CHALLENGES IN THE ADMINISTRATION OF JUSTICE: PRESENT DAY REALITIES AND POSSIBLE SOLUTIONS

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PROTOCOLS:

I am profusely and exceptionally thankful to the Honourable, The Chief Justice of Nigeria, My Lord, The Honourable Chief Justice Olukayode Ariwoola, GCON, Chairman, Board of Governors of the National Judicial Institute and the very perceptive administrator of the National Judicial Institute, Hon. Justice Salisu Garuba (retd.), for the honour of finding me worthy of invitation to share my thoughts on: Challenges in the Administration of Justice: Present Day Realities and Possible Solutions. I express my profound gratitude and pray that my thoughts are sufficiently incisive and insightful. I also thank the members of the High Table; and Your Lordships, the participants at this Conference, for finding time to share my

thoughts with me. Please permit me to stand on established protocols.

1.0 INTRODUCTION:

The word “Justice” comes from the latin “Jus”, meaning right or law. Justice is the ethical, philosophical idea that people are to be treated impartially, fairly, properly, and reasonably by law and by arbiters of law; that laws are to ensure that no harm befalls another without lawful justification and that, where the reverse is the case and harm is alleged, a remedial action is taken. Clearly, justice refers to concepts of fairness, equality, lawfulness and order. In that respect, it is possible to categorize Justice into four different types, namely; distributive Justice (determining who gets what), procedural Justice (determining how fairly people are treated); retributive Justice (based on punishment for wrong doing) and restorative Justice (which tries to restore or restitute relationships to “rightness”). As is evident from these classifications, Justice posits the basis for the coherent living of a given society. It is synonymous with lawfulness, the absence

of unreasonable actions, and a system of identical opportunities, equal privileges and freedom for every section of society.

1.1 The Perception of Justice by astute Philosophers – For certain the jurisprudence on definition of justice is variegated. Some philosophers have attempted to capture the notion of justice from their diverse schools of thought. I shall identify their hypothesis very concisely to give a terse but broad overview to the subject of this paper.

Plato -

For Plato, justice is both an aspect of human virtue and the connection that binds men together in society. To him, Justice is a moral concept rather than a legal one.

Salmond -

To Salmond, “Justice” is to distribute the due share to everbody.

Cephalus -

He associates Justice with moral behaviour. According to him, justice consists in telling the truth and paying one’s debt.

Aquinas -

Aquinas talked about a justice system based on pro-rata mutuality. Here, each righteous person provides to others what they are owed in proportion to their responsibilities. There is therefore no uniformity and obligations are founded on both civil and moral law.

Aristotle -

He posits that justice comprises what is legal and fair. It is justice that creates a State, gives it a vision, and, when combined with ethics, propels the State to the pinnacle of all ethical values.

Rawls -

He views justice as the enthronement of a state of equal distribution of resources. Every individual has an equal right to basic rights and should have the same opportunities and chances as other people of similar skills.

By and large, there is no universally accepted or settled definition of justice. It is however possible to talk about justice in terms of it variants. So, on could talk about natural justice by referring to the inherent attribute of being. In the Nigerian experience, for instance, the genesis of the dispensation of fundamental rights

– which rights have been elevated to constitutional rights – is a perfect exemplification. These rights are said to inher in the citizens for the singular reason of their being human beings. In **Igwe v. Ezeanochie**[1], the Court recognized that fundamental rights derive from natural or fundamental, or constitutional law. In the case of Nigeria, the rights are acquired naturally and have been constitutionally guaranteed. In the words of **Eso, JSC (of blessed memory)** in **Ransome-Kuti v. Attorney General of the Federation**[2], a fundamental right is "… a right which stands over the ordinary laws of the land and which are infact, antecedent to the political society itself" and constitutes "… a primary condition to civilized existence". As Jacques Maritain – the French Philosopher – puts it in his work, The Rights of Man and Natural Law[3], the human person possesses rights because of the very fact that "it" is a person. In effect, when a Court is validating the citizens' fundamental right, it is actually dispensing natural justice.

It is also possible to talk about economic; justice, which advocates for equal economic ideals, opportunities and rights for

all; and places a ban on economic segregation or discrimination between men and women.

There is also political justice, which envisages a society where everyone has equal political rights by the creation of conditions in which all citizens can exercise their political rights by a system of universal adult suffrage and the rule of law. Again, one can refer to social justice, which requires that all persons be entitled to equal economic, political, and social rights and opportunities.

1.2 The Notion of Justice in Law and Practice –

To law and practice, the term "Justice" means the proper administration of laws; the constant and perpetual disposition of legal matters or disputes to render everyman his due. In **Obajinmi v. Adedeji[4],** it was stated that:

> *Justice means fair treatment, and the Justice in any case demands that the competing rights of the parties must be taken into account… and balanced in such a way that Justice is not only done but must be seen to be done*.

The term “Justice” fundamentally denotes the fair and proper administration of justice. Afortiori, the term “substantial justice” means Justice fairly administered according to rules of substantive law, regardless of any procedural errors, which do not affect the litigant’s substantive rights. In essence, justice denotes a fair trial of a case on the merits.[5] Thus, in the strict legal sense thereof, justice is characteristically the end result of an effective application of the law of the land by a Court of competent jurisdiction. In a broader and more popular sense, and in the words of M.A. Akanbi, P.C.A. Emeritus (of blessed memory):

> *Justice is fairness, fairness in adjudication, fairness in the process of adjudication and in the ultimate decision reached by the decision-making body or authority. It is that kind of justice that accords not only with the rule of law, but also ensures equality of treatment to all and sundry. For justice according to law,*

may not necessarily achieve this end, for a strict application of an unjust law can lead to an unjust decision and an unjust decision is sure to result in injustice and create problems for the entire system. Therefore, for justice to be according to law, the law itself must be just; fair and equitable[6].

The thoughts of the revered President of the Court of Appleal (Emeritus, of blessed memory) are not only apt but resonate the ideal, which justice must strike at, at all times. No doubt, it is a truism that justice cannot be administered in vacuo, but in accordance with the provisions of the Constitution and the extant laws. Thus, under the Constitution and the law, the justice to be administered is not an abstract justice as conceived by the judex but justice according to law. Undoubtedly, the application and preservation of the rule of law is a sacred duty of the Court, which as Judges, we must strive to uphold, despite all odds. As His

Lordship, Obaseki, JSC (of blessed memory) reiterated in **Governor of Lagos State v. Ojukwu**:

> *The Judiciary cannot shirk its sacred responsibility to the nation to maintain the rule of law. It is both in the interest of the Government and all persons in Nigeria. The law should be even-handed between the Government and the citizen*

The rule of law must be upheld but this is not to lose sight of the fact that justice is rooted in public confidence and it is essential to social order and security. It is the bond of society and the cornerstone of human togetherness. After all, justice is the condition in which the individual is able to identify with the society, feel at one with it and accept its rulings. The moment members of the society lose confidence in the system of administration of justice, a descent to anarchy crystallizes.[8] It becomes important therefore that within the bounds of the law, primacy must be given to the due administration of justice, which ought to constitute an integral component of Justice.

1.3 Administration of Justice -

While it is true that justice administration by the Courts is justice according to law – see **Fawehinmi v. NBA (N0. 2)**[9] – it is equally agreed that true justice must not be defective and no law must be defective in dispensing justice. See **Engineering Enterprises Ltd. v. Attorney General of Kaduna State**[10]. As Eso, JSC (of blessed memory) put it in the case, "one stream that permeates through all judicial decisions is the clear unadulterated water, filled with great concern for justice". This is not to suggest that the Court should abdicate its duty to dispense justice according to law – no! indeed, in the words of **Aniagolu, JSC (of blessed memory)** in **Edu v. Odan Community, Ado Family & Okokomaiko Community**[12], "The moment a Court ceases to do justice in accordance with the law and procedure laid down for it, it ceases to be a regular Court, to become a kangaroo Court". The point being made here is that the Court in its quest to do justice, should at all times, and as His Lordship, Pats-Acholonu, JSC (of blessed memory) reminded us in **Nwolisah v. Nwabufoh**[13], endeavour to find means – within the

rubrics of the law, of course – to do justice to all manner of men, based on a living and dynamic law. For certain, it is an essential attribute of the administration of justice that justice must not only be done but must be manifestly seen to be done. See **Okomu Oil Palm Ltd. v. Okpame**[14]; see also **L.P.D.C. v. Fawehinmi**[15]**.** In essence, in the realm of administration of justice, very onerous duty is thrust on the Court in the exercise of judicial powers. The Courts must show, and this must be their pre-occupation at all times, that all litigants – high or low – get the justice their case deserves. This could not be put better than in the words of **Oguntade, JSC (as he then was)** in **Amechi v. INEC**[16] thus:

> *… all Courts in Nigeria have a duty which flows from a power granted by the Constitution of Nigeria to ensure that citizens of Nigeria, high and low, get the justice which their case deserves. The powers of the Court are derived from the Constitution not at the sufferance or*

generosity of any other arm of the Government of Nigeria. The Judiciary like all citizens of this country cannot be a passive on-looker when any person attempts to subvert the administration of justice and will not hesitate to use the powers available to it to do justice in the case before it.

It is clear from the above postulations that the prime responsibility of the Court is to resolve disputes and make pronouncements on the competing rights and duties or obligations or liabilities of parties to disputes, in accordance with the percepts of justice and its due administration. Quite rightly, therefore, the topic of this discourse, to wit; "Challenges in the Administration of Justice: Present Day Realities and Possible Solutions", speaks to the question of how to navigate the drawbacks, which present themselves in the discharge of our functions as Judicial Officers and how to better serve the ends of justice and its due administration. Apart from this introduction,

the paper examines the fundamental norms and challenges in the administration of justice in Nigeria and proffers some solutions; identifies some of the available tools, which enhance the functions of the Court in the administration of justice and draws its conclusion.

FUNDAMENTAL NORMS AND CHALLENGES IN THE ADMINISTRATION OF JUSTICE IN NIGERIA

In order to enthrone a viable system of administration of Justice, there are some very basic or fundamental precepts, which remain sacrosanct. In this part of this presentation, I shall identify the norms and appraise the pitfalls or drawbacks, which retard the due administration of Justice in Nigeria and proffer some panacea on the way forward.

2.0 ISSUES EMANANT FROM COURT PROCEEDINGS:

There are profuse issues emerging from court proceedings, which impinge on the efficiency of the Nigerian system of justice administration. I propose to isolate some of these debilitating factors.

2.1 The Question of Fair Hearing -

One of the cardinal principles of our administration of justice is the observance of the rules of natural justice, by hearing the parties to a dispute and affording them the untrammeled opportunity to present their case and argue the issues involved. See **UBA v. Achoru**[17]. The right to be heard is a very fundamental principle in the adversarial system of justice administration, which we practice in this country. See **F.G.N. v. Zebra Energy Ltd.**[18]. By hearing, it is equally a cardinal principle of our administration of justice that all applications properly brought before a Court be heard. A party to a cause or matter is entitled and must be given the opportunity to be heard before a decision can be made against him. See **Otapo v. Sunmonu.**[19] Fair hearing would also demand that every

application be heard on its merits. See **Nalsa & Team Associates v. NNPC**[10]. Fair hearing incorporates a trial done in accordance with the rules of natural justice, which in the broad sense, require that trials be done in circumstances which are fair, just, equitable and impartial. See **F.R.N. v. Akubueze.**[21] All said and done, our law recognizes two fundamental principles of justice as natural and inherent to the proper and effective administration of justice. These are that no person should be a judge in his own cause, and that the parties to a case should be given adequate notice and opportunity to be heard.[22] In simple terms, these translate to nemo judex in causa sua, which means that a person should not be a Judge in his own cause; see **Egwu v. University of Port Harcourt;**[23] and audi alteram partem, which means "hear the other side". See **Olaniyan v. University of Lagos**[24]**.**

It is well-settled that the consequence of a breach of the rules of natural justice is that the decision reached thereby will be set aside as a travesty of justice.[25]

The Constitution of Nigeria[26] in its section 36 has elevated the requirement of fair hearing to a constitutional right. As Eso, JSC (of blessed memory) reminds us in **Ransome-Kuti v. Attorney General of the Federation[27],** fundamental rights are inalienable rights, which have become as immutable as the Constitution itself.

For certain, the requirements of fair hearing are amorphous or multi-faceted. In that respect, all procedural inhibitors, which get in the way of a fair trial of cases, constitute sheer affront to fair hearing. As **Karibi-Whyte, JSC (of blessed memory)**, quite rightly observed in **UBA Ltd. v. Achoru,[28]**, fair hearing does not lie on the correctness of a decision handed down by the Court but lies entirely in the procedure followed in the determination of the case. Hence, according to His Lordship, 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…".

Now as fairly straightforward as the above pontifications may seem, in reality and practice, the strict adherence to the

principles on the score has not always been the case before some Courts. The Law Reports show that our Case Law is dotted with a legion of cases, which have been upturned, even at the Apex Court, on grounds of denial of fair hearing. Where this is the case, the efforts and resources put into the process by the litigants and the entire machinery of administration of justice come to naught. This cannot be right. By the principles, fair hearing can only be raised as a factor in proceedings before a Court or other tribunal. See **I.G.P. v. Ubah**[29]. See also **Emeka v. Okoroafor**[30]. It is therefore curious that the institution, i.e., the Court, where this right can rightly situate, abdicates its duty to protect this fundamental right, even as a duty of Court subsists to protect fundamental rights and lean in favour of their protection.[21] In one breadth, it is not in doubt that, sometimes, the conduct of a case by a party, and sometimes, the attitude of counsel; may be quite nauseating but the judicial officer must maintain his candour and utmost restraint. He may, sometimes, be pushed to a point that may tempt him to flare up but that must never be the case. At all time, Judges are enjoined not to lose

their temper in Court so that the composure required to administer justice may not depart from the temple of justice. See **Obiora v. Osele.**[32] The judicial officer must not lose sight of the fact that the main thing is that no party to a matter in Court must leave the Court without having justice done to him.[33] In all, every judicial officer must come to terms with the fact that in ensuring fair hearing in proceedings before him, he is simply protecting a constitutionally guaranteed right and advancing the cause of due administration of justice. If anything, this is a Conference of Judges of the Superior Courts. No doubt, every High Court is a creation of the Constitution and every Judge of the Court must commit to constitutionality, having sworn to protect and uphold the Constitution and justice. See **Engineering Enterprises Ltd. v. Attorney General of Kaduna State**[34].

2.2 Absence of a Viable Matrix on Case Management –

The axion justice delayed; is justice, denied holds a universal truth which is validated by the system of administration of justice

in Nigeria. Every Court must therefore focus on expediation of trials. As the Apex put it in **Banna v. Telepower Nigeria Ltd.**[35]**:**

> *While … a trial judge cannot throw away the constitutional provision that parties should be given a hearing in matters before the Court because of repercussions of performance assessment, a Judge owes the administration of Justice a duty to facilitate and ensure the speedy hearing of a case before him. The notoriety that delayed Justice attracts to the Judiciary is such that Judges must work towards the speedy dispensation of Justice. We do not have a choice in this troublesome matter. Let us do our best and our best is to facilitate the speedy hearing of cases.*

A number of factors get in the way of expeditious determination of disputes in Nigeria. Most times, the docket of the Court is excessively voluminous as the ratio of manpower to number of cases in each Court are abysmally disproportionate against

manpower. In all of these, the Judge must write in long hand as most Courts lack the necessary capacity to mount a virtual conduct of proceedings. The capacity of the Judge to manage the very limited time available to the Court to hear and determine disputes, raises a matter of some concerns. This, therefore, tasks the Court's ingenuity in devising a modality that would engender seamless, qualitative and expeditious determination of disputes and the achievement of lasting justice to parties. This must entail a robust case – management strategy. The first way to go about this is to insist on pre-trial settlement of issues. This is a prelude to hearing. Here, parties settle all preliminary issues to pave the way for a non-disruptive hearing on the issues in contention, head-on, without unnecessary intermediate interjections. Once the real issue(s) in contest are delimited, it is faster to grapple with the issues and promptly determine the case. Most Rules of Court contain provisions on settlement of issues but most Judges do not take advantage of this enriching mechanism. Here, the Court sets a time lag for completion of proceedings in the matter and must follow the timetable set,

except there be unavoidable justification. At this stage, all preliminary questions, to wit; issues relating to filing of the action, service of processes, regularization of processes and other interlocutory matters are settled. If certain witnesses require to be put on subpoena, that is sorted out.

At the stage of pre-trials also, the Court enjoins the parties to consider the prospects for amicable resolution of the case. Where parties are disposed to amicable settlement of their dispute, the door may then open for them to explore any of the myriad of options open to dispute/settlement in ADR (Alternative Dispute Resolution) mechanisms. There is no doubt that this approach occasions a deal of credit to the Court in the management of its docket, for if the parties are able to amicably resolve their dispute, there would be a depletion of the Court's work load. In this way, there is a reduction of the burden on the Court system to resolve disputes. See **Sino-Afric Agriculture & Industrial Company Ltd. v. Ministry of Finance.**[36] What have been said here are consistent with Paragraphs 4.3 and 4.5 of the National Judicial Council, National Judicial Policy, 2016,

which by the guidelines, require Courts to develop a case-flow matrix; and for Judicial officers to always encourage parties to explore ADR (Alternative Dispute Resolution) procedures, where appropriate.

At any rate, it must be remembered that our Code of Conduct for Judicial Officers, 2016, requests the Judicial Officer to promptly dispose of the business of the Court that is expeditiously. By its prescription, except for reasons of illness or inability, for good reasons, default on the part of such officer, constitutes misconduct[37]. It cannot be disputed that one of the greatest challenges confronting the due administration of justice in Nigeria, traces to inordinate delays occasioned by the practice in our clime. In **Umukoro Usikoro v. Itsekiri Communal Land Trustees,[38]** His Lordship, Nnaemeka-Agu, JSC (of blessed memory) tried to compare the Nigerian experience with what obtains in England. In England, His Lordship observed, under various provisions of the enabling rules, a Plaintiff can easily get the Master to make an Order to set down a cause for trial expeditiously. On a Summons for Direction, which must be

taken out within a certain period after the close of pleadings, the Master must fix a period of days within which the Plaintiff is to set down the action for trial. Again, if it appears that an action in a London Court ought to be expedited, the Master may direct the Plaintiff to make an application to the Clerk of the Lists under the Lord Chief Justice's Practice Direction of December, 1958, Para. 3, to fix a date for hearing. This Order commonly called "an Order for speedy trial" must be made within a week. Additionally, there are provisions for Short Cause List for actions in the Queen's Bench Division, which are not expected to take more than two hours; summary Judgments for actions where it is believed that the Defendant has no defence to the action; and Judges more regularly make Orders for accelerated hearing on applications for interlocutory injunctions. Again, commercial cases are also tried in the Commercial List in the Queen's Bench Division for reasons of expedition. These cases may be tried only, or mainly, on documents, on points of claim or defence ordered in place of pleadings. The sum total of all these, His Lordship noted, is that causes and matters are disposed of more

expeditiously and delays are a matter of months and can be avoided by a Plaintiff. In contrast, His Lordship observed, in Nigeria, the situation is different. Lists are very long and the machinery for disposal of cases is less expeditious. Litigants are at the mercy of Courts, in that, except in cases in which accelerated hearing is granted for very special reasons, cases must take their turn as in the Cause List. In the midst of such systemic cause of delay, the concept of inordinate delay for which a Plaintiff is to blame is different. Importantly, the matter cannot be looked at solely from the length of time since the case was filed. Nor can the Court outrightly put the whole blame on the Plaintiff, where, as is the case, both the Defendant, the Court itself and the machinery for administration of Justice all contribute to the delay in hearing of cases.

No doubt, there are systemic issues in the administration of justice in Nigeria but the best bet is to endeavour to effectively manage the docket, optimally, until the systemic issues are addressed, hopefully. Effective case-flow management is the way to go. So, in the face of mounting backlog of cases, there

is no reason proceedings may not be conducted on a Saturday, for instance, during normal court sessions. A Judge could and have the jurisdiction to sit during the normal court session, on a Saturday, even Sunday, provided he does not compel the litigants and their Counsel to attend. Put simply, by agreement of parties and Counsel, the Court may sit on a Saturday or Sunday. The case of **Itaye v. Ekaidere**[39], which is normally cited for a contrary argument, only relates to the principle as it concerns Court sittings during the Court Vacation. See **Anie v. Uzorka**[40]. See also **Ososami v. The Commissioner of Police**.

2.3 Challenges arising from service of Court Process -

In a good number of occasions, cases do not readily take off in our Courts due to default in service of court processes. The service of Court process is a cardinal component of the administration of justice. It is an important and fundamental aspect of the judicial process and failure to serve a named party with a court process offends section 36 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) on fair hearing;

a veritable constituent of administration of justice. See **Ihedioha v. Okorocha**[42].

When the world was young in Nigeria, the Bailiff Section of the court was a properly equipped department of the court with vehicles for its operation. Budgeting provisions were made for fuelling of the vehicles and other logistics of the department. Today, the boot is on the other foot. Bailiffs have now turned into commercial men who now charge and haggle with litigants who are to defray the cost of serving court processes, on the excuse that little or no funds are made available to them by the court to effect service of court processes. If you look at the Rules of most Courts, you will marvel at the paltry sum the Task Master is enjoined to fix for service of processes in the assessments. The sum stipulated has since been eaten up by inflation and soaring cost of living, to be meaningful. No doubt, any imposition of high fees would have a negative effect on access to Court, which is critical in the administration of justice. It is also true that unless court processes are served, a matter cannot be ripe for hearing. My take, is that for service of hearing notices, service by

electronic means, which most Rules of Court now allow, may not present much difficulty, provided that service is effected not later 48 hours to the fixtures affected or scheduled. See **ENL Consortium Ltd. v. S.S. (Nig.) Ltd.**[43]. The world has become a global village. Thanks to the Internet. The time has come to keep pace with the international best practice, here. There is no reason not to create a portal with an administrator, to be domiciled at the Bailiff Section of the court, to process the service of all court processes by electronic means; and only confining the service of hard copies of court processes (physically) to cases where a prospective party to an action does not have an electronic address. In that way, proof of service of electronic copies of sent processes are then culled from the Court's system and posted as proof of service. This will not only cut cost but will do away with the excesses of Court Bailiffs and promote a more efficient administration of justice.

2.4 Rigid Adherence of Rules and Technicality -

Another challenge that gets in the way of administration of justice in Nigeria, is the penchant which some courts have for inflexible

insistence on following the Rules, which sometimes occasion a truncation of the wheel of justice.

Rules of Court are designed to aid the due administration of justice, and are not intended to impede the effective and efficient administration of justice. The duty to do justice is fundamental to its administration. Accordingly, wherever the rules of procedure, which are indispensable handmaids of the administration of justice can be made to have its optimum effect, nothing should stand in the way of the Judge to rely on it in doing substantial justice in the determination of the case before him. See **The Miscellaneous Offences Tribunal v. Okoroafor**[44]. In the words of Pats-Acholonu, JSC (of blessed memory) in **Duke v. Akpabuyo Local Government;**[45]

> *Rules of Court are in the nature of beacon lights to the parties to dispute illuminating the path leading to Justice. Our Courts have held that Rules of Court are meant to be obeyed. They provide support in the administration of Justice. But it must*

be underscored that being rules and regulations, they assist the Court in its effort to determine issues or controversies before the Court. Care must be exercised in not elevating them to the status of statute as they are subsidiary instruments. They are to be used by the Courts to discover Justice and not to choke, throttle or asphyxiate Justice. They are not sine qua non in the just determination of a case and therefore not immutable.

Indeed, Rules of Court and Practice Directions are rules touching on the administration of justice. They are rules principally established for attaining justice with ease, certainty and dispatch; and as such, they must be understood as having been made to align with the fundamental principle of justice that cases be decided on their merit. As such, in all cases where a strict adherence to the Rules would clash with that fundamental

principle, the Court must invariably lean heavily on the side of doing justice. See Oputa,JSC (of blessed memory) in **University of Lagos v. Aigoro**[46].

In sum, Courts of Law should not be slavish to the Rules or be unduly tied down by technicalities, particularly where no miscarriage of justice would be occasioned. Justice can only be done in substance and not by impeding it with mere technical procedural irregularities that occasion no miscarriage of Justice. See **Consortium M.C. v. NEPA**[47]. So, as far as the administration of justice is concerned, technicality must never be allowed to be a blot upon the administration of justice and the Courts have since moved a long way from allowing themselves to be so used. See **Odua Investment v. Talabi**[48]. As Eso JSC (of blessed memory) put it in **Dr. Okonjo v. Dr. Odje**[49], "It is now trite that Justice by technicality is no justice. No issue is settled by technically avoiding the issues". It must therefore stand to reason, that for due administration of justice, the part to tow is that of substantial justice but not technical justice.

2.3 The Court Descending into the Arena and Miscarriage of Justice –

Another pitfall which rears its ugly head against the run of play in the administration of Justice in Nigeria is the act of Courts descending into the arena. The Nigerian system of administration of justice is the adversarial system in contradistinction to the inquisitorial system. The role of the Judge in the adversarial system is to hold the balance between the contending parties. Under no circumstance must a Judge under our system do anything which can give the impression that he has descended into the arena.[50]

A Judge should not descend into the arena of conflict to make a case for a party. It is against the run of the game and tenet of adjudication. See **Nwafor v. Nigeria Custom Service.**[51] It is straight and strict law that tribunals, or Courts of law, by their special place in the adjudicatory process, should not condescend to the nitty-gritty of the dispute or flirt with the evidence in a way to compromise its independent and unbiased position in the truth searching process. A tribunal is expected to

hold the balance in an egalitarian way so that the parties and persons present in Court will not accuse the body of bias. This is the real essence of our adversarial system of administration of justice as opposed to the inquisitorial system of the French prototype. See Tobi, JSC (of blessed memory) in **Mogaji v. Nigeria Army**.[52] To do otherwise is to infuse a miscarriage of justice in the system.

By and large, to deal with this challenge in our administration of justice practice, the Court must endeavour to conduct its affairs in such a way as not to enthrone a miscarriage of justice. Miscarriage of justice is failure of justice. It is failure on the part of the Court to do justice. It is justice misapplied, misappreciated or misappropriated. It is an ill conduct on the part of the Court, which amounts to injustice. See **Pam v. Mohammed, per Tobi, JSC (of blessed memory).**[53] In the administration of justice, a Court of law does not decide issues or matters on the basis of sentiments or sympathy. See **Okpe v. Fan Milk Plc, per I.T. Muhammed (as he then was).**[54] The Courts in the administration of justice, do not have the liberty to act on instinct.

Cases are decided on proof by admissible and credible evidence[55].

2.5 Issues on Certainty of the Law and Inconsistent Decisions -

One of the attributes of due administration of justice is the element of certainty of laws. The effect is that similar facts and common question(s) of law ought to produce the same result. It is well settled principle of our jurisprudence that there must be certainty in litigation and that contradictory findings and Orders by the Courts in respect of the same subject matter and issue pose a huge disincentive to the administration of justice. The theory of justice rests on the premise that there must be certainty in the law and parties to legal duel ought to be in a position to know where they stand at a certain time. See **Peters v. Ashamu**[56]. Sometimes, unfortunately, conflicting decisions emanate from the various Divisions of our Courts. This is a huge dent on the notion of certainty of laws, which is of the essence in justice administration, to thereby erode confidence in the administration of justice in Nigeria. The way round this, is for

each Court to create a reservoir or case bank of all of its decisions, which are constantly updated and distributed to all Judges of the Court in form of electronic copies. Except in instances of the Court deliberately overruling its previous decision, as the law makes permissible, this approach fosters a great degree of certainty of our laws and arrests the unsavoury trend on conflicting decisions emanating from the various Divisions of our Court in recent times.

Added to the above is the question of the failure of lower Courts to follow judicial precedent or stare decisis, sometimes. Stare decisis or judicial precedent, put simply, connotes "follow what has been decided". It is a cardinal principle of the administration of justice that like cases should be decided alike. See **Ogbu v. Urum.**[57] In all appropriate cases, this ensures certainty of the law. It must be remembered that a Judicial officer who fails to follow judicial precedent commits gross insubordination and becomes a misfit in the Judiciary. See **Dalhatu v. Turaki, per Katsina-Alu, JSC (as he then was).**[58] In all ideal situations, the lower Court must follow Judicial precedent to safeguard the due

administration of justice. It has no discretion in the matter in such instances.

2.6 Transfer of Judges and Challenges of Funding Assignment Orders -

Granted, variety is the spice of life; and so, the idea of transfer of Judges from one Division to another may be for good cause. If for nothing, at least to breed a new lease of life that may occasion a change of abode. But then, the effect of transfer of Judges on the administration of justice must also be addressed. Upon the transfer of a Judge, the matters pending in the former Court of the Judge start de novo, except where an Assignment Order is issued by the Head of Court. In a high number of instances, where a matter starts de novo, some of the witnesses may have died or relocated, including, in criminal trials, the investigating officers; who may have been transferred to distant stations. Conversely, even where Assignment Orders are issued, the Fiat directing the transferred Judge to proceed to his former station to dispose of pending cases there, requires to be funded and with the financial challenges of most Courts, cases

rarely move with the desired speed, which informed the issuance of such Fiats in the first instance. If you ask that the litigants follow the Judge to his new posting, they complain about logistics, and this is worse in criminal trials. The overall effect of these, in most cases, is to stall proceedings. The Judge may be further transferred to another Division in due course, to compound the problem the more. Over time, it becomes difficult for the affected Judge to effectively attend to cases in his previous stations and do any meaningful thing in his extant posting.

The way to go is to insist, where proceedings start de novo, on the application of section 46(l) of the Evidence Act, 2011 as it relates to evidence in previous proceedings. By that provision, once the conditions are met, evidence of a witness in previous proceedings may be admissible for the purpose of proving in a subsequent judicial proceeding or in a later stage of the same judicial proceeding the truth of the facts, which it states. See **Amadi v. Orji.**[59]

Conversely, where a Judge is transferred and a Fiat is issued by the Head of Court for him to conclude a part-heard matter, premium must now begin to be placed on the use of virtual proceedings. In the western world, Judges are also transferred but there, cases are not stalled for this reason, as in our clime. By conduct of virtual proceedings, the transferred Judge is able to dispose of the pending matter in his former Division from his current posting.

2.7 The problem associated with the Composition of the Supreme Court in the Pyramidal Structure of Courts in Nigeria -

By the pyramidal structure of Courts in Nigeria, except in very limited instances, appeals in all other matters, journey or travel up to the Supreme Court of Nigeria. Nigeria is a country of an estimated population of some 220,000,000 (Two Hundred and Twenty Million) people, with some 60-65% of this population made up of young adults and later adults. This guide or index gives a picture of the pool of prospective litigants in Nigeria.

Section 230(2)(b) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) provides that the Supreme Court of

Nigeria shall consist of the Chief Justice of Nigeria and such number of Justices of the Supreme Court, not exceeding twenty-one, as may be prescribed by an Act of the National Assembly. Put simply, the Supreme Court of Nigeria cannot comprise more than 22 Justices in all. This is a huge joke! Begin to imagine the volume of cases that come on appeal from the Court of Appeal to that Court, exclusive of the matters, which fall for determination by the Apex Court in the exercise of its original jurisdiction. We pride ourselves as a true federalism. Is this really the case? Prior to 1979, Nigeria practiced the Parliamentary system of government. By 1979, we imported the Federal system of government as practiced in the United States. Yet, in the U.S, whose system we took after, the United States Supreme Court has original jurisdiction in suits between the U.S and a State or two or more States or in which a State shall be party and/or cases involving ambassadors and other public ministers or aliens. It has appellate jurisdiction in cases involving point of constitutional and/or federal law.[60] All other suits must terminate at the Supreme Court of the various States. In our

case, save for very limited exceptions, all disputes end up at the Supreme Court of Nigeria, which comprises – in its full complements – of no more than 22 Justices. How can this work? Today, except for time-bound proceedings, a litigant would be extremely lucky to get a date in the next four or five years for hearing of an appeal lodged – it is that bad! Justices of the Supreme Court are human beings not robots. The Justices of that Court are overworked. Little wonder that once a Justice of that Court retires at 70 years, the Justice, almost/always flow out of circulation in no time. Look at the positive effect the creation of additional Court of Appeal Divisions have had. This means that with more hands on board at the level of the Court of Appeal, there is bound to be an increase in the volume of cases coming to our Supreme Court, all of which clog-up at that level to await determination by a Court, which by its full complement, can only comprise 22 (Twenty-Two) Justices. Yet, the aphorism that justice delayed is justice denied is a truism. This is a sore point on administration of justice in Nigeria. The answer is not to unbundle the Court into Zonal Divisions as this would come with

its own share of challenges. Where we cannot immediately amend the Constitution and the Supreme Court Act to limit the number of cases that can come to that Court, the answer is to increase the number of the Justices of that Court by quickly amending Section 230(2)(b) of the Constitution. In the U.S, because of the limited scope of the jurisdiction of the Supreme Court of the United States, that Court is able to grapple with the challenges of its office as a Court with a full complement of about 10 (Ten) Justices, even as a Justice holds office for life, save he retires.

2.8 Shortfalls in Driving the Aim of Criminal Justice Administration in Nigeria -

In the administration of criminal justice, it must be borne in mind that the two – fold aim of criminal justice is that the guilty shall not escape justice or the innocent suffer. See **Aikhadueki v. The State.**[61] Differently put, by the spirit of the presumption of innocence guaranteed under section 36(5) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), the policy of our Courts is that it would be better to discharge 10 criminals

than to convict one innocent person by mistake or error of law. See **Ukwunnenyi v. The State[62]; Odogwu v. The State.[63]** This is the reason, according to the Apex Court in **Onafowokan v. The State[64],** it is better for 99 guilty persons to go scot free than for one innocent person to be convicted and sentenced for an offence he did not commit.

At all times therefore, the dictates of administration of justice is that the Court is to ponder over two questions, to wit; is the guilty about to escape justice? Is the innocent about to suffer? This has not always been so but must remain the focus of the Court in criminal justice dispensation.

Additionally, our Courts must embrace the principles of restitution in criminal cases as are clearly made permissible by our laws.[65] As the Apex Court has now settled – see **Ezerike v. State[66]**, the reason for restitution to victims of crime is that it is the right of a victim to be reimbursed for losses caused directly by the crime. Restitution is thus not a punishment for the offender. It is regarded in law as monetary debt the offender owes the victim of crime. A restitutionary criminal justice system

includes a Court or a law which allows both victim and the criminal, all opportunity to define more effectively, what will happen to them after a crime has been committed. Restitution is thus a vital means of redress in unjust enrichment cases. The provisions for restitution do not constitute double jeopardy against the convict, according to the Court. This must also be the way to go, to advance the cause of administration of criminal justice in Nigeria.

2.0.1 DRAWBACKS FROM OTHER KEY PLAYERS IN THE ADMINISTRATION OF JUSTICE IN NIGERIA –

Administration of Justice in Nigeria is not all about the Courts. There are other agencies and corporations, which play key roles in the administration of justice sector in Nigeria. Some of these are -

Office of the Attorney-General -

The Office of the Attorney-General is created by the Constitution[67] for the State and the Federation. The Office is a corporation sole, which exists independently of the human person who occupy it from time to time and the Attorney-General

is the Chief Law officer. See **Attorney General of the Federation v. ANPP.**[68] By the powers vested in that office, the Attorney-General can institute, take over or discontinue any criminal proceedings other than a Court-Martial.

The powers of the Attorney-General to institute, take over or discontinue criminal proceedings is only subject to his conscience. See **State v. Ilori;**[69] **Akilu v. Fawehinmi;**[70] **Edet v. State;**[71] **and Anyebe v. State.**[72] Often times, this does great disservice to the administration of justice and may erode public confidence and respect for the rule of law where a person simply escapes justice for reasons that may border on political affiliations, on the alter of unbridled and naked exercise of powers by the Attorney-General. The Attorney-General is not under any control, judicial or otherwise, in the exercise of his powers or functions except the risk of losing his job if he offends his political master (i.e, the Governor or President as the case may be). My position is that much as this is the attitude of the common law as well, the time has come, considering our political history and experience in this country, to separate the Office of

Attorney-General from the political office of Minister of Justice and to create necessary safeguards in the appointment and security of tenure of that Office to guarantee its independence. Additionally, the law must also provide, expressly, that the powers of the Attorney-General to institute, take over and discontinue a criminal proceeding, shall take cognizance of the interests of justice and respect for law and public policy. In this way, the Court may interrogate any exercise of such powers by the Attorney-General to ensure that no person escapes justice on mere exercise of naked powers of the Attorney-General, which may be rooted in political considerations and permutations, sometimes. Earlier, we saw the aim of administration of criminal justice. As the law stands today, a Court may find on the unfolding facts and evidence before it, that a case is one in which a Defendant ought not to be allowed to escape justice. Once the Attorney-General enters a notice to discontinue the action, otherwise called a nolle prosequi, the matter must come to an end and there is nothing the Court can do, whether or not the Attorney-General considered the

demands of due administration of justice. See **Alamieyeseigha v. F.R.N.**[73] This cannot urgur well for the administration of justice in Nigeria.

There are other agencies, which are also involved in the prosecution of crimes. The authority so to do derives either from the express Fiat or presumed authorization of the Attorney-General, the Chief Law Officer. See **Saraki v. F.R.N.**[74] see also **Obijiaku v. Obijiaku**[75]. These agencies include:

The Police –

The duty of the Police is to detect, investigate, and prosecute crimes. See **Onah v. Okenwa .**[76]

The EFCC –

The acronym EFCC stands for Economic and Financial Crimes Commission. Section 46 of the EFCC Establishment Act of 2004 delimits financial crimes. The Commission's scope is restricted to detection, investigation and prosecution of financial crimes. See **Nwobike v. FRN.** [77]

NAPTIP –

NAPTIP is the National Agency for the Prohibition of Trafficking in Persons and was created in 2003. It is a Federal Government of Nigeria Agency set up to address the scourge of trafficking in person. The agency's duties are to detect, investigate and prosecute crimes within that domain.

NDLEA

The National Drug law Enforcement Agency is another Federal Government agency saddled with the responsibility of tracing, arresting and prosecuting persons who are involved in illicit drug activities, narcotic drugs and psychotropic substances.

NSCDC

This is the Nigeria Security and Civil Defence Corps. It is another agency of the Federal Government and a para-military body set up to provide measures against threats and any form of attack or disaster against the nation, its assets/property and citizenry. It is vested with powers to arrest, investigate and institute proceedings or prosecution against any person within its area of operation.

NAFDAC

The National Agency for Food and Drug Administration and Control is another agency of the Federal Government. It was set up to regulate and control the importation, exportation, manufacture, advertisement, distribution, sale and use of drugs, cosmetics, medical devices, packaged water and chemicals. The agency is saddled with the responsibility of detecting, investigating and prosecuting crimes in these areas.

ICPC

The Independent Corrupt Practices and other related Offences Commission was first established in 2000 to carry out investigations, prosecutions and prevention of offences of corruption through the review of lax operational systems in Ministries, Agencies and Parastatals; education of the public against corruption and enlisting public support for the fight against corruption.

D.S.S

The Directorate of State Services in primarily charged with the duty to detect and prevent crimes and threats against the internal security of Nigeria. It undertakes the prosecution of persons suspected to have committed a crime within its purview of operation.

Code of Conduct Bureau and Tribunal

There is the Code of Conduct Bureau and Tribunal Act for the establishment of the Code of Conduct Bureau and a Tribunal set up under it to deal with complaints of corruption by public servants. The Code of Conduct Bureau is to enforce compliance with the Code of Conduct for public servants while the Code of Conduct Tribunal is set up to try cases of infractions of the Code of Conduct for Public Officers.

Court - Martials

The Armed Forces Act provides for the convening of a General Court-Martial for trial of persons who are subject to Service Law. I have included this in this discourse because, ultimately, the operations of the Court – Martial may end up in Court. By the combined effects of section 246 (2) of the Constitution of the Federal republic of Nigeria, 1999 (as amended) and section 183 of the Armed Forces Act, an appeal shall lie from the decisions of a Court-Martial to the Court of Appeal. In that respect, by virtue of section 190 of the Armed Forces Act, it shall be the duty of the Attorney – General of the Federation to undertake the defence of any appeal against a decision of a Court – Martial to the Court of Appeal.

Nigeria Correctional Centre –

This was the former Nigeria Prisons and was set up in 2019 to provide the function of custodial services in the criminal justice system.

In the first place, I have laboured to show that the Courts in Nigeria cannot single – handedly deal with all concerns in the

administration of justice system in Nigeria. There are other key players in the system and some of them have been shown above. So, in the absence of any coordination of the activities of these bodies with the operations of the Court as is, unfortunately, the case at the moment, the ideals of due administration of justice will be a mirage in Nigeria. In effect, this is to make a case for regular joint colloquia, symposia and workshops for the operatives of the bodies listed above with the Judges and the Court to bring the operatives up to speed with the fundamentals of due administration of justice; put the activities of these operatives in synch with such precepts, to thereby promote a synergy amongst all players and set the tone for a robust system of administration of justice in Nigeria. It will be difficult to achieve optimum results in the administration of justice in Nigeria without this. The Courts cannot do it alone. In the interim, it remains the duty of law enforcement agents/agencies to bond with the Judiciary in the due administration of justice. They must not be derelict in this duty. See **Bajulaiye v. The State.** [78] At the Superior Courts, prosecutors are legal practitioners. For certain,

they must continue to conduct themselves as officers of the Court. They must continue to remember that paragraph 30 of the Rules of Professional Conduct for Legal Practitioners, 2007 states that a lawyer is an Officer of the Court and accordingly, he shall not do any act or conduct himself in any manner that may obstruct, delay or adversely affect the administration of justice. See **Hope Democratic Party v. INEC .**[79]The event that occurred in Lagos the other day, where a Judge had made an Order for the remand of the former Governor of the Central Bank of Nigeria at the Lagos Correctional Centre only for the D.S.S (Department of State Service) to whisk him away into their custody with the tacit acquiescence of their counsel, in open and flagrant disobedience of the Order of the Court must never be allowed to repeat itself. This cannot count as a plus for justice administration. The case had been struck out. So, the matter is not subjudice now and l can comment on it

2.0.2 OTHER SALIENT CHALLENGES IN THE ADMINISTRATION OF JUSTICE IN NIGERIA:

There are other immanent pitfalls, which get in the way of due administration of justice in Nigeria. The list is almost endless. I shall simply list them so as not to bore you with a high volume of content to process in this presentation. Such challenges include –

(i) Poor funding of the Judiciary.

(ii) Absence of the independence of the Judiciary.

(iii) Poor working conditions/salaries for Judicial Officers and the support staff. Last month, the media was awash with the news of a Senior Magistrate who rode to Court at the Chief Magistrates' Court of the Neni Magisterial District in Anambra State in a commercial motorcycle, popularly called "Okada". I was moved by pity when I saw the film on the matter. How did we get this bad? Is this how due administration would be achieved?

(iv) Absence of or default in the deployment of technology. Proceedings, in most Courts in Nigeria, are still conducted in long hand. We are already left behind by the rest of the western world.

(v) There is the problem of disobedience of Court Order and, sometimes, recklessness of the Executive arm of Government. The decision in **Governor of Lagos v. Ojukwu,**[80] is still fresh in our memory.

(vi) Limited number of judicial officers relative to the volume of cases.

(vii) Abscondment of defendants and their sureties in criminal trials.

(viii) Litigation remains an expensive venture. The cost of litigation affects access to Courts.

(ix) Absence of a robust framework for regular training and retraining of Judicial Officers and their support staff on contemporary issues in the administration of justice.

(x) Shortcomings of counsel and witnesses. The list is endless.

The solution is to provide more funding for the judiciary, introduce technology in its operations and for the Judiciary itself to assert its independence as a separable arm of government.

3. 0 AVAILABLE TOOLS TO ENHANCE THE CAPACITY OF THE COURT IN THE ADMINISTRATION OF JUSTCE:

A number of facilities, which are at the disposal of the Court, constitute profuse enablements in the task of justice dispensation by the Courts. I propose to quickly look at these to locate their utility value in the administration of justice.

3.1 Judicial Power and Authority of Court –

Undoubtedly, the plenitude of judicial powers vest in the Court – as established for the Federation and the States. See section 6 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended). See **NNPC v. Fawehinmi.**[81]Judicail Powers mean the authority of the Court to adjudicate upon and decide a matter before it, which is within its Jurisdiction. See **Anakwenze v. Aneke.**[82]It is co-extensive with the power of the State to administer public justice - See **Bronik Motors Ltd v. Wema Bank** [83]– and includes the power to deal with anyone who flouts it orders. See **Anakwenze v. Aneke,** supra. As it

is, the vesting of judicial power in the Court presupposes the vesting of authority to control the processes involved in the administration of justice before it. Courts must therefore deploy this authority as may seem meet for a dynamic administration of justice.

3.2 Judicial Immunity-

The Court is already empowered to do its duty without worry, in consonance with the doctrine of judicial immunity. This principle of law which posits that Judges are exempted from being sued for matters done by them in their judicial capacity, is of great importance. It is necessary for a free and impartial administration of justice, that the Judicial Officer administering it should be uninfluenced by fear and unbiased by hope of prospects of same. See **Egbe v. Adefarasin.**[84]This is a plus for justice administration as it frees the mind of the Court to do its work unperturbed.

3.3 Power to Punish for Contempt –

The position of the Law is that no party before the Court should do anything to undermine the authority of the Court. When that is done, it is a challenge to the administration of justice, and in appropriate cases, such should be visited with the proper and appropriate sanctions. See **Etaluku v. A.G. (Delta State).** [85]One of such sanctions is the imposition of punishment for contempt by the Court.

Disobedience of Court order tantamount to contempt of Court. The principles enshrined in the law of contempt are there to uphold and ensure the effective administration of justice. See **Fame Publications Ltd. v. Encomium Ventures Ltd.**[86]Orders of the Court must always be obeyed if the authority and administration of the Court are not to be brought into disrepute, scorn or disrespect. Once a party knows of an Order of the Court, whether it be valid or not and whether regular or irregular or even perverse, he is obliged to obey it, until it is either set aside or declared null and void. See **Rossek v. ACB Ltd;** [87]see also **Adebayo v. Johnson.** [88]

The rationale for contempt is the need to vindicate the dignity of the Court as an institution and, thereby, protect it from denigration and ensure due administration of justice. See **FRN v. Akubueze, supra.**

The power to punish summarily for a contempt in the face of the Court is undoubted and when a contempt is committed in facie curiae, a superior court of record is entitled to punish it by fine and/or imprisonment as part of the jurisdiction of the Court to prevent, brevi manu, any attempt to interfere with the administration of justice. In other cases, the proper procedure of apprehension or arrest, charge, prosecution, etc. must be followed. [89]

3.4 Stemming the Tide of Abuse of Court Process –

Abuse of Court process subsists in the employment of judicial process to the irritation and annoyance of the adverse party in a matter, to the detriment of the efficient and effective administration of Justice. See **Saraki v. Kotoye.**[90]Abuse of process arises in a variety of circumstances. It occurs in litigation

once there is undue interference with the efficient administration of justice. See **Ogoejeofo v. Ogoejeofo;** [91]**Arubo v. Aiyeleru;** [92] **Harriman v. Harriman;**[93] and **Dingyadi v. INEC (No.2).**[94]Once this occurs, the Court has a duty and powers to stop the abuse. **See CBN v. Ahmed.** [95]

3.5 Authority over Adjournments and Taking Charge of Proceedings-

It is settled law that adjournments of cases fixed for hearing, or generally, are not obtained as a matter of course. They may be granted or refused at the discretion of the Court. See **Alsthom S. A. v. Saraki.**[96]see also **Okeke v. Oruh**[97]**.** Once this discretion is exercised judicially and judiciously, the Court is good to go. See **Ceekay Traders Ltd. v. General Motors Co. Ltd.** [98]

Quite clearly, the Court's power to accept or reject a request for adjournment invests it with a necessary tool to pilot the affairs of Court as the master of the Court that he is. This, in turn, posits a good omen for the due administration of justice. At all times, the Court is to be on top of the occasion and take charge

of proceedings because, indeed, every Court of competent jurisdiction is dominis litis over matters before it. See **Nabaruma v. Offordile.**[99] Surely, after a suit is filed, the trial judge becomes dominis litis (the master of the proceedings) and has the duty and responsibility of ensuring that the proceedings accord with justice, equity and fair play. In the exercise of these onerous duties, he has wide powers and discretion to achieve justice for all. See **Panalpina World Transport Holding A. G. v. Jeidoc Ltd.** [100]

3.6 Exercise of Discretion and Inherent Powers –

Discretion in the judicial and legal context means the equitable decision of what is just and proper under the facts and circumstances of a particular case, guided by the principles of law. See **Arta Industries (Nig.) Ltd. v. N.B.C &I.**[101]see also **Soyinka v. Oni.**[102]The discretionary jurisdiction of the Court forms part of the inherent power that is innate to the Court once it is established. It is a jurisdiction that vests naturally in a Court by virtue of its creation under the Constitution. Courts are the

primary custodians of the Constitution and by reason of which they are inherently imbued with sacrosanct and far – reaching fundamental powers to preserve and uphold the rule of law. See **Gudi v. Male.** [103]

Inherent power of the Court is that power which adheres to the Court just because it is a Court. They are those powers that are reasonably necessary for the administration of justice in the Court. In the words of Oputa, JSC (of blessed memory) in **Adigun v. A. G. (Oyo State)** [104]**:**

> ***…****the inherent power of any Court is that power which is itself essential to the very existence of the Court as an institution and to its ability to function as such institution – namely as an institution charged with the dispensation of justice…An inherent power has to be inherent in thesense that it forms an essential and intrinsicelement in the whole process of adjudication.It is innate in a Court….*

These are some of the ready tools, which are at the Court's disposal and can readily be deployed by the court in its quest to enthrone a viable and due administration of justice in Nigeria.

3.7 CONCLUSION

It is undubitable that the notion of justice and administration of justice seeks to appraise the prospects for enthroning an impartial dispensation of the affairs of society through the intervention of fair, just and equitable laws. In the Nigerian experience, an avalanche of drawbacks tend to impede this cause. In that respect, the enormity of these challenges task and put the Court's capacity to test. So, a judicial officer saddled with the responsibility of administering justice must find a way round the obstacles which present before him, bearing in mind, at all times, that the empirical element in adjudication is to render justice; and that the law is infused with the propensity to achieve its purpose, to wit; to give people their due recompense or reward. So, anything in the process which fails to conduce to this, must dissipate, and the Court is already imbued with the constitutional authority to intervene.[105] The Court is therefore

enjoined not to endure that mere form or fiction of law, introduced for the sake of justice, should work a wrong, for law and all of its technical rules ought to be but a handmaid of justice; and that legal inflexibility may, if rigidly pursued, only serve to render justice grotesque, if not outright injustice – the very antithesis of what the law strives to attain!

This is the fulcrum of this paper. I thank you for listening.

Hon. Justice (Prof.) C. A. Obiozor,
Judge,
Federal High Court,
Benin Division.

END NOTES

1. (2010)7 NWLR (Pt. 1192)61.
2. (1985)2 NWLR (Pt. 6)211, 230.
3. 65 (D. Anson tans. 1943) referred to in Fulani v. Rafawa (2013)LPELR-20384.
4. (2008)3 NWLR (Pt. 1073)1.
5. See Black's Law Dictionary, 8th Edn., 2004, P. 881.
6. See The Judiciary and the Challenges of Justice, at p. 33..
7. (1986)1 NWLR (Pt. 18)621.
8. See Mbas Motel Ltd. v. Wema Bank Plc (2013)LPELR – 20736.
9. (1989)4 SC (Pt. 1)63.
10. (1987)2 NWLR (Pt. 57)381.
11. At p. 398.
12. (1980)8-11 SC 103, 127.
13. (2004)9 NWLR (Pt. 879)507.
14. (2007)3 NWLR (Pt. 1020)71.
15. (1985)7 SC 178.

16. (2008)5 NWLR (Pt. 1080)227.
17. (1990)9-10 SC 115.
18. (2002)12 SC (Pt. 11)136.
19. (1987)2 NWLR (Pt. 58)587.
20. (1991)8 NWLR (Pt. 212)652.
21. (2010)17 NWLR (Pt. 1223)525.
22. See Adeniyi v. Governing Council of Yaba (1993)7SCNJ 304.
23. (1995)8 NWLR (Pt. 414)419.
24. (1985)2 NWLR (Pt. 9)599.
25. See F.C.S.C. v. Laoye (1989)4 SC (Pt. 11)1.
26. See the Constitution of the Federal Republic of Nigeria, 1999 (as amended).
27. Supra.
28. Supra.
29. (2015)11 NWLR (Pt. 1471)405, 439.
30. (2017)11 NWLR (Pt. 1577)410, 483; 499-500.
31. See Anozie v. I.G.P. (2016)11 NWLR (Pt. 1524)387, 405; see also Gumau v. Bukar (1991)1 NWLR (Pt. 168)439.

32. (1989)1 NWLR (Pt. 97)297.

33. See Okoduwa v. The State (1988)2 NWLR (Pt. 76)333.

34. (1987)2 NWLR (Pt. 57)381.

35. (2006)7 SCNJ 182, 195.

36. (2013)LPELR – 22370.

37. See Rule 3.7 of the Code of Conduct for Judicial Officers, 2016.

38. (1991)2 NWLR (Pt. 172)150.

39. (1978)9-10 SC 35.

40. (1993)9 SCNJ 223.

41. (1952 – 54)14 WACA 24.

42. (2016)1 NWLR (Pt. 1492)147, 179.

43. (2018)11 NWLR (Pt. 1630)315, 326.

44. (2001)9-10 SC 92.

45. (2005)19 NWLR (Pt. 959)130.

46. (1985)1 NWLR (Pt. 1)143.

47. (1992)6 NWLR (Pt. 246)132, 142.

48. (1999)7 SCNJ 600; see also Adelusola v. Akinde (2004) ALL FWLR (Pt. 218)776.

49. (1985)10 SC 267, 268.

50. See Okoduwa v. The State, supra.

51. (2018)LPELR - 45034.

52. (2008)8 NWLR (Pt. 1089)338.

53. (2008)16 NWLR (Pt. 1112)1.

54. (2017)2 NWLR (Pt. 1549)282, 310; see also F.R.N. v. Senator Wabara (2013)5 NWLR (Pt. 1347)331, 357.

55. See Sokwo v. Kpongbo (2003)2 NWLR (Pt. 803)111.

56. (1995)4 NWLR (Pt. 388)206, 222.

57. (1981)4 SC 7.

58. (2003)15 NWLR (Pt. 843)310.

59. (2016)9 NWLR (Pt. 1516)154, 164.

60. See Article III, section 11 of the Constitution of the United States, which was written in 1787, ratified in 1788 and came into operation in 1789.

61. (2013) LPELR – 20806.

62. (1989)7 SCNJ 34.

63. (2013)14 NWLR (Pt. 1373)74, 127.

64. (1987)7 SCNJ 238.

65. See, for instance, Section 11(l) of the Advance Fee Fraud and other Related Offences Act, 2006; see Section 32 of the Administration of Criminal Justice Act, 2015.

66. (2023)7 NWLR (Pt. 1883)207, 247-248.

67. See Sections 211 and 174 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) for the Office of the Attorney-General of the State and the Federation respectively.

68. (2003)18 NWLR (Pt. 851)182.

69. (1983)2 SC 155.

70. (1989)3 NWLR (Pt. 112)685, 702.

71. (1988)12 SCNJ (Pt.1)79.

72. (1986)1 SC 87.

73. (2006)16 NWLR (Pt.1004)1.

74. (2016) LPELR – 40013.

75. (2022)17 NWLR (Pt. 1859)377, 400.

76. (2010)7 NWLR (Pt. 1194)512.

77. (2022)6 NWLR (Pt. 1826)293.

78. **(2012) LPELR – 7995.**

79. **(2009)8 NWLR (Pt. 1143)297.**

80. **(1986)1 NWLR (Pt. 18)621.**

81. **(1998)7 NWLR (Pt. 559)598.**

82. **(1985)1 NWLR (Pt. 4)771. See also Ijezie v. Ijezie (2014) LPELR -23773.**

83. **(1983)6 SC 158; (1983)1 SCNLR 296.**

84. **(1985)5 SC 50.**

85. **(1997)8 NWLR (Pt. 516).**

86. **(2000)8 NWLR (Pt. 667)105.**

87. **(1993)8 NWLR (Pt. 312)382.**

88. **(1969)1 ALL NLR 176, 194.**

89. **See Ene Oku v. The State (1970) ALL NLR 62.**

90. **(1992)11/12 SCNJ 26.**

91. **(2006)1 SC (Pt. 1)157.**

92. **(1993)3 NWLR (Pt. 280)126, 142.**

93. **(1989)5 NWLR (Pt. 119)6, 16.**

94. **(2010)18 NWLR (Pt. 1224)154.**

95. **(2001)5 SC (Pt. 11)146.**

96. (2005)3 NWLR (Pt. 911)208.

97. (1994)4 SC (Pt. 222)37.

98. (1992)2 NWLR (Pt. 222)132.

99. (2004)13 NWLR (Pt. 891)599; see also Hon. Garuba v. Hon. Omokhodion (2010) LPELR – 9088.

100. (2011) LPELR – 4828.

101. (1998)4 NWLR (Pt. 546)357.

102. (2011)3 NWLR (Pt. 1264)294.

103. (2010)7 NWLR (Pt. 1193)225.

104. (1987)2 NWLR (Pt. 56)197, 235.

105. See Duke v. Akpabuyo Local Government, supra.