**SPEEDY DISPENSATION OF**

**JUSTICE IN THE LOWER COURTS**

**A PAPER PRESENTED AT THE ALL NIGERIA JUDGES' CONFERENCE OF THE LOWER COURTS.**

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**BY**

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**PREAMBLE:**

This paper will discuss the need for speedy dispensation of justice in the lower Courts in Nigeria. It will look into some key terms definition and will discuss briefly the why and how to attain justice speedily, also the effect in event of any delay in dispensing justice.

**DEFINITION OF TERMS:**

**SPEEDY:**

Oxford Advanced Learner's Dictionary 8th Edition defines the word speedy means an act “*done or occurring quickly”* and or *“moving quickly”.*

The word “speedy” is an adjective which means “*without delay, quick; prompt”* as defined in Collins Dictionary.

When something is “*speedy”,* it means the act or process is done quickly, without delay and or promptly.

**DISPENSATION:**

The word *“dispensation”* is defined by Oxford Advanced Learner’s Dictionary 8th Edition as *“the act or process of providing something, especially by somebody in authority”.*

**JUSTICE:**

Justice is a word that means different things to different people. It can be a name, title and or end result of all judicial processes. This paper will restrict its meaning to the end result of judicial process.

According to Oxford Dictionary of Law, 5th Edition, Justice is *“A moral ideal that the law seeks to uphold in the protection of rights and punishment of wrong”.*

Justice means giving each person what he or she deserves. According to the Nigerian Law Dictionary by **Suleiman Ismaila Nchi *(New Edition)*  at page 338** define justice as:

*“The fair and equitable allocation of rights, duties and burdens. The impartial, proper and effective application of the law”.*

According to **Oxford Advanced Learner’s Dictionary 8th Edition** defines justice as:

*“The fair treatment of people based on the principles of justice. The legal system used to punish people who have committed crimes: the criminal justice system”.*

Justice is not just a term, it is rather an act when carried out is felt and enjoyed by all. Justice is not a one sided act but an act done for all. Justice is done to all parties involved in litigation and the society; this arose the need for justice to be seen and felt done to all by the law and especially the Judges.

**LOWER COURTS:**

Lower Court(s) is a term used in describing Courts that are not Courts of record. Courts of record are also called Superior Courts. The Constitution of the Federal Republic of Nigeria 1999 (As Amended 2011) at **Section 6(5)** lists Superior Courts of Record to include:

“*a. The Supreme Court of Nigeria;*

*b. The Court of Appeal;*

*c. The Federal High Court;*

*d. The High Court of the Federal Capital Territory Abuja;*

*e. a High Court of a State;*

*f. the Sharia Court of Appeal of the Federal Capital Territory, Abuja;*

*g. a Sharia Court of Appeal of a State;*

*h. the Customary Court of Appeal of the Federal Capital Territory, Abuja;*

*i. a Customary Court of Appeal of a State;*

*j. Such other Courts as may be authorized by law to exercise jurisdiction on matters with respect to which the National Assembly may make laws; and*

*k. Such other Courts as may be authorized by law to exercise jurisdiction at first instance or on appeal on matters with respect to much a House of Assembly may make laws”*

Lower Courts are Courts established by the Chief Judge of a State and or by Legislation of the House of Assembly. This has left the lower Courts at the hands of the State Government.

Lower Courts are the grassroot Courts, having direct and closer effect on the common man, therefore the need for the speedy dispensation of justice. These Courts are only lower in terms of nomenclature and not with regards to workload and responsibilities.

Lower Courts are known as:

1. Magistrates Courts.
2. Customary Courts.
3. Area Courts and
4. Sharia Courts.

They are found in all the 36 States of Nigeria and the Federal Capital Territory.

From the definition of terms, speedy dispensation of justice can be said to be “*Justice without delay”.*  This topic can be reframed to read: *“Justice without delay in the lower Courts”.*

**WHY SPEEDY DISPENSATION OF JUSTICE?**

The need to dispense justice as at when required is for justice to be seen and felt done by all. It is trite and also elementary that *“Justice delayed is justice denied”.*  This arose the need for speedy dispensation of justice.

When there is a delay to justice, litigants and society fear that injustice has been occasioned. This can make the aggrieved parties to take the laws into their hands.

There are instances based on peculiarity of cases that require justice speedily. When delayed due to some reasons, injustice is smelled from afar leading to loss of interest and trust in the judiciary which is *“the hope of the common man”.*

It is to this “*hope of and for the common man”* that Judges of the lower Courts who are closer to the common man are expected to dispense justice speedily.

**HOW?**

The means to achieve and or attain justice are same as the causes of delay. It is the opposite and will be addressed together. In seeing that justice is dispensed with as at when due, this can be achieved through the following and not limited to:

1. **JUDGE.**

The personality of the Judge most times affects the cases before him. Many litigants including Lawyers take the personal image and character of the Judge into consideration before filing a case before him.

As a Judge, one must deliberately build and develop onself in all ramifications. Don't assume to know it all. For me, I do say *“I am a learning learned man.” Study, Learn and I said good things and ideas from others.* Ask questions over difficult issues, to get other opinions or better still the current position of the law. Spice up your rulings and judgments with recent decisions of Superior Courts.

Be master of your Court with knowledge at your finger tip.Dress well as first impression matters. Be early in Court. Let people know you as the 9 0’clock Judge. Write rulings and judgments as at when due. Don’t be known for adjournments over rulings and judgments, this dash the hope of the common man.

People come to Court with expectation. Do as expected within the ambit of the law. Don’t be known as the corrupt Judge, lazy Judge, dirty Judge, money induced Judge, partial Judge or the government Judge. Be known for good and sound records which you have created by due diligence.

Take your time to train and re-train yourself. Opportunity as this, is not daily or yearly. For some, it is once in many years. You can get update from those who attended, and where opportunity is given for individuals to register, try do so to get more knowledge. Remember, knowledge is gotten through your deliberate effort, and not by laziness.

Don’t be known for selected cases. Be best in all before you. Conduct trials that the Supreme Court will uphold making it a clasicus. Be the best of all Judges and work to achieve same. Buy books and read books. Be an ocean and not a well of knowledge. Let people draw from your wealth of knowledge daily.

Develop good writing skills and have speed during trials. Have rules and or principles that make you unique. Make the Court room a hall of knowledge to the least. That those not represented by Counsel will see and feel justice is dished out to all. Be good so that when one loses a case, it will be on merit not on technicalities or bias.

In developing a Judge, the Judge must deliberately fight to be corrupt free. Corruption should be far from a Judge and justice will be speedy.

Further more, the training and retraining of judges like this Training, should be done more frequently, to keep them abraised with new trends, laws and court drcisions. A Judge must keep abraised with the use of the internet, due to the modern trends and globalization. Note, where a Judge is short of the above basic principles and guide, justice will be delayed.

2. **COURTROOM**

The Government through the Judiciary needs to improve the condition of Judges of lower Courts with a befitting Courtroom, offices and working facilities. Some of our Courtrooms are not only dilapidated but small, not airy and unconducive. This also affects speedy dispensation of justice. When a Judge get no comfort in the Courtroom, justice will be delayed. A Judge cannot sit for four (4) hours when the hall is stuffy. A Rise will be daily and litigants will do all it takes to run away from the Court, not mindful of the person.

Comfort in Court hall is not just for the Judge rather for all in the hall. Courtroom/hall of Judges of lower Courts are known for having small size, space, broken chairs, leaking roofs, broken windows or few windows with no good ventilation. No light, heat is common and a home for lizards due to lack of stores. Some Courtrooms/hall also serve as stores where exhibits and properties brought to Court are kept. This affects comfort.

The Courtroom must have internet facilities and computers manned by able personnel to aid in speedy dispensation of justice. Some of our Courtrooms have no restrooms for use. When a Judge need use of the restroom, must rise for the day.

There are insufficient Courtrooms. Some Judges share Courtrooms and days for sittings. This is also a cause for delay. Also the use of Courtroom for Tribunals and other administrative functions, puts trials on hold pending determination of the Tribunal Case and or administrative functions.

3. **COURT STAFF/SUBORDINATES**

Subordinate and or supporting staff have a lot in making a Judge have smooth access to dispense justice. The roles, duties and functions of these supporting staff from Registry staff, clerical officers, Bailiffs, cleaners, and messengers cannot be belittled.

Where documents are not signed or processed by the Registry, justice will be delayed. Where there are no clerical staff, the Court cannot sit and justice will be denied to a person. Where processes are not served and correctly, justice will be prolonged. Also, where the Courtroom is always dirty with no cleaners and or messengers to carry out these roles, then justice will tactically be delayed and or denied.

Furthermore, some of these staff have no knowledge of their functions and duties. Most Lower Court Judges now have to do some of these roles and also train these staff when employed or as part of continuous learning.

To be fair to the Judiciary, there are workshops organized, but only a few are selected to attend, leaving bulk of the workforce untrained and not ICT compliant.

Also most of the hard working and effective subordinate staff are send to work with Superior Court Judges. When a Staff is spotted in the lower Courts as an effective staff, transfers will take such a person to the High Court.

The role of subordinate staff help in speedy dispensation of justice when files are not hidden but minuted for ease of work and all processes ready for trial, the Judge will have to sit up and see that justice is dispensed speedily.

Also when lower Court Judges are appointed as Superior Court Judges, we move with those staff.

Subordinate staff needs training on use of internet facilities. Courtrooms man by lower Court Judges have little or no such facilities. This implies that while a Judge must have advanced in use of internet and technologies, the supporting staff are not, making work for filing of processes to be done manually. The Judiciary need to update the supporting staff on new Laws and reforms made. Anything short of these will cause delay to Justice.

**4. BASIC AMENITIES/ WELFARE:**

Lack of basic amenities at the disposal of the lower Court Judge affects justice to be delayed.

This may baffle a few but not strange to us, the lower Court Judges. The lower Court Judges handle most of the cases in the States and Country at large, but they lacked basic amenities like welfare, and are not given much attention. When a lower Court Judge is sick, he seeks medical attention on his own. We have no medical funds to access aside our salary, which is very poor. We are not entitled to regular medical checkup at the expense of the Government or Judiciary. It seems the lower Court Judges are not important and are a burden to the Government.

Our salaries differ from State to State unlike the Superior Court Judges that have a basic and uniform salary package. While for most, we have same paid with other public or Civil Servants of the State.

Most of us, our State Government with all due respect, have no accommodation plans for the lower Court Judges. When transfer from one location and or jurisdiction to another, we sought our accommodation ourselves leaving us prey to potential litigants who are now our landlords, neighbours or community members due to little help and or favour gotten when in search of such accommodation needs.

Security of lower Court Judges are mostly in their hands. We know that no man protects but the presence of security personnel will give some sense of security to Judges of the lower Courts. Our security challenges include us using public transport system. The issue of transportation might not be to all States in the Country, but a few are affected; making us vulnerable and opened to attacks.

Need I say more on issue of domestic workers or helpers that most of us cannot afford or cater for. At close of work or before going to work, we must ensure that the home is clean and with the next meal ready.

A look into the basic amenities of lower Court Judges will aid in speedy dispensation of Justice. Where there is some joy and comfort, progress is certain.

**5. LEGAL MATERIALS AND FACILITIES**

To achieve and attain speedy dispensation of justice, the Judge must have access to legal materials and facilities.

There must be a functioning library for the Judge to access. If “e-library”, access to such must be unfettered. The lower Court Judge should not always access such material by means of his meager salary. The government should make such provisions easily available including hard copy law reports, books etc.

The Judge of the lower Court should have up-to-date facilities and gadgets in the Courtroom. These facilities are not limited to the following:

1. Electronic record systems to reduce long hand use.
2. Laptops.
3. Projectors, especially where electronic devices are needed due to sophisticated cybercrimes and others.
4. Translators.

**6. COURT OFFICIALS AND INVESTIGATORS.**

These officials are not limited to the lawyers and prosecutors that are attached to the Court and or who come in daily for trials.

Justice is delayed most times due to the involvement of lawyers and prosecutors. Most of them will use technicalities including sought for adjournment for one reason or another to delay justice. It must be noted that not all times do the Judge have control over such.

Most cases have to be controlled by the lawyers and prosecutors handling them. The lack of proper investigation, report of investigation which are more sophisticated delay justice. For instance, where forensic investigation is needed and services are not easily accessible, justice will be delayed.

Some investigations take longer time due to lack of knowledge of what to do and how to do them. The Courts having no access to such facilities cannot control the when, how and what is to be done. Some prosecutors have little knowledge of law, making trial cumbersome taking longer than necessary. While some lawyers and prosecutors are known for incessant adjournments and non-attendance in Court.

7. **ALTERNATIVE DISPUTE RESOLUTION (A.D.R.).**

Most litigants frown at Alternative Dispute Resolution (A.D.R.). Litigants have these beliefs that cases can only be resolve when there is full blown trail. Many are against Alternative Dispute Resolution (A.D.R.) making justice not to be speedy.

When a Court, advice for Alternative Dispute Resolution (A.D.R.) in a matter, the litigants can go to another Court, abandoning yours and or the Court will be slap with issue of bias and decending into the arena. Also, some Lawyers are against A.D.R. as they will be denied cash flow due to coming to Court regularly.

8. **LITIGANTS AND WITNESSES.**

Justice is affected and delayed by litigants at lower Courts. Some not all litigants have little knowledge of law and the whole trial process will be burdensome to them. Some litigants expects justice by the second sitting and when not gotten, they feel justice is denied.

Other litigants have no Court close to them making justice delayed. Access to Court aid in speedy dispensation of justice.

For some, the cost of litigation is high. From filing processes, transportation to Court and also paying for legal representation is too high and makes justice delayed.

There are litigants who see justice only from their cultural, religious, moral and on mentality point of view. When justice is not as seen by them, they see justice as being denied and or delayed. While some litigants do abandon case and or abscond from trial.

Some litigants came to Court with a punitive mindset. Justice for them is for the other to be punished not looking into the merit of a case. Before such a mindset can be cleared, the news will be that justice has been delayed.

The place of witnesses cannot be belittled. No justice can be achieved without witnesses and evidence and absence of these will cost delay. Further threats on potential witnesses affect and delay trial and also remuneration.

9. **ADMINISTRATIVE INVOLVEMENT AND DECISIONS**

Justice is sometimes delayed in lower Courts by roles carried out by the Judiciary and mostly from influence of those that matters. This inference is not restricted to:

1. How a Judge handle trial?
2. Who are parties in the action?
3. Who got the influence?
4. How of the influence gotten is mostly unknown and
5. The outcome done due to the interference.

The influence not just interferes with justice but alter the whole justice system making justice to be suppressed and the Judge intimidated. This has occasioned delay and denial of justice.

When a Judge who got this wind that there is interference does as the law demands and or otherwise of the interference gets punished. The fear of punishment makes a Judge do otherwise leading to delay and denial of justice.

This influence includes petitions and queries being given to the Judge. The period of response and awaiting administrative decisions causes delay in the trial system. Most litigants and Counsel who have access to “*who that matters”* make use of petitions to stall justice system causing a delay. Where an appeal will resolve an issue, room for petitions weakens the Judge quest to see to speedy dispensation of justice. Appeals from every ruling including for grant or refusal of an adjournment makes justice to be delayed.

The dependence of the Judiciary on the Executive Arm affects and also contributes to delay. The Executive must approve resources for basic needs of the judiciary to be met and not to be used as a stick of interference causing delay in justice.

**10. JURISDICTION**

The issue of jurisdiction is not what a Judge accords on himself rather from warrant creating the Court, cause of action and or parties. Where a Judge sits on a matter he has no jurisdiction on, this act delay justice. Knowledge of the jurisdiction of a Judge is important and should not be handled with laxity.

11. **WORKLOAD**

Justice is delay when the workload of a Judge is much. Justice should be access speedily by all. One way to achieve this is by making available more Courts for litigation. Where Courts are far and litigants have to move from one locality to another before having access to justice makes the workload a burden on the Judge. The effectiveness of the Judge will be affected by the heavy workload. More Courts should be established to cover and reduce the workload.

Further, appointments and or recruitments of more Judges of the lower Courts will reduce workload and make access to justice easy.

12. **POSTINGS AND TRANSFERS**

Where Judges of lower Courts are transferred regularly, it affects access to justice. Where transfer and or postings becomes too many, justice will be delayed. Litigants will be forced to start matters  **de novo**  as only a few apply for fiat. The effect of transfer and posting is not only on the litigants also the Judges physically, financially and psychologically.

13. **LACK OF ACCESS TO COUNSEL**

Most litigants don’t have Counsel and in the lower Courts, it is not mandatory for litigants to be represented by Counsel. However, there are cases that require the services of a Counsel and such are not as of right and automatic to litigants.

When the Court advice a litigant on need to get a Counsel for representation due to some processes, poor understanding of the judicial system and financial challenges affect the litigants and justice is delayed. Some litigants will abandon the case due to finance where need arose for services of Counsel.

14. **LAWS AND REFORMS**

There are laws that procedurally make justice to be denied. While some laws are in need of review or amendments due to the emergence of more sophisticated crimes and technology, some rules of the law are cumbersome in nature. There is need for laws to be easy and flexible yet burdensome to who is at fault.

Laws such as the Constitution of the Federal Republic of Nigeria support speedy dispensation of justice also the Administration of Criminal Justice Act, 2015 and of Administration of Criminal Law of States.

Laws differ from one jurisdiction and or State to another mostly due to tribal and religious differences. A Judge, Counsel and or litigants must be updated on these.

15. INTERFERENCE BY JUDGE'S RELATIVES/ FRIENDS:

The interference by family members, gender and friends are usually intended to compromise justice not only in the lower courts, but also the Superior Courts. This is a real temptation we must all try to overcome. The Judge need to know that he is a real and symbolic representation of the figure of justice in human form. A judge of repute must separate between family, gender and friends in dispensing justice. A good judge must give justice to both parties, whether they are family members,gender friends or perceived foes. He must avoid the temptation of allowing bias and or personal interests be cloud his sense of justice. It is best to stay away from matters that are linked to their families and friends.

**CONCLUSION**

The Lower Courts have a great role in achieving speedy dispensation of justice as this is a possibility. Despite the challenges of the Lower Courts as discussed, same challenges are part of and or the solution. It is for a Court in person of the Judge to ensure that cases are dispensed speedily. This can be achieved by the Judge who controls his Court proceedings, avoiding all tactics of delays and technicalities. In the case of **Odua Investment Co. Ltd v. Talabi [1997] 10 NWLR part 523 page 1 at 52 para E-F** Per **Ogundare JSC,**  the Supreme Court held that:

**“Technicalities are a blot upon the administration of the law and the Courts have moved away from allowing them to make an ass of it and dent the image of justice”.**

As Judges of Lower Courts, we are to move away from anything that affects and hinders the speedy dispensation of justice. In the case of **Omisore v Aregbesola [2015] 15 NWLR Part 1482 page 1 at 257 para H**  Per **Nwese JSC,** the Supreme Court held that:

**“The Courts have shifted from technicalities to contemporary justice”.**

It is the statement of Hon. Justice Katsina Alu JSC in case of AMAECHI v INEC that:

**"I must do justice even if the heavens fall."**

This should be the mentality and mindset of all Judges that "justice" **must** be done at all cost irrespective of the outcome and in line with the Law.

**RECOMMENDATIONS**

This paper recommend the following in ensuring speedy dispensation of justice and not limited to them.

1. Court should regulate grants of adjournments and other ploy used by both parties in litigation to ensure speedy trials.

2. Government should provide Courtrooms or halls that can be used for Tribunals and other administrative functions aside the regular Courtrooms.

3. Government should renovate and build where necessary Courtrooms for Judges to use. The Courtrooms should be furnish and up to date for speedily dispensation of trials.

4. Transfers and postings of lower Courts Judges should be regulated.

5. Judges must be discipline to time and rules of Courts.

6. Funds be made available for the Judiciary to pay remunerations and for other needs to be met without going to the Executive for such especially with regards to Judges of Lower Courts.

7. Lower Court Judges be treated and regarded as Judicial Officers to enjoy basic rights and privileges of Superior Court Judges. And their welfare taken seriously.

8. Little room be made for use of administrative checks and or punishment such as queries and petitions.

9. Those litigants and lawyers who patronize the use of petition when not on merit be penalized.

10. Judges should make a deliberate decision to ensure justice at all cost even the heavens will fall.

11. The National Assembly, State Assembly and the Judiciary should embark on some law reforms, to update and remove absolute laws, policies, procedures and penalties that hinders speedy dispensation of justice in the lower courts, considering local and global trends.

12. Judges should avoid personal bias, family interests and influence from friends and dispense justice with fairness.

13 Superior Judicial officers and political office holders should avoid the abuse of power by directing, influencing and inducing judges of the lower courts from speedy dispensation of justice.

These and many others will help bring about fair hearing and speedy dispensation of justice in the lower courts all over Nigeria.

I sincerely thank the management and staff of the National Judicial Institute Abuja, for the previge and the opportunity to share some thoughts and experiences on the above subject matter discussed. Thanks to all fellow participants for your kind attention and participation in this serious matter that is so dare to our profession and for building a virile Nigerian Nation. I wish you a wonderful stay in the city of Abuja and a peaceful trip back to your various destinations, at the end of this 2024 Conference.

Long Live the Federal Republic of Nigeria!

Long Live the Judiciary!!

Long Live the National Judicial Institute Abuja!!!

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