

**CURBING DELAYS IN THE ADMINISTRATION OF  
JUSTICE: CASE MANAGEMENT IN THE MAGISTRATE  
COURTS**

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**PRELIMINARY**

Permit me to register my profound gratitude to the Administrator of the National Judicial Institute, the Honourable Justice R.P.I. Bozimo, OFR, for honouring me with the invitation to come and present this Paper titled: “Curbing Delays in the Administration of Justice: Case Management in the Magistrate Courts” to this auspicious gathering of newly appointed Magistrates. I consider it an honour because I am asked to speak to a gathering of honourable men of profound learning who are at the threshold of, hopefully, launching themselves into careers in which they would be required to perform the honourable but arduous task of adjudicating in the bulk of the cases filed in all the courts of this country. I do not intend to be involved in any academic discourse, rather; it is my hope that this presentation would serve as a

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stimulant for further discussion towards a better justice delivery system.

## INTRODUCTION

The role an effective dispensation of justice can play in creating an enabling environment for the development of any country (Nigeria being inclusive) can never be underestimated. This is especially so for our country which is in dire need of foreign direct investment to fund its economic development. George Washington, a former American President, in his letter to his Attorney General, Edmund Randolph, highlighted the central role played by an effective and efficient administration of justice in the following words:

“Impressed with a conviction that the due administration of justice is the firmest pillar of good Government, I have considered the first arrangement of the Judicial department as essential to the happiness of our Country, and to the stability of its political system; hence the selection of the fittest characters to expound the law, and dispense justice, has been an invariable object of my anxious concern.”<sup>2</sup>

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<sup>2</sup> F.M Kwede, “Administration of Justice: The Plateau Experience” in F.M Kwede (ed) *“Contemporary Issues in the Law and the Administration of Justice in Nigeria – A Tribute to Hon. Justice L.C. Dakyen”* (Hamtul Press Limited 2014).

Much earlier, Lord Kenyon, CJ in the late 18<sup>th</sup> Century made the following observation in *Booth v. Hodgson*:

“It is the great duty of every Court of justice to administer justice as well as they can between the litigating parties; and not less material duty is to satisfy those parties that the whole case has been examined and considered.”<sup>3</sup>

Although the court as represented by the Judge or Magistrate plays a central role in the administration of justice, there are other key players as shown in the dictum of Crumpton, J. in *R v. O’Connel* in which he states:

“The court in which we sit is a temple of justice, and the advocates at the bar as well as the judges upon the Bench, are equally ministers in that temple. The object of all equally should be the attainment of justice; now justice is only to be reached through the ascertainment of truth... But we are all –Judges, Jurors, Advocates and Attorneys – together concerned in the search for truth; the pursuit is a noble one, and those are honoured who are the instruments engaged in it ...But let us never forget that the advancement of justice and the ascertainment of truth are higher objects and nobler

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<sup>3</sup> *Booth v. Hodgson* [1795] 6 T.R. 408.

results than any which in this place we can propose to ourselves.”<sup>4</sup>

However, the Judge or Magistrate is the captain who steers the ship, as it were, on the right tack of applying the law faithfully but tempered with justice.

It is proposed in this paper to interrogate the need for quick and efficient disposal of cases, the causes of delay in the disposal of cases and case flow management as an effective tool for curbing delays in Magistrate’s Courts. Finally, an attempt would be made to chart a way forward. It is however necessary to first of all have a clear understanding of certain key words/terms used in the assigned topic of discussion. They are ‘Delay’, ‘Administration of Justice’, ‘Case Management’ and ‘Magistrate Courts’.

## **CONCEPTUAL CLARIFICATIONS**

According to the Chambers Dictionary,<sup>5</sup> the word ‘delay’ means to slow someone or something down or make them late. It also means the amount of time by which something is delayed. In the Great Charter of England made over 800 years ago, ‘delay’ in the administration of justice was placed in the same category as ‘sale’ or

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<sup>4</sup> *R v. O’connel* [1884] Ir. L.R. 261 @ pp. 312-313.

<sup>5</sup> Chambers 21<sup>st</sup> Century Dictionary

‘denial’ of justice.<sup>6</sup> The evil of delay is capable of bringing the Bench and the Bar disrepute.<sup>7</sup> In Nigeria, the lower courts, of which the Magistrate Courts constitute a significant part, handle over 70% of all the cases that come before the formal courts.<sup>8</sup> These are the courts patronized the most by poorest litigants in this country. It follows that delays at this level of the court system has the greatest negative impact on the justice delivery system of this country.

The Chambers Dictionary defines ‘justice’ to mean ‘the quality of being just; just treatment; fairness’ while ‘administration’ is the management or performance of the duties of an organization. In the context of our discourse, administration of justice involves the whole plenitude of the judicial process conducted in an efficient, fair and just manner. In the case of *U.B.A Ltd. v. Achoru*, the Supreme Court, per Karibi-Whyte, JSC held thus:

“One of the cardinal principles of our administration of justice is the observance of the rules of natural justice, by hearing the party aggrieved and the untrammelled opportunity afforded him to present his case and argue the issues involved.... Fair hearing does not in my view

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<sup>6</sup> W.M. Cain, *“Delay in the Administration of Justice”*, 7 Notre Dame Law Review 284 (1932).

<sup>7</sup> Ibid. (n. 6).

<sup>8</sup> Justice for all Nigeria, *“How to increase performance in courts: Introduce a case management system and reduce trial delays”* <https://www.j4a-nigeria.org> accessed on 19<sup>th</sup> June 2017.

lie on the correctness of the decision handed down by the Court. It lies entirely in the procedure followed in the determination of the case. Hence the true test of fair hearing is....‘the impression of a reasonable person who was present at the trial whether, from his observation, justice has been done in the case....’ See Mohammed v. Kano N.A. (1968) 1 All N.L.R. 426.”<sup>9</sup>

However, it must be noted that in the administration of justice all parties must be given an equal opportunity to express their grievances and in accordance with the law. The twin pillars of justice, namely ‘Nemo dat in causa sua’, meaning a Judge must not adjudicate in a matter in which he has a personal interest, and ‘Audi altarem partem’, meaning both sides must be afforded a reasonable opportunity of being heard, are applicable and most relevant in the quest for justice. These twin pillars of justice are enshrined in Section 36 (1) of the Constitution of the Federal Republic of Nigeria, 1999 (as altered). The section provides that:

“In the determination of his civil rights and obligations, including any question or determination by or against any government or authority, a person shall be entitled to a fair hearing within a reasonable time by a court or other tribunal established by law and constituted in such

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<sup>9</sup>U.B.A Ltd. v. Achoru [1990] NWLR (Pt. 156) 254.

manner as to secure its independence and impartiality.”<sup>10</sup>

“Management” has been described as the judicious use of means to accomplish an end.<sup>11</sup> Case Management is the process of assessment, planning, facilitation, coordination, evaluation, and advocacy for options and services to meet an individual’s or a party’s comprehensive legal needs in any given case, through deliberate techniques adopted by the Courts to promote quality, cost-effective outcomes and quick dispensation of justice. Case Management or Case flow management is a judicially led initiative aimed at managing the pace or movement of cases from the moment they are filed at the court’s registry through its trial up to the point it is disposed of and judgment executed, where necessary, with a view to eliminating delay.<sup>12</sup> The role of the judge in this regard is no longer passive in line with the adversarial system of adjudication we are used to. The quick disposal of cases increases public confidence in the justice delivery system.

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<sup>10</sup> Constitution of the Federal Republic of Nigeria, 1999 (as altered).

<sup>11</sup> Justice Sunil Ambwani, “*Justice Administration: Case and Court Management*”, A Paper Revised and Delivered at IJTR, India on 31<sup>st</sup> January, 2009.

<sup>12</sup> Hon. Justice A. U. Kalu, “*Speedy Dispensation of Justice Through Effective Case Management in Nigeria*” delivered at the 2011 Biennial National Convention of the All Nigeria Magistrates Association on 10<sup>th</sup> May 2012 at Uyo, Akwa Ibom State.

It is also necessary for us to appreciate what the magistrate courts are and how they came about. Section 6 (2) of the Constitution<sup>13</sup> provides that:

“The judicial power of the State shall be vested in the courts to which this section relates, being courts established, subject as provided by this constitution, for a State.”

Subsection (4) (a) provides that:

“Nothing in the foregoing provisions of this section shall be construed as precluding

(a) the National Assembly or any House of Assembly from establishing courts, other than those to which this section relates, with subordinate jurisdiction to that of the High Court.”

Subsection (5) (k), finally, provides that:

“This section relates to –

.....

(k) such other courts as may be authorized by law to exercise jurisdiction on matters with respect to which a House of Assembly may make laws.”

The implication of the foregoing provisions is that the various Magistrate Courts laws in all states derive their source and legitimacy

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<sup>13</sup> Ibid. (n. 10)

from the Constitution.<sup>14</sup> The various laws provide for the establishment, constitution, jurisdiction, practice and procedure for all grades of magistrates.<sup>15</sup> These courts adjudicate in most of the criminal cases that come before the courts of this country. Apart from capital and other high profile offences, Magistrate Courts try most of the offences contained in our penal laws, such as theft or stealing, house breaking or burglary, road traffic offences and offences bordering on the administration of justice.

In addition to the criminal jurisdiction exercised by the Magistrate Courts in the southern states of this country, they also have limited jurisdiction over civil claims and recovery of premises. In the northern states of Nigeria, a Magistrate when sitting to try civil causes is called a District Judge.<sup>16</sup> There is no gainsaying the fact that the adjudicatory functions of Magistrates are coterminous with those of superior court Judges, save for the disparity in jurisdiction.

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<sup>14</sup> Yusuf O. Ali, SAN, *“Delay In The Administration of Justice at the Magistrate Court – Factors Responsible and Solutions”*  
[www.yusufali.net/articles/delay\\_in\\_the\\_administration\\_of\\_justice.pdf](http://www.yusufali.net/articles/delay_in_the_administration_of_justice.pdf) accessed on 1<sup>st</sup> June 2017.

<sup>15</sup> See Section 6 of the Criminal Procedure Code of Northern Nigeria (applicable in most of the Northern States of Nigeria), Cap. 30, LNN, 1963.

<sup>16</sup> Section 4, District Courts Law, *ibid*.

## **CAUSES OF DELAY IN DISPENSING JUSTICE**

Many factors are responsible for the delay experienced in the smooth, efficient and quick disposal of cases. Some of these factors are case specific while other factors are systemic. They include the absence of basic infrastructure, convenient and comfortable courtrooms, lack of adequate funding and poor working conditions, lack of training and retraining of personnel and corruption. These are by no means exhaustive. We shall endeavour to deal with some of these factors in some detail.

1. The welfare of the Magistrate or Judge ought to be given the utmost priority if the best hands are to be recruited and retained. It is now common knowledge that the welfare of Magistrates and Judges in some states leaves much to be desired. Their remuneration is abysmally low. In most jurisdictions, official quarters are not made available let alone official vehicles. Dr. Kwede in his article describes their plight in the following terms:

“Some of them hang on the road for so long to join commuter vehicles to their places of work. Before the phasing out of motorbikes in Jos, it was common to see some of them hanging or perching precariously on the motorbikes with their bags and files behind them. By

the time they get to the courts, they are easily mistaken for desperate or daring litigants.”<sup>17</sup>

2. Inadequate funding is another factor that causes delay. As a result of paucity of funds, many courtrooms, where available, are dilapidated and not conducive for thorough and quick work. It is also reason for the non – availability of stationeries such as record books. In many states, magistrates sit in shifts. This author is aware that in 1983, there were at least 10 Magistrates in the Plateau State capital city of Jos and Bukuru. There are about half that number today in spite of the astronomical increase in the number of cases. The result is that the courts affected adjourn cases on the average for two to three months.<sup>18</sup> In addition, notes of proceedings are still taken down in longhand.
3. Poor funding of other organs of the administration of the criminal justice system such as the Police, Prison, National Agency for Food and Drug Administration (NAFDAC), National Drug Law Enforcement Agency (NDLEA) and the Ministry of Justice also contribute in no small way to delays. The lack of adequate facilities and poor working conditions severely impede the smooth functioning of the

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<sup>17</sup> Ibid. (n. 2) 45 - 46.

<sup>18</sup> Ibid. (n. 2) 42.

criminal justice delivery system. On many occasions suspects are not brought to court due to non-availability of motor vehicles and investigations are not thoroughly carried out due to paucity of funds. In addition, frequent transfers of Police investigators to distant locations and non – representation of indigent accused persons in court by officials of the Legal Aid Council are serious causes of delay.<sup>19</sup>

4. Legal practitioners also cause delays in the administration of justice. Sometimes, the delay is caused by a lack of preparedness on the part of counsel resulting in frivolous applications for adjournments. There are occasions when counsel in criminal matters deliberately request adjournments for the purpose of ensuring the full payment of their fees or to beef up the fees in cases where they are paid on the basis of the number of appearances made. Apart from the issue of payment of fees, many lawyers engage in sole practice, making them liable to having conflicting dates, thereby causing delays. They find it difficult to engage or brief juniors to handle cases on their behalf when they appear in other courts. Instead, such counsel request adjournments or stand-downs. This

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<sup>19</sup> Agbonika John, *“Delay in the Administration of Criminal Justice in Nigeria: Issues from a Nigerian Viewpoint,”* [www.iiste.org](http://www.iiste.org) accessed on 1<sup>st</sup> June 2017.

attitude was deprecated in the case of *Ndu v. The State*.<sup>20</sup> Furthermore, a very distasteful practice has developed amongst lawyers whereby counsel file interlocutory appeals against the decisions of Magistrates over-ruling no case submissions made. Presently, as many as 50% of criminal appeals coming before my appeal panel in the High Court of Plateau State are interlocutory appeals against no-case submissions that were over-ruled.

5. The Magistrate or Judge himself sometimes causes delay. Lack of commitment or indifference to work is a serious cause of delay in trials. There are reports of Magistrates and Judges who sit late and rise early. Hon. Justice T.A. Oyeyipo, the then Chief Judge of Kwara State, in a paper delivered at the 2005 All Nigeria Judges' Conference, recalled that a Judge had the temerity to say that he rises early because he regarded his house as an extension of his chambers!<sup>21</sup> Another cause of delay by a Magistrate or Judge is his lack of industry or deep knowledge of the law. This situation results in unnecessary adjournments for rulings on mundane points of law.

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<sup>20</sup> [1990] 7 NWLR (Pt. 164) 5.

<sup>21</sup> Justice T.A. Oyeyipo, "Commentary on Paper titled 'Evaluation of Judges' Performance: The Role of the National Judicial Council by Hon. Justice B.O. Babalakin, CON," delivered at the 2005 All Nigeria Judges' Conference.

6. Another cause of delay is indolence or outright corruption on the part of supporting staff that misplace or omit case files from the cause list. Affidavits of service are sometimes not filed or misplaced. Case files are at other times missing at critical stages of the case. Furthermore, oral evidence in a language other than the official language of the court is not sometimes properly interpreted. Where the Magistrate or Judge does not understand the local dialect, it elongates the period normally taken to record the evidence. The situation could be worse where the victim of crime or witness is deaf and dumb and no one is trained to interpret the specialized sign language to the court.
7. Archaic laws and rules of court can be a clog in the wheel of quick justice delivery. For instance, the procedural rules applicable in the Magistrate and District Courts, which handle over 70% of litigation in this country, in some cases have not been updated since colonial times, thus causing delays.

### **THE NEED FOR CASE MANAGEMENT**

Several reasons account for the need for the adoption of case or case flow management techniques in the Magistrate and District

Courts. Some of these reasons are as follows. Firstly, it is a means of avoiding delayed access to justice. Very few will disagree with me that the fair and prompt dispensation of justice is the very foundation for an efficient and effective judicial system. Between 2002 and 2005, the Lagos State Ministry of Justice conducted surveys aimed at studying the problem of delay and came up with the startling result that it took an average of 5 years in the High Court of Lagos to dispose of a civil matter and an average of 8 years to dispose of a criminal matter, after discounting the period taken in pursuing interlocutory appeals.<sup>22</sup>

In many States across the country, the scenario is worse. I recall being assigned in 2013 a case filed in 2004<sup>23</sup> pursuant to the Fundamental Rights (Enforcement Procedure) Rules, 1979. When the substantive originating motion came up for hearing on 12<sup>th</sup> July 2005, counsel raised an objection on the ground that the 2<sup>nd</sup> and 3<sup>rd</sup> respondents were, on the same facts, facing a criminal charge, and the suit was struck out. Upon the court subsequently being shown evidence that the criminal charge had been struck out, the case was relisted at the instance of the applicants. The respondents filed an interlocutory appeal to the Court of Appeal. The Court of Appeal on 18/06/2007 dismissed the appeal. The respondents quickly

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<sup>22</sup> Justice Research Institute, *Delays In Justice Administration: Beyond the Rules and the Law*, [www.justiceresearchinstitute.org](http://www.justiceresearchinstitute.org) accessed on 6<sup>th</sup> June 2017.

<sup>23</sup> Suit No. PLD/J83/2004 Bello & Ors. V. COP & Ors. (Unreported) judgment delivered on 30<sup>th</sup> March 2017.

relisted the appeal but apparently did not show diligence in prosecuting it, and it was eventually struck out on 11/03/2013 to pave way for the resumption of hearing of the substantive case at the High Court. In the meantime, the original case file transmitted to the Court of Appeal had been lost when that court moved to its new location. Of course, the applicants also contributed in causing delay by repeated attempts to substitute one of the respondents, Makeri Smelting Company Ltd., which had gone into receivership, with strange persons rather than with the receiver himself.

Secondly, the need for case flow management is informed by the prospect of enhanced efficiency and effectiveness of the justice delivery system for the benefit of court users and the legal profession at large. An effective and efficient justice delivery system inspires public confidence in the judicial process. On the other hand, a judicial system that is bogged down by delay and inefficiency soon loses credibility resulting in fewer and fewer people patronizing it, and that could be the highway to self help and anarchy. In addition, the entire legal profession comes into disrepute. No one looks forward to a system where lawyers can hold up cases endlessly and make them last for between 10 to 12 years.

Thirdly, the merit of case flow management is easily seen in the job satisfaction to be derived therefrom.<sup>24</sup> I personally recall the pleasure I got when I disposed of a chieftaincy case<sup>25</sup> that was filed in 1993 within two years of its being assigned to my court in 2013, in spite of a six month long industrial action embarked upon by the Judiciary Staff Union of Nigeria (JUSUN). Several judges one of who died in active service while the others retired from service handled it before it was assigned to my court.

Finally, adoption of case flow management options would not only free the Magistrate or Judge from the risk of incurring disciplinary actions leading to premature retirement but would rather enhance their career prospects.

### **CASE FLOW MANAGEMENT: AN EFFECTIVE TOOL FOR CURBING DELAYS**

Delay in the judicial process has been identified as the single most potent cause of disenchantment with the justice delivery system. This problem is by no means peculiar to Nigeria but is found in almost all judiciaries worldwide.

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<sup>24</sup> Hon. Justice Hannatu Azumi Balogun, *“Effective Caseload Management in Lower Courts: Practical Hints and Guides,”* NJI Law Journal (2014) Volume 10.

<sup>25</sup> Suit No. PLD/J273/93 Da John Gyang Bot v. The President, Jos North, Jos South and Barkin-Ladi Joint Traditional Council & Ors. (Unreported) judgment delivered on 24<sup>th</sup> July 2015.

Section 479 (c)(1) – (3) of the Civil Justice Reform Act, 1990 mandated the introduction of “case management” systems in the United States of America, in response to the need to cut down delays in the civil litigation process. The underlying principles included (a) differential treatment of cases in accordance with their complexity, duration and probable length of time they would last; (b) the early involvement of a judicial officer in planning the progress of the case; and (c) regular communication between a judicial officer and counsel involved during the progress of the case. In criminal matters, case management strategies include plea-bargaining, and victim – offender mediation, community service, parole, suspended sentencing and Alternative Dispute Resolutions, all geared towards cutting down delays.<sup>26</sup>

The reform introduced by the Woolf report published in the United Kingdom in 1996, which resulted in the Civil Procedure Act 1997 and the Civil Procedure Rules 1998, called for case management strategies such as the setting up of a timetable for monitoring of the progress of cases in respect of large claims and a paradigm shift of the responsibility for the management of civil litigation from the litigants and their counsel to the courts. A new fast track was also developed for small claims at the lower rung of the judicial ladder while all other cases were placed on multi track system. Furthermore, cases were put

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<sup>26</sup> Hon. Justice A.A.I. Banjoko, *“The Managerial Judge: Strategies to Curtail Delay,”* A Paper delivered at the Refresher Course for Judges and Kadis in March 2009.

through pre-action protocols, thus cutting down drastically delays in the judicial process.<sup>27</sup>

In Europe, a report of the European Commission for the Efficiency of Justice (CEPEJ) was adopted at its 8<sup>th</sup> plenary meeting in Strasbourg in December 2006. The report contains the framework for strategies for case management with the view of eliminating delays in the judicial system. Countries like Australia, India and Canada have followed suit.

In Nigeria, Lagos State was the first to introduce reforms to meet the demand for a response to delays in the justice sector recommended by the Rules Committee set up by the then Chief Judge, Hon. Justice Sotuminu. The 2004 Civil Procedure Rules introduced in the Federal Capital Territory (FCT), Abuja, quickly followed the Lagos reforms. At the moment, most States in the Federation have adopted similar reforms. At the Federal level, similar strategies were adopted for the trial of election matters. Although the various High Court Rules introduced into our country since 2002 or thereabouts are regrettably not uniform, they have in various degrees responded positively to the need to devise case management techniques aimed at eliminating delays in the judicial process. These measures include:

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<sup>27</sup> Ibid (n. 26).

- a) The front – loading of evidence at the time of commencement of actions through witness statements on oath, which are then adopted at the trial and the witness cross-examined;
- b) Pre –trial conference and scheduling where interlocutory matters are dealt with and issues are identified and settled within specified time limits;
- c) Introduction of Alternative Dispute Resolution (ADR) mechanisms and multi-door courthouses where suitable cases are sent through the various doors for negotiation, conciliation, mediation or arbitration;
- d) Creating separate Divisions of the court each specializing in ADR, pre-trials and trials;
- e) Mandatory time limits for the filing of processes, failing which the defaulting party is made to pay a penalty; and
- f) Limiting adjournments in the life cycle of a case to a specified number.<sup>28</sup>

The effect of the reforms in the rules of the various High Courts across the country is that giant strides have been recorded in reducing delays in the trial and disposal of cases in those courts. It is, however, sad to note that not much has been done towards implementing these reforms in the lower courts of this country where, as we have already

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<sup>28</sup> Order 35 Rule 3 FCT High Court (Civil Procedure) Rules 2004.

noted, the bulk of litigation takes place. This means that in spite of the gains recorded in the wake of the reforms made in the procedure of the superior courts of record of this country, the ordinary court user on the street is yet to feel the impact. It is strongly suggested that the recent reforms in the rules of the High Courts will be of immense benefit to the entire justice delivery system of this country if adopted as the rules of procedure in Magistrate and District Courts. Besides, even in those courts where reforms have taken place, delays are still prevalent. This means that we must look beyond the rules of court in devising new strategies of case management.

One of the strategies that can be adopted is for the Magistrate or Judge to visit deliberate or negligent delay with punitive costs so as to make it unattractive for litigants or their counsel, who are inclined to using dilatory tactics to delay trial for whatever reason catches their fancy. Put another way, dilatory tactics would continue in our courts so long as the culprit finds that the consequence of delay is bearable. But once they find out that the consequence is unbearable, they would quickly desist from using such tactics. The story is told of how a court in the United Kingdom trying one of the Abacha/Federal Government of Nigeria cases set down a case for hearing at 9:00 am. When the case was called on the day in question, the Nigerian witnesses were nowhere to be seen. Apart from deprecating the conduct of the claimants, the court ordered payment of costs of one hundred and

sixty thousand British Pounds. The Nigerian witnesses arrived the court some 10 minutes later and received the shocking news of what had taken place. After that lesson, no one would dare take the risk of being late to a scheduled court hearing in the United Kingdom.<sup>29</sup>

Another strategy is for the Magistrate or Judge to sort out and categorize the cases into simple, medium and complex cases and in the order in which they were filed, rather than the present practice of lumping them together. The cases are then grouped into blocks according to their nature and the issues they raise. It is suggested that at the time of filing at the Registry, the cases could be given identification marks in accordance with their subject matter and then grouped into blocks to be dealt with by the Magistrate or Judge. This will also help the Magistrate in doing his research once and for all and disposing of a particular block of cases more easily.

It is sad that the constitutional right of appeal is now one of the major causes of delay. Interlocutory appeals are now, as we have already noted, capable of delaying the substantive suit for years on end.<sup>30</sup> It has been suggested that the time is now ripe for constitutional amendments to be made either terminating all interlocutory appeals at the Court of Appeal level or making it a requirement that leave be sought in most cases, as is now done in the

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<sup>29</sup> Ibid (n. 22).

<sup>30</sup> Ibid (n. 23).

United Kingdom.<sup>31</sup> It is necessary to engage members of the bar in any effort aimed at reducing delays. They must be encouraged to subordinate their self-interest to the higher interest and ideals of the profession whose watchword is integrity. Violations of professional ethics must not go unpunished.

It is also suggested that the Magistrate or Judge should be more proactive in monitoring the progress of cases. Very often, cases are delayed due to the inactivity of the parties. Cases which are abandoned for, say, three months, should automatically be entered into a check list and hearing notices served for definite hearing; the cases can then be struck out if the parties fail to turn up to prosecute them. This would reduce delay.

The Magistrate or Judge must also lead by example. He must be punctual at work and avoid tardiness. He must also monitor his immediate staff to ensure they are punctual and do not engage in sharp practices of any kind. Delay would thereby also be reduced.

With respect to criminal matters, there must be cooperation and coordination of activities of the various agencies engaged in the criminal justice system, namely the Police, the Prisons, National Agency for Food and Drug Administration, National Drug Law Enforcement Agency and the Ministry of Justice. Once there is the needed synergy between these various organs of government, delays

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<sup>31</sup> Ibid (n. 22).

in criminal trials would be reduced to the barest minimum. These organs of government all require adequate funding, so that complaints such as lack of functional vehicles to transport officials of the Ministry of Justice or prison inmates to court, and the like would be eliminated. It would also help in facilitating quick and thorough investigation of cases.

There is the urgent need to harness available modern Information Communication Technology (ICT) tools to the full extent of their utility in the judicial process. We are now in the electronic age and must take advantage of ICT. The immediate benefit is that members of staff of the judiciary would spend less time on paper work and devote more time attending to the needs of litigants. There would also be a reduction in the risk of loss of files and processes. The capacity of storage of information and its corresponding retrieval system is multiplied. Finally, the use to which ICT tools can be put is better imagined than said. For instance, Kenya has implemented an electronic case management system, which enables them to electronically manage a case from when it is filed to its final disposition, while at the same time providing information to litigants, counsel and members of the public through web-based and mobile applications.<sup>32</sup>

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<sup>32</sup> R. Payne & D. Coker, *“Delay in the Administration of Justice in the Nigerian Judicial System”* [www.nysclegalaidlagos.wordpress.com](http://www.nysclegalaidlagos.wordpress.com) accessed on 1<sup>st</sup> June 2017.

## **RECOMMENDATIONS**

Drawing from the above, the following are suggested but are by no means exhaustive:

1. Modernization of facilities and equipment including libraries and ICT.
2. Training and retraining of Magistrates and District Judges as well as all other categories of judicial staff. Specialized training in ICT; Interpretation of special sign language for deaf and dumb court users and other physically challenged persons must be given priority.
3. Increase in Manpower: More Magistrates and District Judges should be properly screened and appointed by the various Judicial Service Commissions of the States.
4. Provision of Basic Infrastructure such new court rooms and the renovation of old and dilapidated buildings. Befitting residential accommodation for Magistrates and District Judges must also be provided.
5. Improved conditions of service for all categories of staff. Official vehicles should be provided for Magistrates and District Judges. Staff buses should also be provided to convey other staff to and from work.
6. Financial Autonomy and Accountability: Real financial autonomy must be granted the judiciary to meet its needs.

Correspondingly, there is an obligation of greater transparency and being open to public audit.

7. Equitable distribution of work by the administrative Magistrate or District Judge.
8. The Magistrate or Judge should be in control of their courts. They must avoid tardiness and granting of frivolous adjournments to lawyers and litigants.
9. The rules of court must be reviewed and simplified to meet with present day reality.

## **CONCLUSION**

It has been said time and again that the judiciary is the last hope of the common man. Whoever comes to the judiciary expects to be given the latitude to establish his rights and not to lose them. The big question is whether the courts, especially the Magistrate and District Courts of this country, have the proficiency to deliver justice as they should, given the existing outdated procedural rules applicable in those courts and the other practical loopholes that attend our justice delivery system, ranging from the debilitating attitude of the ordinary court users themselves (including members of the legal profession) to other man – made constraints bedeviling related organs in the administration of justice system. It is perhaps convenient here to quote Justice V.R. Krishna Iyer in describing the situation:

“[T]he judicial process wrapped in a mystery inside an enigma, what with its baffling legalese, lottery techniques, habitual somnolence, extensive proclivities, multi-decked inconsistencies, tyranny of technicalities and interference in everything with a touch of authoritarian incompetency.”<sup>33</sup>

An attempt has been made in this paper to identify both case specific and systemic factors responsible for the delay in the justice delivery system with bias to the Magistrate and District Courts, and ways to curb such delays. One of the chief ways of curbing delays is to take advantage of modern Information Communication Technology. In addition, advantage must be taken of ideas from other jurisdictions. We must put our heads together to fight the challenge posed by delays in our justice delivery system.

Thank you for listening.

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<sup>33</sup> Ibid. (n. 11).