

# **RULES AND CHALLENGES FOR AN EFFICIENT AND TRANSPARENT CRIMINAL PROCEEDING IN NIGERIA VIS A VIS CHALLENGES AND PROSPECTSBARR.**

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## **A. ABSTRACT**

The need to transform the effectiveness and efficiency of the justice system in Nigeria has necessitated this write-up/lecture. Criminal justice delivery in Nigeria is marred with so many short-comings and lacks transparency.

However, the constraints for an effective and transparent criminal proceeding in Nigeria can only be solved by embracing the reforms in the administration of the criminal Justice Act, considering its successful adoption and use in some other jurisdictions-Lagos and federal level.

This lecture aims at examining in extensio some of the challenges that have stalled the efficiency and transparency of criminal proceeding/trial in Nigeria. In doing so, this paper will focus on the challenges, prospects alongside the implication of the new Administration of criminal justice Act as an antidote to the effective realization of criminal justice delivery in Nigeria. The topic will however, be strictly followed so as not to exceed its scope.

To achieve this, reliance has been placed on secondary sources emanating from books, and articles in conference papers and other materials. This paper will further strengthen the justice sector with the resultant effect of enhancing an independent and effective criminal justice administration in Nigeria and Africa at-large.

## **B. INTRODUCTION**

I appreciate the opportunity to be part of this great conference/workshop and to present this lecture.

Nigeria operates a presidential system of government<sup>1</sup> whereby power is divided among the three (3) arms of Government; Executive, Legislative and the Judiciary. The Executive arm is a creation of the Constitution as amended which defines its roles. Likewise the Legislative and the Judiciary

The three (3) arms of government have their well-defined goals as well as perform some quasi functions. The 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Republic adopted and is still practicing the American parliamentary system pattern, though with a British influence of a bicameral system of

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1 Nigeria's Legislative process NIALS (2012) pg. 3-4, edited by *Epiphany Azingbe and Suzzie Otunni*.

legislation at the centre known as the National Assembly which is made up of the House of Representatives, comprising of 364 members and a house of senate consisting of three senators from each state and one from the Federal Capital Territory, Abuja.

The organs are separated yet interwoven. To this end, they are all involved one way or the other in the administration of criminal proceeding in Nigeria. Therefore, the need for criminal proceeding to be efficient and transparent cannot be undermined.

### C. CONCEPTUAL FOUNDATION

**Efficiency:** – According to the advance learned dictionary,<sup>2</sup> efficiency is the quality of producing an effect or effects; in other word efficiency is the productive capacity of the extent to which time is well used for an intended task. According to the blacks law dictionary,<sup>3</sup> to be efficient is to cause an effect particularly the result (s) contemplated adequate in performance or producing properly a desired effect.

**Transparency:** – This is the quality of being transparent<sup>4</sup> (transparence) with ability of being open and accessible to be viewed. In criminal proceeding, in as much as there are procedures to be followed, those procedures should be transparent to allow a better understanding by the public and the litigants.

In discussing this topic, we shall be making reference to the administration of justice system.

For a start, the administration of the justice system refers to all national institution laws and policies established to administer justice. This definition covers institutions in all the three branches of government (Executive, Legislative and Judiciary) as well as independent national institutions such as National Human Rights Commissions, Police, and Prisons.

A fundamental rule of criminal trial proceeding is the constitutional provision for the rights of the accused person through the process of arrest to end of trial and even after.<sup>5</sup> These rights are material to the fair dispensation of justice and are contained in the constitution particularly in S 35, 36, 41 of the constitution.<sup>6</sup>

The absences of the fundamental rules necessary for an efficient and transparent criminal trial in the courts have met with stiff oppositions – objection. This position of the law finds strength in the constitution which buttresses the fact that every person who is charged with a criminal offence shall be entitled to its protection. It further juxtaposes that, in the proceeding, there shall be no conflict of interest, in that, security shall be provided when needed by the accused, complainant and the public. A look at the rules under S. 36 provides thus...

2 8<sup>th</sup> edition page 469.

3 6<sup>th</sup> edition. Centennial edition (1891 – 1991) page 515.

4 Ibid page 1589.

5 Art 6, 12 African Charter on Human and Peoples Rights.

6 Federal Republic of Nigeria 1999 as amended.

- I. That an accused person has a Right to fair hearing within a reasonable time. see the case of Mohammed V State<sup>7</sup>
- II. An accused has a Right under S. 36 (6) to be informed promptly in the language that he understands and in detail of the nature of the offence.<sup>8</sup>
- III. Be given adequate time and facilities for the preparation of his defence.<sup>9</sup> This provision has found fulfilment in the most celebrated case of Okoye V Cop.<sup>10</sup>
- IV. Defend himself in person or by legal practitioners of his choice – Adigwe V FRN<sup>11</sup>
- V. Examine in person or by legal practitioner of his choice called by the prosecution before any court or tribunal.
- VI. Have, without payment, the assistance of an interpreter if he cannot understand the language used at the trial of the offence. How be it, there lies a corresponding duty on the accused to inform the court that he does not understand the language of the court – Opara V A. G. Federation<sup>12</sup>

It is in this light that the administration of Criminal Justice Act<sup>13</sup> have come out with some reforms in the Criminal Justice System in Nigeria to ensure that all inadequacies are curbed with a view to making such proceedings effective and transparent particularly in areas of: -

1. Delay
2. Adjournments
3. Compensation to victims
4. Application for “stay”
5. Confessional statement of an accused

The administration of criminal justice Act is a 495 sections law that repealed the criminal procedure Act and the criminal procedure code as applicable in all federal courts. The Act not only regulates criminal procedure, it covers the entire criminal justice process from arrest, investigation and trial, to sentencing guidelines.

These innovations are geared towards improving the system of administration of criminal justice in Nigeria towards promoting an efficient and speedy dispensation of justice, protection of the rights and interest of suspects and the victims of crime.

Notably among such innovations is the issue of:

1. Delay, which has characterized the Criminal Justice system in Nigeria. The implication of the Criminal Justice Act 2015 is to ensure that the issue of delay is eradicated by

7 (2015) 10 NWLR (pt. 1468) 496 SC.

8 Op. Cit. 1999 Constitution.

9 Ibid.

10 2015 17 NWLR (pt 1488) 278.

11 2015 18 NWLR (pt 1490) 105 SC.

12 2015 7 NWLR (pt 1459) 536 CA.

13 2015.

providing in section 306,<sup>14</sup> that application for stay of proceedings shall no longer be heard until judgement and cannot operate to stall continuation of trial.

This is necessary in order to foreclose the unnecessary applications brought by the lawyers for stay of proceedings pending appeal on preliminary matters even when the substantive issues are yet to be heard and tried on the merits. The ACJ Act in this regard has magnified the provision of the constitution to ensure speedy dispensation of justice. The ACJ Act put restrictions on not only “stay of proceedings” but also on the number and interval of adjournments to four on each side and 14 days apart in regards to certain offences, thereby enhancing the quick dispensation of trials.

2. The ACJ Act deleted the provisions of section 10 (1) of the CPA<sup>15</sup> which empowers the police to arrest without a warrant, any person who has no ostensible means of sustenance and who cannot give a satisfactory account of his/her activities. S. 6<sup>16</sup> of the Act provides that a police officer or a person making an arrest is to inform the arrested person of the reasons for the arrest except where he is being arrested in the course of commission of the offence. This is in conformity with the fundamental rights to fair hearing. The eradication of S. 10 (1) is highly commendable because the Police have while unlawfully arresting citizens, made an allegation that are purely civil in nature or on a frivolous grounds.
3. Section 7<sup>17</sup> prohibits arrest in lieu. There have been instances where the Police arrested relations, friends and close association of a crime suspect in order to compel the suspect to give himself up, even though that person is not linked in any way to the crime the suspect is being accused of. Not only is the Police guilty of this, other agencies are as well e.g. the EFCC (Economic and Financial Crimes Commission etc). Specifically, S. 7 of The ACT prohibits the arrest of relations in lieu of the suspect by the police or other agencies vested with power to arrest. In order to promote transparency and accountability in the investigative process, S. 10 mandates investigating police officers to take inventory of property recovered from suspects. The inventory must be duly signed by the police and the suspect.
4. S. 15 (1)<sup>18</sup> provides for mandatory record of personal data of an arrested person. such data shall include; the alleged offence, date and circumstance of the arrest, name, occupation and residential address of the suspect, the suspects identification such as his height, photograph, finger print impression or such other means of identification. The process of recording the personal data of the suspect shall be concluded within a reasonable time not exceeding 48 hours

14 Ibid.

15 [http://ofcounselnigeria.com/implications\\_of\\_new\\_administration\\_criminal\\_justice\\_act](http://ofcounselnigeria.com/implications_of_new_administration_criminal_justice_act). Accessed 7/3/2017.

16 Administration of Criminal Justice Act. Op. cit.

17 Ibid.

18 Ibid.

5. S. 15 (4)<sup>19</sup> Allows for recording of confessional statement of the suspect on a retrievable video compact disc or such other audio visual means. This is to ensure that violence is not unleashed on suspect during interrogation and will show whether any particular extra judicial statements are voluntary or involuntary.
6. S. 16 (1)<sup>20</sup> provides for the establishment of a police central criminal records registry. This will ensure that vital records and information in aid of investigation, prosecution and adjudication are available to speed up the trial process and provide avenues for future references. The rationale behind the establishment of central criminal records registry is to avoid a repeat of what happened in the case of *Agbi v. Ibori*.<sup>21</sup> Where the true identity of James Onanefe Ibori who was convicted by the Upper Area Court Bwari in case no CK/81 /95 was in doubt whether the convicted James Onanefe Ibori was the governor of Delta state or not. The new administration of Criminal Justice Act will forestall such embarrassment.

In Lagos State, the ACJ Act has been adopted and domesticated thereby making it a law which is now applicable in the administration of justice particularly in the court. One could say with certainty that the dispensation of justice in Lagos state is faster, more accessible and efficient compared to other states and jurisdiction in Nigeria. Lagos, being the only state apart from the federal courts that is employing the use of the new ACJ laws.

This goes therefore to say that a lot is yet to be achieved in the area of a systematic efficient and transparent criminal proceeding in Nigeria, because out of 35 states, only one or two have taken up the courage to align themselves and be in conformity with international best practices

The administration of criminal justice law was first enacted in Lagos State in 2007 before its revision and re-enactment in 2011. The objective of the law is to provide efficient and effective criminal process for dealing with persons who come into conflict with the law.

#### **D. THE POLICE**

The Police in the criminal justice system is contained in S. 4 of the Police Act, and established by S. 214 of the 1999 constitution as amended. The power of the Police to prosecute is derived from S. 23 of the Police Act.<sup>22</sup> Their duties include:

- I. Crime prevention and preservation of law and order, investigation and crime detection.
- II. Arrest and detention of suspects.
- III. Evidence production and prosecution.

<sup>19</sup> Ibid.

<sup>20</sup> Ibid.

<sup>21</sup> 2004 6 NWLR (pt 868) 78.

<sup>22</sup> Cap p.19, (LFN) 2004.

The Police and other law enforcements agencies are the first contact a suspect has with the criminal justice system.<sup>23</sup> The Police and of course other law enforcement agencies like the Ministry of Justice, the Judiciary and Prisons constitute the organs that make up the criminal justice system in any modern State. The Criminal Justice system is multi-institutional construct, which co-operatively perform the role of the agencies of social control in any modern state in Nigeria, the criminal justice system consists of the EFCC (Economic and Financial Crime Commission), NDLEA (National Drug Law Enforcement Agency), Customs, ICPC (Independent Corrupt Practices Commission) among others.

The law enforcement and prosecution agencies Like the Police are expected to prevent crimes, arrest suspects, process and certify them, initiate any criminal proceedings in court, treat and reform them so that they are returned to the society sober and law abiding. If they do this successfully then the society is the better for it.

The inter-relationship of the agencies of the criminal justice system is such that if any one segment fails, the implications reverberates among the others for e.g. the law enforcement agency (police) must arrest and arraign, the ministry of justice must prosecute, the judiciary must arbitrate and the prison must enforce the sentences passed. If the judiciary fails to process cases speedily, the reverberation is felt in the increasing awaiting trial persons in prisons. If the police fail to conclude investigation on time, the cases in court are congested and if the prison fails to secure in proper custody, and there are escapes, the police work double and so goes the circle. In all that have been said there is need for these bodies responsible with criminal proceedings in Nigeria to be efficient and transparent.

We shall have course to look at some of the problems bedeviling them and the way forward. As it were, it is no news that the Nigerian prisons and police cells are duly becoming congested with the influx of accused person or suspects awaiting trials or those whose matters are still being investigated by men of the Nigerian police in the face of criminal justice that is considered by many as being commercialized. Allegations of corruptions and abuse of office by judicial officers is daily on the increase and there is no gain saying the fact that instances of such allegations have been aired on national Television and Dailies.<sup>24</sup> A good and effective justice delivery system is indispensable for any state.

Some of the challenges encountered by the police include:-

1. Lack of prosecuting skills/inadequate skills- particularly the Police who prosecute at the lower courts. They are not vast enough in law to combat defence lawyers.
2. Lack of equipment e.g. vehicles to go for an arrest
3. Falsehood
4. Holding charge
5. Human right abuses
6. Torture – in which case confessional statements are extracted from suspects

23 [https://en.m.wikipedia.org/wiki/criminal\\_justice](https://en.m.wikipedia.org/wiki/criminal_justice). Accessed 7/3/2017.

24 Vanguard Nov. Tues. 1<sup>st</sup> 2016. Front page caption.

### E. MINISTRY OF JUSTICE (The power of Nolle – prosecute)

The power of the ministry of justice to prosecute is derived from S. 150 and 195 of the constitution<sup>25</sup> for the establishment of the office of the Federal and State attorney's general respectively. By S. 174 and 211 of the constitution, the Attorneys General of the Federal and the State are given powers and duties to institute, undertake, take over, continue or discontinue any criminal proceeding, other than a court martial Ogbonna V Ogbonna<sup>26</sup> & Anor. The attorney General could delegate this power by an express written authority to members of his departments (counsels) who shall in the exercise of this power have regard to public interest, interest of justice and shun abuse of the legal process see AGF V ANPP.<sup>27</sup> However, this power has been abused severally for personal or political reasons, as it could be used to discontinue a case which is of interest to the public. The misuse of the power of nolle-prosequi by the AG or counsels is a serious constraint to showcasing transparency in the administration of criminal proceeding.

The Nigerian criminal legal system is adversarial in nature where by each party to a suit is pitted against the other with the result that the party with the most convincing case presentation wins the case. Howbeit, the moment the attorney General enters a nolle prosequi, the other party will have no choice but to give up his argument, however convincing it is.

#### CHALLENGES

1. Finance: they are not properly funded by the executive.
2. Lack modern tools in prosecuting; in that, they are not trained properly to meet with the sophistication of crimes.
3. Lack of motivation: their take home pay is not commensurate with the services they render.

### F. JUDICIARY

The bulk of the problem with criminal proceedings in Nigeria is stationed at the court for justice where the hope of the common man is/should to be assured. However, the proceeding in the various courts cannot be said to be without some hurdles/difficulties.

In the course of trial, legal practice unfolds the complicity of the police and the judiciary in inhibiting the efficiency of Criminal Justice administration in Nigeria. Whereby, the justice system is inaccessible, individuals have no information, lawyers or knowledge of rights; or where there is a weak Justice System. On arrest, the accused is not taken to the court within the required period of time, thereby depriving the accused of his fundamental rights while in detention. "*LIBERTY in the words of Justice Anthony Aniagolu is priceless,*

25 Op. cit. 1999 Constitution.

26 (2014) LPELR 22308 (CA.).

27 (2003) 18 NWLR pt 851 at pg. 182.

*the police and judiciary need only to be cleaned up and other arms of government will follow suit*".<sup>28</sup>

By S. 6 of the 1999 Constitution Judicial Power of the Federation and the state of Nigeria are vested in the courts. The judiciary is certainly the most important organ in the administration of justice the courts role in this regard includes to adhere to the constitutional requirements as enshrined in S. 36 of the constitution. The judiciary is to ensure that justice is always done both to the accused and the society. Therefore, must assume a more robust role in affairs of the fundamental rights of an individual – COP V Okoye.<sup>29</sup>

In that case, the appellant (accused persons before trial court) were arraigned before the chief magistrate court in awka, Anambra state Nigeria on a seven count. They pleaded not guilty and were granted bail by the magistrate. On the adjourned date, counsel for the accused persons applied to the court for an order of court directing the persecution to furnish the defence with documents relating to the charge including statement of witnesses. The prosecution opposed the application contending vehemently that the trial before the magistrate court is a summary trial and that furnishing the accused persons with relevant document upfront is not provided for in the criminal procedure law as the case of trial on information at high court. He urged the court to overrule the application and proceed with trial.

In his ruling the learned trial magistrate upheld the application of counsel for the accused persons and ordered the prosecution to avail the defence with copies of statement of all witnesses Investigation. Aggrieved by the ruling, the prosecution appealed to the high court praying the court to overrule the decision of the magistrate court and dismiss the appeal. The court however dismissed the appeal and upheld the decision of the magistrate court that the accused be furnished with copies of the needed documents to enable them prepare for the defence.

Still aggrieved, the prosecution made a further appeal to the court of appeal sitting in Enugu the court of Appeal allowed the appeal and upheld the argument of the prosecution that the accused persons are not entitled to copies of document intended to be used against them where the trial is at the magistrate court. Not satisfied with the decision of the court of Appeal, the accused /Appellant appealed to the Supreme Court praying the appellate court to set aside the decision of the earlier court which upheld the accused persons' right to the needed documents.

In her judgment, the Supreme Court upheld the decision of the Court of Appeal and held that by S 36 (6) (b) of the 1999 constitution, every accused person is entitled to be given adequate facilities to enable him prepare for his defence, and such "Facilities" include statement obtained from the accused person at the police station and statement made against the accused person by the witness for the prosecution. In the word of Lord Aka'ahs JSC<sup>30</sup> facility is anything that will help the accused person in preparing for his defence to

28 Nigerian vanguard news 2/7/2017 problems in the administration of criminal justice system.

29 2015 17 NWLR (pt. 1488) 276.

30 O. Ekemini Udim trial within trial in criminal proceeding, (2016) (Lagos, Nigeria) pg. 127.



the crimes to which he is charged, because the accused liberty is at stake and before that liberty is taken away, he must be accorded every opportunity to defend himself.

However, there are constraints that have hindered the efficiency and transparency of the justice system in the judiciary.

- I. Poor attitude to work: Is envisaged in situations whereby, judges and staff of the court are not efficient in their roles towards adjudication, which is mostly characterized by laziness, frequent delays in judicial proceedings and incompetence.
- II. Delay: It has been held in a lot of cases<sup>31</sup> that “justice delayed is justice denied” even without being told we know it is true. In some instance, party (ies) to cases are not alive and the cases still lingers in court, if at the end of the case, the dead party wins... who then celebrates the victory?... Delay in trial will surely be unjust to anybody.
- III. De-novo-transfer of judges, striking out of cases wrongly only for it to begin De-novo.
- IV. Corruption: The judiciary of late is under scrutiny, and Complains. It is now under the spotlight and is being attacked frequently by the media and the public because of corruption. Transparency International<sup>32</sup> (TI) refers to corruption as the abuse of entrusted power for private gain and non-material gain such as the furtherance of political or professional ambition. Judicial corruption includes “any in appropriate influence on the impartiality of the judicial process by any actor within the court system”. Corruption has undermined justice in many parts of the world, denying victims and the accused the basic human rights to a fair and impartial trial.
- V. Interlocutory Applications – these have become serious and embarrassing clogs in the wheel of justice whereby lawyers will keep filing objections and appealing to the higher courts whilst the main proceeding itself remains stalled indefinitely – just to keep a trial going interminably. This is an abuse as there must be an end to litigation. The grant of this application frustrates the effective dispensation of justice.
- VI. Award of cost: Award of cost should be realistic in order to discourage frivolous litigations which waste the precious time and resources of the court.
- VII. Welfare of the lower bench: The base of the judicial structure is not strengthened and there is need for the base to be strengthened, restored, and dignified. The quality and efficiency of the lower bench must be enhanced.
- VIII. High Cost of Litigation: Have hindered the less privileged in the society from obtaining justice.
- IX. Clarity of Judgement and lack of transparency. The use of simple language, literal, not ambiguous words should be use in writing judgement for easier understanding.
- X. Long hand Writing: Considering the importance and nature of the judiciary as an arm of government due-process, impartiality and independence should be carefully taken

31 APGA & Anor V Chief Chris CATO Ameke & ors. (2012) 8 NWLR pt 1303 at 409-617 ratio 9.

32 Transparency International; Global Corruption Report, corruption in judicial systems (Cambridge New York 2007).

into account. It is important to note that in Nigeria; particularly Plateau State the adoption of the electronic justice has not gained much prominence. The adoption of e-justice in Nigeria presents its challenges this is because some of the judges, lawyers, and court staffs lack I.T skills, network dysfunction, epileptic electricity power supply, virus and hackers.

The use of electronic system for the courts would ensure transparency in the justice delivery, security of court documents, easier and faster access to information, as well as save cost.

- XI. Inadequate Funding: There is no disputing the fact that resources at the disposal of the government are limited. The judiciary as the third arm of government competes with the other two arms – Legislative and Executive in relation to funds to execute their projects. The judiciary has not been given the necessary priority – Vis a Vis funding and this poses a serious challenge to the realization of an efficient and transparent administration of justice in Nigeria particularly at the lower courts. This is more so that the judicial proceeding starts long before a case reaches the court room e.g preferring a charge, series of actions are linked to such procedures such as collection and formal control of the filed documents by the clerks, the registration on a court register of the event and the issuance of a receipt. “Many waters might have passed under the bridge”. At the end of the day, there is no quick dispensation of justice.

## G. PROSPECTS

There’s nothing wrong with our legal system which cannot be cured with what is right with the system. We have a dynamic stable judiciary in Nigeria. However, there are lots of Challenges facing criminal proceedings in Nigeria which have been enumerated in this write up. To progress in the justice system would require a transformation of the entire administration of the justice system.

The overall objective of the justice reform is to build a justice system which is affordable, efficient, independent, transparent, professional and accountable to Nigerians. One that ensures the rule of law and the observance of human rights. This will cause the trust of the Nigerian people to be rekindled in the justice system again. And so there is need for the justice system to be:-

- I. Strengthened, Independent, Efficient and Transparent – by improving the pre-judicial, investigation process to ensure the observance of the human rights security for every person and decrease in levels of criminality. see *Okoye V Cop*.<sup>33</sup>
- The procedure for the recommendation of appointment of judicial officers by the National Judicial Council (NJC), Federal Judicial Service Commission (FJSC), or the State Judicial Service Commission (JSC) is not open to the public and so this lack of transparency often leads to appointment of judicial officers with limited capability.

33 Supra.

1. In the justice delivery, decided cases should be made available and accessible to the public for people to understand the way the system of criminal administration works in Nigeria and therefore no gain saying the fact that it is only when the system is seen as being effective and transparent that the fears of the public will be laid to rest even if they are dissatisfied with the decision (s) reached by the court at the end of the proceeding and consequently decides to go an appeal.
  2. The judiciary must publish annual reports of its activities and speedily provide the public with reliable information about its governance and organization. Most state judiciaries publish annual reports and public items, where resources permit, at the start of each new legal year.
  3. The public needs reliable access to information pertaining the laws, proposed changes in legislation, court procedures, judicial vacancies, recruitment criteria, judicial selection procedures and reasons for judicial appointments.
  4. The prosecution must conduct judicial proceedings in public with limited exceptions for example concerning children, publish reasons for decisions and produce publicly accessible prosecution guidelines to direct decision makers during the conduct of prosecutions.
- II. Rid of corruption – Of recent some judges in Nigeria were arraigned by the EFCC on the alleged allegation of corruption and they have been suspended.<sup>34</sup> If judges and the judiciary are seen by the society as impeding efforts at ridding the society of corruption, the perception that judiciary itself is corrupt shall be difficult to dispel as such, there's need for a comprehensive legal framework/policy whereby corruption and corrupt judges will be eliminated because where there is a perception of corruption in court and by the judges, victims may not report their cases instead they may resort to self-help and the Hammurabis'<sup>35</sup> theory of an eye for an eye or a tooth for a tooth will be the order of the day thereby promoting anarchy.
- Proceedings in court should be monitored in order to stall corruption but as long as corruption persist and remains a major concern in the justice system, transparency and efficiency will not be visible.
- III. Properly funded: there's need for all the Justice Sectors to be properly funded.
- IV. Independence of the judiciary: The constitution guarantees the independence of the judiciary. Judicial powers of the federation and states are vested in the courts established for the federation and the states free from any interference. Hon. Justice Oputa JSC (as he then was) defines independence of the judiciary<sup>36</sup> to mean ... resisting the pressure of hysteria and fanaticism. It is that ingredient which allows a judge to rise above passion, clamor and above the politics of the moments. It insulates the judge from ex-

34 [Saharareporters.com/2016/10/16.](https://saharareporters.com/2016/10/16/) Accessed 3/2/2017.

35 [En.m.wikipedia.org/wiki/code\\_of\\_hammurabi](https://en.m.wikipedia.org/wiki/code_of_hammurabi) accessed 3/2/2017.

36 *Oputa, C* "the independence of the Judiciary in democratic society: its Need, its positive and negative aspects" in Nigeria essay in Jurisprudence Elias & Jegede (1998) pg 222 at 230.

ecutive and legislative violence and mob hysteria and violence. This is very-very necessary.

- V. Accessible to the poor and excluded members of the society. Barriers to language, religion, money, ethnic group should be removed.

## H. CONCLUSION

The world is a dynamic one and as the world moves, it changes. Where the situation is such that everything gets sharpened by the dynamism of the society, the courts, its arbiters including the administration of justice system ought not to be left behind. A law that does not change with the society which it was meant to regulate becomes relevant only for the people that lived in yester years and not the present day people, Thereby living people in the present completely without a law.<sup>37</sup> In the light of the above, the justice delivery system in Nigeria must ensure that the constraints beclouding the realization of an efficient transparent justice delivery are cleared.

37 Yusuf O. A. SAN Contemporary issues in Nigerian Legal Landscape, a compendium in Honour of Lateef Fagbemi SAN (2010) pg. 66.