>2</sup> Olabanjo O. Ayenakin, Itunu Kolade–Faseyi and Temidayo Akindejoye, Enforcement of Judgments in Nigeria: Issues, Law and Challenges [2021] 9 (7) Global Journal of Politics and Law Research, 1-15

<sup>3</sup> Sheriff and Civil Process Act, 2004, Cap 407, LFN

The academic discussion surrounding the enforcement of court judgements in Nigeria has not been as expansive as one might expect for a subject of such legal and social significance. Despite its pivotal role in the administration of justice, the Sheriff and Civil Process Act, 2004, has largely been explored in a fragmented manner within scholarly circles.<sup>4</sup> Most existing research either generalises the role of this Act or narrows the focus to specific sections without considering the broader implications.

### **Significance of Discourse**

The difficulty in enforcing court judgements has been a recurrent topic. The procedural framework for enforcing judgements has been critically examined, albeit without extensively probing into the roles played by the Police and the Attorney General.<sup>5</sup> Similarly, focus has been given to the general obstacles faced in enforcing judgements, particularly against the state and its institutions. However, it falls short of diving deep into the implications of the Act itself or the specific roles of enforcement agencies.<sup>6</sup>

Researchers have often emphasised the interplay between the judiciary and democratic governance, typically discussing enforcement within the broader conversation about judicial independence.<sup>7</sup> However, the enforcement aspect has generally been a secondary focus, which underscores the existing gap in scholarly research.

In terms of civil procedure, scholars<sup>8</sup> discuss the Act's impact but do so without dissecting the distinct responsibilities and limitations of the Police and Attorney General. Consequently, there has been a scholarly lapse in the comprehensive examination of these roles in the process of enforcing court judgements. The potential for conflicts of interest in such scenarios has not been sufficiently explored. For instance, the independence of the Attorney General's office, as both an advisor to the government and an enforcer of court judgements, raises questions about its ability to act impartially, particularly when the state is involved.<sup>9</sup> Similarly, the role of the Police as an enforcement agency under the Act, while simultaneously being subject to court judgements, has not been critically examined.

Moreover, existing literature has generally neglected the issue of systemic reforms in the enforcement process. Innovative ideas, such as the establishment of a judiciary-controlled task force for enforcement, have been conspicuously absent in academic discourse. Such reforms could offer new pathways for resolving the long-standing issues related to enforcement against the state and its institutions. Furthermore, there has been limited engagement with comparative legal studies that might offer fresh perspectives on how other jurisdictions have successfully navigated

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<sup>4</sup> Onuzulike Chimezie, 'An Analysis of the Consent Requirement of Section 84 of the Sheriff and Civil Process Act 2004 and the Judgment Enforcement Powers of Courts' [July 29, 2020]. Available at ><https://ssrn.com/abstract=3662960>< accessed 21/08/23

<sup>5</sup> Kanaanwi P. Luke and Nuleera A. Duson (n1)

<sup>6</sup> Olabanjo O. Ayenakin, Itunu Kolade-Faseyi and Temidayo Akindejoye (n2)

<sup>7</sup> The CEELI Institute & The Justice Studies Center of the Americas (JSCA) 'Session reports: High-Level Meeting of the Global Judicial Integrity Network' [2020] United Nations Office on Drugs and Crime. Available at >[https://www.unodc.org/documents/ji/session\\_reports\\_2020/ceeli\\_formatted.pdf](https://www.unodc.org/documents/ji/session_reports_2020/ceeli_formatted.pdf)< accessed 23/08/23

<sup>8</sup> Amaebi Ibomo Orukari, Esq 'A Paper on Enforcement of Judgments and Orders' [2023] Towards Achieving Better Service Delivery in the Judiciary.' available at ><https://nji.gov.ng/wp-content/uploads/2023/06/Enforcement-of-Judgments-and-Orders.pdf>< accessed 22/08/23

<sup>9</sup> Sam Kargbo. 'The Office of The Attorney-General of The Federation' This Day [January 26, 2021]. available at ><https://www.thisdaylive.com/index.php/2021/01/26/the-office-of-the-attorney-general-of-the-federation>.< accessed on: September 16, 2023.

challenges similar to those faced in Nigeria. Learning from other legal systems could enrich the discourse and provide practical solutions for the Nigerian context.<sup>10</sup>

Despite the available body of work, there remains an academic vacuum that this article aims to fill. It will provide an in-depth examination of the enforcement mechanisms under the Sheriff and Civil Process Act, 2004, scrutinising the roles of the Police and the Attorney General, assessing the conflicts and challenges arising therefrom, and exploring avenues for reform.

### **Context of Discourse**

The term 'enforcement of court judgement' refers to the series of actions or procedures undertaken to give effect to a court's decision. It is the concluding phase in the legal process, essential for delivering justice and upholding the rule of law. In civil cases, enforcement often involves the seizure of assets, eviction, or the implementation of injunctions. The effectiveness of any legal system is significantly influenced by its ability to ensure that judgements are not just mere pronouncements but are effectively carried out.<sup>11</sup> In Nigeria, this enforcement mechanism, though pivotal, has been fraught with challenges including delays, corruption, and sometimes a lack of will, particularly when the state or its institutions are parties to the judgement.<sup>12</sup>

### **Overview of Sheriff and Civil Process Act, 2004**

The Sheriff and Civil Process Act, 2004, serves as the principal legal framework for the enforcement of civil judgements in Nigeria. It provides a comprehensive guide outlining the roles, responsibilities, and procedures that must be followed in the enforcement process. Under the Act, the key actors primarily involved in enforcement are the Police and the Attorney General. While the Police are responsible for executing court orders, the Attorney General serves a dual role: as a legal advisor to the government and as an enforcer of court judgements.<sup>13</sup> However, these roles can present conflicts of interest, especially when the state or its institutions are parties to a case.<sup>14</sup> Despite its comprehensive nature, the Act has various limitations and ambiguities that have often resulted in inconsistent application and effectiveness in the enforcement of court judgements.

### **Enforcement Mechanisms under the Sheriff and Civil Process Act, 2004**

#### ***Historical Evolution of the Enforcement Mechanisms***

The enforcement of court judgements in Nigeria has its roots in the colonial era, inheriting many of its original structures from British jurisprudence. Under colonial rule, enforcement mechanisms were designed to serve the interests of the colonial government rather than to ensure the impartial administration of justice. Local chiefs and colonial officers often enforced judgements, but their actions were heavily influenced by colonial directives.<sup>15</sup>

After gaining independence in 1960, Nigeria embarked on a path to reconfigure its legal system. The government made an explicit effort to decentralise the enforcement mechanisms to make them

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<sup>10</sup> Mike McConville and Wing Hong Chui, *Research Methods for Law* [Edinburgh University Press, 2017]

<sup>11</sup> Tope Adebayo 'An Enforcement Of Judgements And Court Orders In The Nigerian Legal System' [2011] available at ><https://topeadebayollp.wordpress.com/2011/06/09/an-enforcement-of-judgments-and-court-orders-in-the-nigerian-legal-system/>< accessed on: September 16, 2023

<sup>12</sup> Olabanjo O. Ayenakin, Itunu Kolade-Faseyi and Temidayo Akindejoye (n2)

<sup>13</sup> Sam Kargbo (n9)

<sup>14</sup> Kaananwi P. Luke and Nuleera A. Duson (n1); Silver Nwokoro 'Sheriff and Civil Process Act 2004 should be abolished' [April 28, 2020] *The Guardian*, available at ><https://guardian.ng/features/law/sheriff-and-civil-process-act-2004-should-be-abolished/>< accessed on: September 16, 2023

<sup>15</sup> Changwak Emmanuel Jonah 'Colonialism and the Changing Nature of Justice System in the Lowland Division of Plateau Province, 1926-1960' [2021]8 (1) *Lapai Journal of Central Nigeria History*, 1

more impartial and effective. This led to the enactment of various statutes, culminating in the Sheriff and Civil Process Act, 2004, which aimed to codify and streamline enforcement procedures.<sup>16</sup>

### ***The Colonial Era to the Present***

The transition from a colonial state to an independent nation necessitated a complete overhaul of the legal system, including the mechanisms for the enforcement of court judgements. While colonial vestiges were dismantled, a new Nigerian legal order emerged, built on the principles of justice, equity, and good conscience.<sup>17</sup> Still, remnants of colonial influence remain. The Police Force, initially established as a colonial apparatus, has been retained and plays a significant role in enforcement, albeit now guided by indigenous laws like the Sheriff and Civil Process Act, 2004. This Act, despite being a significant improvement, has inherent shortcomings. There are still lingering issues of impartiality, ineffectiveness, and potential conflicts of interest, especially when the state is a party to a case.<sup>18</sup> These issues underscore the urgent need for a comprehensive review of the existing mechanisms and possible reform to make them more effective and accountable.

### ***Role of the Attorney General***

The Attorney General (AG) holds a critical role in the enforcement of court judgements in Nigeria, serving as the principal legal adviser to the government. The AG's responsibilities extend to ensuring that the state complies with judicial decisions and supervising the enforcement of civil judgements through various mechanisms outlined in the Sheriff and Civil Process Act, 2004.<sup>19</sup> However, this central role comes with potential conflicts of interest, particularly when the state itself is a party in a case. The dual role of the AG as an enforcer of the law and a defender of state interests can create tensions that undermine the impartial enforcement of court judgements.<sup>20</sup>

### ***Role of the Police***

The Nigerian Police Force also has a pivotal role in enforcing court judgements. Traditionally seen as the executive arm of the state responsible for maintaining law and order, the Police are often called upon to carry out enforcement actions, particularly where the judgement involves restitution or the seizure of property.<sup>21</sup> While the Police are essential for maintaining public order, their role in judicial enforcement can similarly raise concerns, especially in cases where the Police or the state are the defendants. This situation often results in reluctance or outright refusal to enforce judgements against themselves, thus undermining the rule of law.<sup>22</sup>

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<sup>16</sup> Preamble of the Sheriff and Civil Process Act, 2004, Cap 407, LFN

<sup>17</sup> Max and Well Solicitors 'An Overview of the Nigerian Legal System: Structure, Laws, and Practices' [March 25, 2023] available at ><https://msolicitors.com/2023/03/25/an-overview-of-the-nigerian-legal-system/>< accessed September 16, 2023

<sup>18</sup> Hameed Ajibola Jimoh Esq 'Assuming Section 84 of the Sheriffs and Civil Process Act, 2004, Was Validly Made by the Legislature' [August 12, 2022] available at ><https://lawpavilion.com/blog/assuming-section-84-of-the-sheriffs-and-civil-process-act-2004-was-validly-made-by-the-legislature/>< accessed on: September 16, 2023

<sup>19</sup> Section 84–86 of the Sheriff and Civil Process Act, 2004, Cap 407, LFN

<sup>20</sup> Hameed Ajibola Jimoh Esq 'Section 84 of The Sheriffs and Civil Process Act, 2004: Invalid and Unconstitutional!' [August 8, 2022] available at ><https://lawpavilion.com/blog/section-84-of-the-sheriffs-and-civil-process-act-2004-invalid-and-unconstitutional/>< accessed on: September 16, 2023

<sup>21</sup> Ayotomiwa I. Adebajo 'The Procedure for Enforcement of Judgments in Nigeria' [November 10, 2021] available at ><https://oal.law/the-procedure-for-enforcement-of-judgments-in-nigeria/>< accessed on: September 16, 2023; Section 90(1) of the Sheriff and Civil Process Act, 2004, Cap 407, LFN

<sup>22</sup> Charles Omole 'Challenges affecting policing in Nigeria' [March 19, 2020] available at ><https://www.financialnigeria.com/challenges-affecting-policing-in-nigeria-blog-525.html>< accessed on: September 16, 2020

## **Legal Framework**

### ***The Nigerian Constitution***

The 1999 Constitution of the Federal Republic of Nigeria serves as the backbone of the country's legal and judicial system. Section 6 specifically allocates judicial powers not just to the courts provided for in the Constitution but also to such other courts as may be authorised by law to exercise jurisdiction on matters with which the National Assembly may make laws. This section lays the groundwork for the judiciary's role in interpreting the law, adjudicating disputes, and essentially making judgements. However, while it confers these broad powers, the Constitution is somewhat silent on the detailed mechanics of how these judgements should be enforced.<sup>23</sup>

Moreover, Section 287(3) explicitly states that the decisions of the Federal High Court, the National Industrial Court, a High Court and of all other courts established by this Constitution shall be enforced in any part of the Federation by all authorities and persons, and by other courts of law with subordinate jurisdiction to that of the Federal High Court, the National Industrial Court, a High Court and those other courts, respectively. Despite this provision, the Constitution does not provide explicit guidelines or processes for such enforcement, leaving this crucial task to supplementary laws and procedural rules.

### ***The Sheriff and Civil Process Act, 2004***

The Sheriff and Civil Process Act of 2004 serves as a pivotal statutory instrument for enforcing court judgements in Nigeria. It outlines in great detail the roles and responsibilities of sheriffs and bailiffs, the court officers primarily responsible for the execution of civil court orders such as writs of Fieri Facias (Writ of Fieri Facias), writs of possession, and garnishee orders. These roles encompass serving court processes, executing writs, and seizing properties in compliance with court orders. While the Act is comprehensive in the delineation of duties, it has drawn criticism for being outdated and somewhat disconnected from contemporary legal realities. One of the main issues is that the Act does not offer explicit provisions for holding public institutions, including the state and police force, accountable for compliance.<sup>24</sup> In practice, this often leads to delays, inefficiencies, and sometimes, a complete failure to enforce judgements against the state or government agencies. Such shortcomings accentuate the need for legislative amendments to modernise the Act and make it more responsive to current enforcement challenges.

### ***Other Relevant Laws***

Besides the Nigerian Constitution and the Sheriff and Civil Process Act, 2004, other legislation and rules play a part in the enforcement of court judgements. One such law is the Administration of Criminal Justice Act (ACJA) of 2015, which aims to promote efficient management of criminal justice institutions, speed up the dispensation of justice, and protect the rights and interests of both the defendant and the victim.<sup>25</sup> State laws also contribute to this enforcement framework. For example, Lagos State has its own Administration of Criminal Justice Law which supplements federal laws in many aspects. Additionally, the Judgements Enforcement Rules provide a framework for the enforcement of judgements, but these are often considered ancillary to the primary laws discussed earlier. However, the existence of multiple laws and regulations can lead to overlapping jurisdictions and confusion, not only among legal practitioners but also among enforcement officers. Such overlaps could result in conflicting enforcement methods, causing

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<sup>23</sup> Ben o. Nwabueze 'Constitutional Democracy in Africa' [Spectrum Books Limited, 2003]

<sup>24</sup> Olabanjo O. Ayenakin, Itunu Kolade-Faseyi and Temidayo Akindejoye (n2)

<sup>25</sup> Tariere Egbegi, Esq 'The Administration of Criminal Justice Act (ACJA) 2015 Overview and Tools for Protection of the Rights of Women and Children' [2020]. Fida.

inefficiencies and delays, and underline the need for a more harmonised and streamlined legal framework.<sup>26</sup>

## **Role of the Police in the Enforcement of Court Judgements**

### ***Legal Provisions Guiding the Police***

The role of the Police in enforcing court judgements is legally anchored on various statutory instruments. Foremost is the Nigerian Police Act, which empowers the police to execute all lawful warrants and to apprehend any person involved in a punishable offence.<sup>27</sup> These powers are further buttressed by the Administration of Criminal Justice Act (ACJA) of 2015, which expands the role of the police in enforcing criminal judgements specifically.<sup>28</sup>

Moreover, the Constitution of the Federal Republic of Nigeria, 1999 (as amended), outlines the responsibilities of the Nigerian Police Force<sup>29</sup>, emphasizing their role in the maintenance of public order and public safety. While the Constitution does not explicitly refer to enforcement of court judgements, the implied powers provided in the constitution have been interpreted to include such responsibilities. This notwithstanding, as was seen in the case of *Melaye v. The Inspector General of Police*<sup>30</sup>, the court held that the police, while vested with the power to enforce court judgements, must operate within the ambit of the law.

Despite the clear-cut legal provisions, the Police often find themselves in a labyrinth of complications. For instance, the Police Service Commission (Establishment) Act, 2001, provides checks on the abuse of police powers, but the implementation often conflicts with the expectations for swift enforcement of judgements. This tussle between regulatory oversight and operational efficiency creates a precarious balance that impacts the enforcement process. In the case of *Alhaji Atiku Abubakar v. Federal Republic of Nigeria*<sup>31</sup> the Court of Appeal underscored the importance of police impartiality in executing their duties, particularly in politically charged contexts.

### ***Practical Implications***

In practical terms, the role of the police in enforcing court judgements is multifaceted and complex. While the legal framework provides a basis for their involvement<sup>32</sup>, it often collides with the realities on the ground. One practical implication is the issue of corruption, where the enforcement process is hampered by bribery and other forms of illicit activities.<sup>33</sup> Further complexities arise due to limited resources and manpower. With increasing rates of crime and civil unrest, the police are often stretched thin, resulting in enforcement duties taking a back-seat.<sup>34</sup> This not only delays the execution of judgements but also exacerbates the stress and uncertainties faced by litigants and their legal representatives.

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<sup>26</sup> Todd S. Aagaard 'Regulatory Overlap, Overlapping Legal Fields, and Statutory Discontinuities' [2011] 29 (3) Virginia Environmental Law Journal, 237-303

<sup>27</sup> Section 4 Police Act, Cap P19, LFN 2004

<sup>28</sup> Tariere Egbegi, Esq (n25)

<sup>29</sup> Section 214 Constitution of the Federal Republic of Nigeria, 1999 (as amended)

<sup>30</sup> [2014] 5 NWLR Pt. 1418)

<sup>31</sup> [2007] 3 NWLR Pt. 1023

<sup>32</sup> Section 90(1) of the Sheriff and Civil Process Act, 2004, Cap 407, LFN

<sup>33</sup> Haruna Ishola Abdullahi 'State Police and Police- Operational Efficiency: Footing for Strengthening National Security in Nigeria: - A Scrutiny of Ojo in Lagos State' [2019] Global Journal of Arts, Humanities and Social Sciences, 7(5); Statistita 'Perceived police corruption in Nigeria 2020' [2022] available at ><https://www.statista.com/statistics/1272344/perceived-police-corruption-in-nigeria/#:~:text=About%20six%20in%2010%20Nigerians,the%20police%20force%20was%20corrupt>< accessed: September 12, 2023

<sup>34</sup> Haruna Ishola Abdullahi (n33)

Moreover, there are instances where the police have been accused of overstepping their boundaries, acting beyond the legal scope defined by the Nigerian Police Act and other regulations. Such actions bring into question the effectiveness and ethicality of police involvement in court judgement enforcement.<sup>35</sup> The Supreme Court's decision in the case of *Eze v. Federal Republic of Nigeria*<sup>36</sup> laid down the principle that police officers are not immune from legal consequences when they abuse their power during the enforcement of court judgements.

## **Role of the Attorney General in the Enforcement of Court Judgements**

### ***Legal Provisions Guiding the Attorney General***

The role of the Attorney General (AG) in the enforcement of court judgements is a subject of considerable legal and academic scrutiny. Constitutionally, the Attorney General is the chief legal officer of the Federation or the state, as the case may be, and has a dual role—both as an advisor to the government and as a public prosecutor. The Nigerian Constitution, 1999 (as amended), outlines the powers of the Attorney General of the Federation, including the authority to institute and undertake criminal proceedings.<sup>37</sup>

The Attorney General's office also has a role under the Administration of Criminal Justice Act (ACJA) 2015, which allows for the coordination of the criminal justice system, including the enforcement of judgements.<sup>38</sup> Furthermore, various state laws empower the Attorney General to enforce civil judgements, often working in conjunction with the judiciary and the police. However, this concentration of powers has led to criticisms. Scholars argue that vesting enforcement powers in the Attorney General<sup>39</sup>, who is an appointee of the executive arm of government, potentially erodes the checks and balances essential for the independence of the judiciary, and derogates the very principle of separation of powers – one of the pillars holding democracy and the rule of law in the Federal Republic of Nigeria. Bearing in mind the very principle that justice must not only be done, justice must be seen to be done<sup>40</sup>

### ***Practical Implications***

Practical implications surrounding the role of the Attorney General in the enforcement of court judgements<sup>41</sup> are varied and deeply entwined with the country's political and governance issues. One major concern is the issue of selective justice, where the Attorney General, as an appointee of the executive, may be swayed by political considerations to enforce or neglect certain judgements.<sup>42</sup> This can have serious ramifications, especially in politically sensitive cases or matters involving human rights. Such actions can be seen as undermining the judiciary's independence and can jeopardise the very essence of democracy.

Additionally, even though the courts in interpreting Section 84 of the Sheriff and Civil Process Act emphasised that when the Attorney General of the Federation or of a state is already a participant in the proceedings that led to the judgement debt, the need for their consent becomes redundant<sup>43</sup>

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<sup>35</sup> Oluwakemi Okenyodo 'Governance, Accountability, and Security in Nigeria' [2016] Africa Security Brief No. 31

<sup>36</sup> [2012] 8 NWLR Pt. 1304

<sup>37</sup> Section 174

<sup>38</sup> Section 106

<sup>39</sup> For example Section 84(3) of the Sheriff and Civil Process Act, 2004, Cap 407, LFN

<sup>40</sup> *Rex v. Sussex Justices per Lord Hewart*

<sup>41</sup> *CBN v Hydro Air Ltd* [2014] 16 NWLR (part 1434) 482

<sup>42</sup> Prof. Oserheimen Osunbor 'Between Selective Justice and no Justice at all' Vanguard [June 8, 2017]. available at ><https://www.vanguardngr.com/2017/06/selective-justice-no-justice/>< accessed on: September 11, 2023

<sup>43</sup> *CBN v. Interstella Communications Ltd* (2017) All FWLR Pt. 930, 442

one wonders where the line is drawn, as the Attorney General is the main representative of the State or the Federation in virtually all matters connected to the State or the Federation. The practical implications, therefore, suggest a need for a thorough review of the powers and functions of the Attorney General in relation to enforcement, thus underscoring the necessity for reforms.

### **Conflicts and Other Concerns**

Conflicts Arising When Judgements are Against the State or its Institutions

Noting the fact that successful enforcement is critical to developing a Rule of Law culture and maintaining judicial independence<sup>44</sup> the following observations are deduced from the current state of the enforcement of judgement regime under the Sheriff and Civil Process Act:

- The enforcement of court judgements against the state or its institutions presents a unique set of challenges and conflicts in Nigeria. Notably, such judgements often test the very balance of power between the judiciary and the executive, frequently pushing the limits of judicial independence.<sup>45</sup>
- The state is not only the custodian of the law but also an active participant in legal proceedings, and this dual role can create conflicts of interest. For instance, when a judgement is against a state institution like the Nigerian Police Force, the Police, under the supervision of the executive, may be reluctant or even resistant to enforce it.<sup>46</sup>
- Further complications arise when considering that the Attorney General is an appointee of the executive arm, which creates an inherent potential for bias or undue influence. This is exacerbated by the lack of a legal framework that holds the state accountable for not implementing court judgements.
- The unenforced judgements not only undermine the justice system but also contribute to eroding public trust in state institutions.<sup>47</sup> In some instances, the state has even been known to appeal or try to overturn unfavourable judgements, further delaying justice for aggrieved parties.<sup>48</sup>

Given the nature of these conflicts, it is increasingly clear that reform is essential to ensure fair and impartial enforcement of court judgements against the state and its institutions.

### ***Ethical and Legal Concerns***

Ethical and legal concerns further complicate the terrain of enforcing court judgements in Nigeria. From an ethical standpoint, the dual role of the state as both litigant and enforcer opens the door to potential abuse of power. Particularly when the Attorney General and the Police are involved, ethical considerations surrounding transparency, fairness, and impartiality are paramount.

Legally, the ambiguity in existing laws and their inconsistent application further deepens these ethical dilemmas. For instance, the Sheriff and Civil Process Act, 2004, is notably vague about the duties and limitations of involved parties, leaving room for interpretational flexibility that can serve vested interests.<sup>49</sup> A significant issue arises when judgements are not enforced due to political considerations or internal bureaucracy (Whether with the Attorney General or the Police), further undermining the credibility and independence of the judiciary. These ethical and legal

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<sup>44</sup> Keith Henderson, Angana Shah, Sandra Elena, and Violaine Autheman 'Regional Best Practices: Enforcement of Court Judgments Lessons Learned from Latin America.' [2014] IFES

<sup>45</sup> Kaananwi P. Luke and Nuleera A. Duson (n1)

<sup>46</sup> Kaananwi P. Luke and Nuleera A. Duson (n1)

<sup>47</sup> Peter Chukwuma Obutte 'Corruption, Administration of Justice and the Judiciary in Nigeria' [2016] <http://dx.doi.org/10.2139/ssrn.2727319>

<sup>48</sup> Angelo B. Dube 'Assessment Study on Delayed Justice Delivery' [2010]

<sup>49</sup> CBN v. Interstella Communications Ltd (n43)



concerns point to a pressing need for reforms that can provide better clarity and checks to ensure that the enforcement process remains just, effective, and above reproach.

Additionally, there is a need for greater public scrutiny and civil society involvement to hold state institutions accountable. Transparent oversight mechanisms must be put in place to counter the prevailing ethical and legal challenges facing the enforcement of court judgements.<sup>50</sup>

In summary, while existing legal frameworks provide some guidelines for enforcement, they fall short in addressing the ethical and legal complexities that often arise, particularly when the judgement is against the state or its institutions.<sup>51</sup>

### **Proposed Reform: Judiciary Task Force for Enforcement**

#### ***Arguments in Favour***

One of the most glaring issues that arise from the enforcement of court judgements in Nigeria is the conflict of interest inherent when the state or its institutions are litigants. This conflict can compromise the neutrality of entities like the Police and the Attorney General's Office, who are presently tasked with the enforcement of such judgements.<sup>52</sup> To address this, a Judiciary Task Force for Enforcement is proposed. The task force would be an autonomous body under the judiciary, thereby insulating it from political influence.<sup>53</sup> Being a separate entity, this task force would sidestep the issues that plague the present system, such as delays, bureaucratic red tape, and susceptibility to corruption.

Creating a judiciary task force will increase the efficiency of enforcing judgements and enhance public trust in the legal system. When the judiciary itself is responsible for ensuring that its judgements are carried out, the public is likely to have greater confidence in the impartiality and effectiveness of the legal system.<sup>54</sup> This proposal also aligns with the principle of the separation of powers, fortifying the judiciary's independence. It would make the judiciary more self-reliant and reduce its dependence on the executive for the enforcement of its judgements.<sup>55</sup>

#### ***Counterarguments***

While the idea of a Judiciary Task Force for Enforcement holds merit, it is not without criticisms. One of the main concerns is the potential for a new layer of bureaucracy that could inadvertently slow down the enforcement process. The formation of a new body could require extensive legislative changes, adding complexity and potential delays. Expedient delivery of the legal framework for the existence and operation of this unit is highly recommended.

Another concern is the issue of funding. The Nigerian judiciary already contends with budgetary constraints; thus, the establishment and operational costs of the task force could be prohibitive.<sup>56</sup>

A further critique revolves around the task force's autonomy. Despite being theoretically independent, it could still be influenced by the judiciary's existing culture, which itself is not

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<sup>50</sup> Dakuku Peterside 'Nigeria: The accountability deficit and transparency question' Premium Times [September 18, 2023] available at ><https://www.premiumtimesng.com/opinion/626497-nigeria-the-accountability-deficit-and-transparency-question-by-dakuku-peterside.html>< accessed on: September 20, 2023

<sup>51</sup> CBN v. Interstella Communications Ltd (n43)

<sup>52</sup> Sam Kargbo (n9)

<sup>53</sup> Kaananwi P. Luke and Nuleera A. Duson (n1)

<sup>54</sup> Kaananwi P. Luke and Nuleera A. Duson (n1)

<sup>55</sup> Ononye, Ifeoma Uchenna, Oguekwe, Udoka Dennis, and Oguekwe, Adaeze Udeze 'Independence of the Judiciary: The Nigerian Experience' [2020] (10) Journal of Public and Private Law, UNIZIK, 23.

<sup>56</sup> Kaananwi P. Luke and Nuleera A. Duson (n1)

entirely free from inefficiency and corruption.<sup>57</sup> The operations of the task force should be transparent. Procedures, decisions, and actions taken by the task force should be documented and made available to the public to scrutinise, fostering accountability. Additionally, a mechanism should be put in place for individuals or entities to raise concerns or complaints against the actions of the task force. This mechanism would further act as a deterrent against potential abuse of power. Lastly, there is the question of expertise. The police and other current enforcement bodies have years of practical experience that a new judicial task force would initially lack. This inexperience might affect the effectiveness of judgements enforcement, at least in the short term. Members of the task force should undergo regular training on legal provisions, ethics, and the importance of maintaining a balance between their powers and the rights of individuals. Such training can instil a culture of responsibility and caution.

### ***Implications and Feasibility***

The implications of establishing a Judiciary Task Force for Enforcement are wide-ranging. It has the potential to address the long-standing problem of impartiality and effectiveness in the enforcement of court judgements in Nigeria. However, the feasibility of this proposal hinges on several factors. Legislative backing would be a prerequisite, requiring the support of a majority in both houses of the National Assembly. Budgetary allocations must be considered, along with the training of task force members. A transparent and comprehensive reporting system for enforcement actions would need to be established as well, to ensure accountability, facilitate monitoring, and foster trust in the judicial system. Finally, there would be the issue of a transitional period, during which the new body gains the expertise needed to function effectively.

### ***Legal Reforms***

Beyond the introduction of an independent task force integral to the judiciary, the following are recommended as urgent reforms that will help to enhance the enforcement of court judgements in Nigeria.

1. Amendment of the Sheriff and Civil Process Act, 2004: One critical area is the amendment of the Sheriff and Civil Process Act, 2004 to modernise its provisions and make it more adaptable to current challenges.<sup>58</sup>
2. Introduction of Punitive Measures: The introduction of punitive measures for non-compliance could serve as a deterrent against neglect or disobedience of court judgements.
3. Expedited Appellate Process: The inclusion of an expedited appellate process in cases where the state or its institutions are involved, will help to ensure swift justice and reduce opportunities for evasion or delay.

### ***Stakeholder Engagement***

For a well-rounded and effective approach to the enforcement of court judgements in Nigeria, stakeholder engagement is indispensable. Collaboration between the judiciary, the executive, and civil society could enhance the quality and speed of enforcement. Regular dialogues, perhaps through quarterly meetings, should be institutionalised to review progress and identify areas for improvement.

Non-governmental organisations could also play a role by providing platforms for public awareness and advocacy on the importance of adhering to court judgements, thereby contributing to a culture of compliance.

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<sup>57</sup> Tiwalade Aderoju 'The impact of corruption on the rule of law and the effective administration of justice using Nigeria as a case study' [2023] available at ><https://www.ibanet.org/impact-of-corruption-on-rule-of-law-Nigeria>.< accessed on September 13, 2023.

<sup>58</sup> Hameed Ajibola Jimoh Esq (n18)

## **Conclusion**

This article has comprehensively analysed the enforcement mechanisms for court judgements in Nigeria, specifically focusing on the Sheriff and Civil Process Act, 2004. It revealed that while the Act sets the foundation for enforcement, there are limitations and shortcomings that impact its effectiveness. The roles of the Police and the Attorney General, which are pivotal in the enforcement process, are somewhat compromised when judgements are against the state or its institutions, leading to conflicts and ethical concerns.

Furthermore, this article examined the possible reform of empowering the judiciary with its own task force for enforcement. While this suggestion garnered some support for its potential to mitigate the existing challenges, it also faced counterarguments surrounding its practicality and possible politicisation. Additional policy changes, legal reforms, and stakeholder engagement were proposed as essential for enhancing the enforcement process. These changes include establishing a transparent reporting system, continuous training, punitive measures for non-compliance, and an expedited appellate process. The need for these reforms and changes is accentuated by the conflicts and ethical dilemmas that arise, especially when the state or its associated institutions are the subjects of the court judgements.