



Institute for Global Prosperity

MSc Prosperity, Innovation and Entrepreneurship

DISSERTATION

Between Court and Street: Exploring the Respective Barriers to Access to Justice and
Drivers in Nigeria

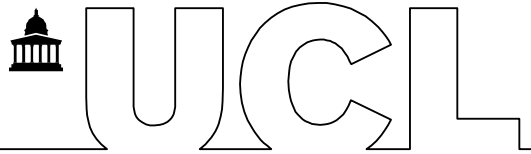
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Abstract

Justice is indispensable to human persons and should be accessible to all. Access to justice is however not easily obtained in some places going by the interplay of some factors inherent in the justice system and in the justice-seeker. Sustainable Development Goal (SDG) 16, in light of the premium on access to justice, underscores the imperative to ‘provide access to justice for all’. Justice is sought by all in the pursuit and defence of their rights and interests. In effect, it is ‘a given’ that access to justice is just as important as access to all other cardinal aspects of SDGs that include, but are not limited to, health, water, and education, which the United Nations and other concerned global bodies are striving to deploy at the doorstep of ‘the common man’. Man also cherishes justice so much so that they may be tempted to seek it at all costs and by all means in certain circumstances. Ideally, justice is pursued via the courts and other mechanisms that human societies have, in their wisdom, instituted. However, in circumstances where the judicial mechanism does not work for the good of all, street justice unfortunately turns out to be the norm. This is in keeping with the fact that attaining justice to a satisfactory degree gives a person the fulfilment of being a human and counts for their prosperity. In this research, we will be utilizing Anomie theory and Emergent Norms theory in taking a critical look at access to justice in Nigeria. The study would be focusing on the barriers to access to justice and the drivers of street justice and the interplay of factors that attend them. Engaging with secondary data from the Constitution of the Federal Republic of Nigeria, statutes, journal articles, court judgments, books, international documents, newspapers, magazines, and unpublished literatures, the dissertation would seek to examine the provisions of the laws spelling out and guaranteeing access to justice, ascertaining the barriers in the justice system, evaluating inherent conditions of the courts and the justice-seeker from scholarly opinions on access to justice in the same breadth, and deciphering the propellers of street justice and other alternatives that people explore when they feel shortchanged from access to justice. The research would proffer

recommendations, derivable from the established findings, that may inform choices, guide judges, provoke regulators, enlighten lawyers, direct policy makers, interest the public, enrich knowledge and add upon existing literatures.

Keywords: justice, access to justice, street justice, prosperity, Nigeria

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Chapter 1: Introduction

1.1 Background

The greatest challenge bedeviling Nigeria is the failure of justice which results in loss of confidence in the judiciary and in the state of street justice in Nigeria. My direct experience, observations, oral tales, and the media, all combine to provoke my reflective thoughts on the contrasting but related issues of failure of justice and street justice. In the passages that follow, I will attempt using two episodes to highlight the natures of the issues.

Episode One

On Friday the 5th of October 2012, four undergraduates of the University of Port Harcourt, Nigeria, namely: Lloyd Toku-Mike, 19; Tekena Friday Elkanah, 20; Ugonna Kelechi Obuzor, 18; and Chidiala Loroson Biringa, 20, went to Aluu, a nearby village to their campus. Their mission was to recover a debt owed to one of them from a man called Coxson Lucky. When they got to Aluu and confronted Mr. Coxson over the debt, Mr. Coxson raised alarm and instantly, a crowd gathered. Mr. Coxson had immediately fabricated a tale and sold it to the mob that had gathered that the four undergraduate students are armed robbers that came to rob him. Without probing or questioning, the mob held the four boys, paraded them naked all through the village, and clubbed them unceasingly. Having become overwhelmed by the attacks and obvious that death was nigh, they pleaded that their lives be spared. Their supplications were ignored as the brains of the mobs had become impervious to reason and adamant to sanity. The mob were weighing the four boys down by hanging tyres on their necks, eventually setting fire on them when they had become satisfied that enough caricature had been made on them, and they all died. And just like that, the precious lives of the students were brutally ended (Inyang, 2012). The horrible episode lasted long enough for police to come to the scene, disperse the mob and rescue the innocent boys. But none showed up, depicting a grand failure of policing in Nigeria. Equally appalling was that onlookers were busy making videos of the horror and never for once did anyone amongst them exercise

sanity to question the rationality of the mob, depicting another ill of the Nigerian state: indifference. It hurts and saddens that the young students met their untimely deaths from the whimsical machination of their debtor.

The savage killing of the students, which has now come to be referred to as *Aluu 4*, melted hearts and shattered nerves in Nigeria and even beyond for those who got to know about the evil from the internet and social media. This was more so as the gruesome killings were videoed (and even live streamed while it lasted) and made uploads in YouTube. The horror was viewed by every internet-savvy Nigerian, except, of course, those who could not muster the courage to watch the horror. Following the brutality were painful and saddening conversations in both the mainstream and new media. And so many questions have continuously been agitating my mind. How could this have happened? How could this have been allowed to happen? Why has our society degenerated to this point? How would the law deal with this brazen injustice? I could manage to muster the courage to watch the video only once but till today, I am livid with the vivid horror and still being bemused by the event that took place 12 years ago. I thought about these young men and the future that would have become theirs by now, 12 years on if they are alive today.

The shock and the outrage following the killings were long, clear and loud. It appears such heinous evil has never occurred before; as if Nigeria, my country, was not already enmeshed in recurrent and orgiastic spates of street injustice.

Episode Two

A tree being cut at the instance of a property developer fell on my father while he was riding his motorcycle through the major road to our house on 12th October 2012. Villagers had gathered at the scene and, in a rage, were about to pummel and club the tree cutter. However, members of my family persuaded them not to mob the tree cutter so that we instead seek redress the legal way. Little did we know that justice will be indefinitely prolonged and would eventually not be met. The impact and the consequence were so much so that my

father was in coma for three weeks in a hospital. It took the concerted efforts of a team of medical experts to resuscitate him but then, a great havoc had been done as he could never walk again. In fact, his journey to the great beyond started from that callous and negligent act as his health began to nosedive till he gave up the ghost on 12th August 2019. We were convinced that the said developer and his worker, whom he oversaw, were grossly negligent and therefore strictly liable, as they did not indicate by any sign or any person that a tree was being cut and may endanger lives. Considering this, we approached a court to make an order, punish the developer and his agents, and furnish damages to my father for a permanent debilitating impairment. My father was hospitalized for more than a year, causing untold hardship as the developer was not forthcoming in helping with bills.

The court hearing proceeded for years, with the attendant anguish till my father died on 12th August 2019, a clear seven years. My father died paralysed as he never walked again and completely depended on care and supports for everything. The defendant used his financial muscle and influence to frustrate justice in the matter. From adjournments to objections, justice was being trampled upon.

These two cases have refused to leave my memory. They are stories that form parts of the larger Nigerian story of brazen failure of justice versus street justice.

Part of my career has been working with the Ministry of Justice where I continued to witness the bastardization of justice. The more I encountered the oddities in the system, the more compelling and provocative it gets at me to interrogate access to justice in Nigeria and deconstruct the contexts of the inherent barriers that make it difficult or impossible for everybody to enjoy unfettered access to justice and why people engage in street justice.

The imperative for access to justice is a momentous issue considering recurring and unabating instances of persecution, oppression, marginalization, inhumanities, crimes, and wilful wrongs and injuries that humanity is subjected to in the contemporary world (Marchiori, 2016). Consequently, discourses and research on access to justice have become

expedient. This is because the critical factors militating against the effective operations of the machinery of justice need to be identified and have remedies devised for them, monitor advancement towards access to justice for all, and define standards on which justice delivery could be based and evaluated. While access to justice has become elusive for the ordinary poor masses of Nigeria, concomitant desperations, self-helps and absurdities have taken the centre stage. As justice seems far to afford, some persons, who desire and cherish justice as an intrinsically endowed and embedded right, can hardly fold their hands, or resign to fate. One way or the other, the cherished idea of justice is facilitated by the society through appropriate institutions. But where the designated authorities are weak or non-existent, perversion often becomes the norm. Having access to justice signals the death knell of street justice that has now become a menace in Nigeria.

The 1999 Constitution of the Federal Republic of Nigeria, the Universal Declaration of Human Rights, and Sustainable Development Goal (SDG) 16, against the backdrop of the imperative for justice for every person, emphasize the need for access to justice (Federal Republic of Nigeria, 1999; United Nations, 1948; United Nations, 2015). By this emphasis, access to justice is equally as paramount as access to every other critical aspect of human need for survival and prosperity that include, but not limited to, food, water, health, shelter, and education, which the United Nations, concerned global organizations, regional organizations, and nations are pushing to the front burner and seeking to deploy at the doorstep of the 'common man'. This is because achieving justice to a satisfactory degree makes for prosperity and dignity for most people.

Justice, though a universal concept, has different applications in different societies. While some nations make justice a priority, capturing its essence in their constitutions and statutes and making it available to the least and lowest of their citizens, others merely pay lip service to the notion of justice and subject it to the whims and caprices of a few privileged 'powers and principalities'. Access to justice is a prerequisite for the enjoyment of rights and,

by extension, the flourishing of humanity. When access to justice is undermined by any factor, then humanity is diminished as happiness, peace, and livelihood are affected. This is because justice is the basic minimum right that every human person is entitled to enjoy without let or hinderance. In essence, access to justice should not be denied to persons because denying them access means treating them as inferior and for some people, provoking them to resort to other mechanisms for the attainment of their justice objectives.

Access to justice is often overlooked and taken for granted in some democracies like Nigeria. The efficiency of a nation's judicial system is determined by the extent of access for all classes of persons to justice. Of late in Nigeria, the administration of justice has come under strong and strident criticisms. Both lay people and learned people are expressing worry and concern about the waning dignity of the judiciary in Nigeria characterized by lack of autonomy, poor funding, delay in trials, and manifest corruption that work hardship on people (Nwikpasi and Duson, 2021). Access to justice is frustrated in many ways leaving people to explore alternatives in self-defence, jungle justice, resort to deities or resigning to fate. On the extremes, laws are being violated as more crimes are being committed, turning Nigeria to a jungle where only the strongest can survive and scant regard is had to law and justice is non-existent.

It is these scenarios that provoke the inquiry to ascertain the barriers to access to justice in Nigeria, the drivers of street justice in Nigeria, as well as the other alternative mechanisms that people explore when they feel shortchanged or lack the confidence that justice would be met in their cases in Nigeria.

1.2 Research objectives

Specifically, we are preoccupied with:

1. Ascertaining the barriers to access to justice in Nigeria
2. Establishing the drivers of street justice in Nigeria
3. Assessing other alternatives people explore in their quest for justice in Nigeria

1.3 Research questions

The following questions would guide the research:

1. What are the barriers to access to justice in Nigeria?
2. What are the drivers of street justice in Nigeria?
3. What other alternatives do people explore in their quest for justice in Nigeria?

1.4 Significance of the study

The study has both theoretical and practical aspects of significance. Theoretically, the study will make information available to academics, researchers, and students. It will increase the existing literature in the academic area of study. The study will serve as a base upon which other researchers will build. Practically, the research will foster understanding and improve insights on the extent of equality and access to justice. It will inform and enlighten people on the efficiency or otherwise of the justice system. It will address misconceptions and prejudices on alternative justice-seeking mechanisms and make for an informed views on what steps to embrace in the quest for justice. The challenges confronted by justice seekers will be put to light. It would be equally expected that stakeholders will be able to know what improvements should be made on the justice delivery machineries with a view to meeting the yearnings and aspirations of the members of the society. Concerned agencies and stakeholders would be able to factor in programmes and policies for interventions.

1.5 Theoretical frameworks

For this study, two relevant theories: Anomie theory and Emergent Norms theory would offer guides. Anomie theory was propounded in the 19th century by Emile Durkheim who used the theory to offer a critical insight for a better understanding of the principal causes of lawlessness, violence, and mob behaviours. Durkheim observed, according to Igbo (2018) that law seeks to enthrone a proper social order in human societies but if the law is unable to discharge this desired objective, the consequence would naturally be a resurgence of social ills or anomie, implying normlessness or a deregulated state.

On the other axis, the Emergent Norms theory was developed by the duo of Turner and Kilian (1972) to explain the basis for crowd behaviour and collective action. It is the postulation of the theory that abnormal joint action is often a direct consequence of novel norms which emerge to precipitate a group of people to address a situation instantly. The emergent norms theory supposes that one: a crowd rationalizes a group action; two: a group action is an instantaneous reaction to a complex precipitating event; three: new patterns of behaviour commensurate with the group action emerge through a group process; and four: members of the group see the crowd as quite distinct and apart from themselves as individuals (Mariel and Arthur, 2013). The emergent norms theory as postulated by Turner and Kilian (1972) was developed in response to the shortcomings in the Contagion and Convergence theoretical construct of group behaviour which postulates that a group of people (crowd) is a normless group (entity) that views their group action as a rational behaviour.

In light of Anomie theory, the resort to street justice is a product of the failures or lack of trust and the disappointments from the legal and justice systems to effectively get people to conform to standard behavioural patterns. It usually turns out to be a brutish arena where people are answerable to nobody and act in manners that best suit the exigencies of their fancies, time and circumstances. In light of Emergent Norms theory, street justice is framed as a mob's perception of their action as a rationalizable timely response to deal with an event where they view themselves as acting as a whole and therefore not individually liable for the ultimate outcome of their collective action.

1.6 Definition of key concepts

It would be expedient to define the main concepts that we would be dealing with in this study. That way, the concepts would become easily graspable by ordinary readers who may not be nuanced in the concepts as used in the context of this study.

Alternative Dispute Resolution: This is the process of resolving disputes by other mechanisms than going to court.

Justice-seeking behaviour: It is the action or step an individual engages in for the purpose of meeting the justice of their case.

Justice system: It is the system through which the justice or otherwise of a particular case is determined.

Litigation: It means the act of resorting to courts of justice for the purpose of arriving at justice in a matter between two or more parties.

Street justice: It is a punishment meted out to a culprit by people without trying the said culprit and it is usually by physical violence that may result in death.

Self-help action: This is an action taken by a person who is offended or injured by another to get back at or punish the offender.

Barriers: They are objects or challenges that stop people from going somewhere or achieving an objective.

Drivers: They are factors that cause certain phenomena to occur or happen.

1.7 Plan of the study

Chapter one is the introduction to the study and deals with my personal story that forms part of the stimuli for the dissertation. It also incorporates the background, the significance of the study, and the theoretical framework. Chapter two is the methodology and chapter three is the literature review. The literature sheds light on some key issues of the research and is also utilized to answer research questions one: what are the barriers to access to justice in Nigeria? Chapter four answers research question two: what factors account for the resort to street justice in Nigeria? while chapter five answers research question three: what other alternatives do people explore in their quest for justice in Nigeria? Chapter six is the conclusion and offers recommendations for policy's sake and public use.

Chapter Two: Methodology

2.1 Methods

The study is qualitative in nature and would therefore be utilizing secondary data elicited from published documents. The research would entail evaluation and analysis of the contents of documents. Documentary analysis is often in use in research given the benefits like the cheapness, availability, and the diversity of coverage associated with it (Bowen, 2019). As posited by Tight (2019), documentary analysis is a systematically explicit and reproducible way to identify, evaluate and synthesize existing corpus of concluded and documented works carried out by scholars, researchers, and practitioners. According to Tight (2019), documentary analysis method enables a researcher to synthesize a document, get information from it, identify the nexus among ideas and reality, and establish the specific context of an issue or a problem. Documentary analysis will be applied for the analyses of data and presentation of results will be made in form of descriptions intended to promote deep understanding of the subject under study.

The research is preoccupied with finding out the factors inherent in the justice system and the justice seeker that undermine the attainment of access to justice, the driving factors in street justice, and the alternative scenarios of justice seeking mechanisms that become necessitated due to envisaged or actual failure of justice.

2.2 Data collection

The data for the study were all secondary forms elicited from the Constitution of the Federal Republic of Nigeria, statutes enacted by parliaments in Nigeria, judgments of courts of Nigeria, and all other equivalent documents from other countries; journal articles, newspapers and magazines, international documents, academic projects, and so on. Given the peculiar nature of the study, newspapers, magazines, and online news and articles would be called in aid for the research. This is because there is certain vital information on justice seeking behaviours and mechanisms that would not be found in mainstream legal and

juridical documents but can be found in the newspapers, magazines, and online news and articles. For instance, news items on incidents of street justice are recurrent media headlines. This category conveys more the daily lived experiences of ordinary people in their quest for justice and the reportage on street episodes of justice.

2.3 Limitations of the research

The depth and thoroughness of the study notwithstanding, it has an inherent limitation. All the data sources are secondary, having been sourced from published literature. That being the case, there is no avenue to incorporate the personal and direct narratives of the people that should form the object of the study. In the circumstance, the pictures and the scenarios may not be so vivid and original as they could have been if the information had proceeded from the actual objects that have had lived experiences. Better, deeper, and more vivid results would have emerged were the study have utilized primary data. A more direct and in-depth research would, hopefully, be undertaken in the future in my proposed doctoral programme. If the dream is realized, I hope to carry out an intensive, extensive, and more reflective research on this subject.

Chapter Three: Literature review

Under literature review, we will be carrying out scholarly reviews of the key issues in the study that include access to justice; the nexus existing among Sustainable Development Goals, justice, and prosperity; the legal framework on equality and access to justice; and the barriers to access to justice in Nigeria.

3.1 Access to Justice

Justice has been identified as the oldest virtue in human society (Ogunmode, 2005). While justice often appears as an elusive concept, it may loosely be concluded that it connotes equity and fairness, and ought to be available to everyone in every society for the enjoyment of their fundamental human rights (Okogbule, 2005). Justice is the final and ultimate result of an effective application of laws to specific issues arising in an interest involving two or more persons (2022). Justice, according to Keuleers (2018), is the system by which laws, working through institutional mechanisms, resolve conflicting interests, avail remedies for wrongs and injuries inflicted, and mete out punishments for crimes committed. Oko (2005) laments that despite the enthronement of democracies in several countries, the enjoyment of justice is still hindered by some socio-economic, institutional, and cultural challenges that make it impossible for some citizens to enjoy the fundamental rights solemnly taken as available to them by the constitution. Nwikpasi and Duson (2021) decry the fact that the attainment of justice in Nigeria has been elusive as people yearn for them and do not attain them resulting in their manifesting their disenchantment in diverse forms of desperation.

In every society where rule of law reigns supreme, justice is inalienable to all persons equally and is fairly administered by an independent judiciary, resulting in everybody obtaining justice without consideration of their status, gender, race, religion, or age (Olusegun and Oyelade, 2022). Justice, as opined by Ogbujah (2021), is tied to equality, being the very ideal that compels the courts to objectively pronounce rights and liabilities

between two conflicting interests. Equality is a normative concept and refers to the constituted social arrangement requiring that all persons be treated equally (Ribotta, 2023). To reflect on the notion of justice with a view to deciphering the very essence it serves, what instantly comes to mind is equality (Vecchio, 1966). Conversely, inequality forms the very foundation for injustice and makes it difficult for underprivileged people to enjoy what is due for them and be unable to exercise their inherent capabilities on the same equal pedestal with other more endowed people.

Lima and Gomez (2020) view access to justice as the unfettered right of every human person to utilize legal mechanisms and tools in the protection of their rights and interests and opine that it is a basic inalienable right which ought to be guaranteed in every egalitarian and democratic society. Justice ought to be accorded the status of a human need that falls within the level of essential services such as education and health (Department for International Development, 2019). As indispensable as justice is to humanity, inability to access it constitutes a hinderance to a meaningful living and the enjoyment of life by persons (Olusegun and Oyelade, 2022). Considering widespread strides towards the optimization of the operational mechanisms of justice systems, the capacity of individuals to enjoy unfettered access to justice and resolve whatever differences they may have with one another, is deemed to form part of the essentials of democracy, development, rule of law, and human rights (Marchiori, 2016).

Access to justice, according to Ani (2021), implies all the mechanisms of the substantive and procedural laws in each society which are designed to guarantee that members of the society have all the opportunities to seek redress within the ambits of the law. In Baumgartner's (2011) view, access to justice is the constitutional right and ability of persons to be able to institute an action for an alleged rights violation to the jurisdiction of a court of law and having that court to adjudicate the matter in the fairest and most impartial fashion going by the body of evidence adduced before the court and in accordance with the

applicable rules and principles of law. Oleinik (2011) contends that in practice, however, it is not everybody that can successfully institute an action for alleged rights infringement before a court of law and further maintains that the outcomes of legal suits depend less on the merits of the cases than on how pretty well a litigant is represented in the court of law.

Access to justice demands that all human beings can proceed to courts of justice and request that their fundamental rights be upheld, irrespective of their social, political, economic, religious, racial, gender, and sexual affiliations, identities, and orientations.

Viewed literally, access to justice is the opportunity a person has to proceed before the court of justice and seek to ventilate their grievance against another (Igwe and Bassey, 2021).

Access to justice means much more than ordinarily accessing a court of justice but extends to equality of opportunities of citizens to enjoy fair, impartial, and timely verdict in their cases before the courts. In Lima and Gomez' (2020, p.26) reasoning, there is barrier to access to justice if, for social, political, or economic factors, individuals suffer discrimination in the legal and justice system. It is in line with this that access to justice is deemed to consist of the elements enabling individuals to seek remedies for grievances suffered and to get their rights and interests duly protected (Marchiori, 2016).

3.2 The nexus existing among Sustainable Development Goals, justice, and prosperity

Sustainable Development Goal (SDG) 16 seeks to enthrone peaceful, inclusive, and just societies which guarantee for everybody equal access to justice and entitlement to appropriate remedies when they suffer wrongs from others (United Nations, 2015). SDG 16 is an outcome as well as an enabler of sustainable development with its targets interconnected to other goals which are instrumental in the attainment of peaceful societies where justice, inclusiveness and fairness thrive (Conference in Preparation for HLPF, 2019).

By Resolution 70/1, '*Transforming Our World: The 2030 Agenda for Sustainable Development*', the United Nations General Assembly on the fateful day, September 25, 2015,

arrived at 17 Sustainable Development Goals (SDGs) and 169 critical targets (United Nations, 2015). By this milestone, member states solemnly subscribed to a new strategic vision for sustainable development implementable by 2030. Building on the takeaways of the implementation of MDGs, the new vision recognizes that ‘only peaceful and just societies can contribute to sustainable development, and that a functioning and accessible justice system is an essential element of development per se and an enabling factor for the realization of other development goals’ (United Nations, 2015). With respect to access to justice, the most important target in SDG 16 is target number three that emphasizes the imperative of promoting the rule of law at all levels of societies and guaranteeing equality of access to justice for all persons. The attainment of justice for everyone has emerged as an indispensable goal, and accessing justice with ease is truly relevant today for the enjoyment of life. SDG 16 underscores the imperative to (1) enhance peace and inclusivity for the realization of sustainable development; (2) make access to justice an unfettered right for everyone; and (3) enthrone effectiveness, accountability, and inclusiveness at all levels of institutions (United Nations, 2015). Particularly, target number 16.3 harps on promoting the rule of law nationally and internationally (United Nations, 2015).

3.3 The legal framework on access to justice in Nigeria

The judiciary has the constitutional responsibility of resolving cases between parties that come before it as fairly, dispassionately, and objectively as possible. The Constitution of the Federal Republic of Nigeria provides in Section 6 that the courts have the onerous responsibility of promoting prosperity, ensuring wellbeing, upholding the rule of law and democracy, and guaranteeing security of lives for all persons legally domiciled in the country (Federal Republic of Nigeria, 1999). Section 17 of the Constitution clearly provides that the social order and wellbeing of the state and her people is based on the important ideals of justice, equality, and freedom (Federal Republic of Nigeria, 1999). It goes further to stipulate

that the impartiality, integrity, and independence of the courts of justice as well as access to their services shall be guaranteed and maintained. By Section 36(1), it is provided as follows:

‘In the determination of their civil rights and obligations, including questions or determination by or against any government or authority, a person shall be entitled to access justice for fair hearing within a reasonable time by a court or other tribunal established by law and constituted in such a manner as to secure its independence and impartiality’ (Federal Republic of Nigeria, 1999).

Going by the provisions of the Constitution of the Federal Republic of Nigeria, the Legal Aid Council has been empowered to guarantee access to justice for the poor by making provisions for the Legal Aid Council to avail legal representation for indigent citizens (Federal Republic of Nigeria, 1999). By the provisions of its Section 46(4), the Legal Aid Council has been imbued with the powers to undertake legal representation for poor citizens in both civil and criminal matters. In the same vein, the Act establishing the National Human Rights Commission (NHRC) has empowered the Commission to defend and protect all victims of alleged infraction of human rights in all parts of Nigeria (National Human Rights Commission, 2005). Pursuant to this power, the Commission has the mandate to make interventions and investigate all complaints and concerns about basic rights of the citizens and exercise the statutory discretion to make appropriate orders for reliefs and compensations as may be expedient in each scenario of human rights abuse.

It is also noteworthy that various state’s High Courts in Nigeria have provisions in their Rules of Civil Procedure demanding that access to justice is allowed for all indigent persons. By this practice rule, a High Court judge has the discretionary powers and authority to grant the application of a poor citizen to initiate or defend a matter in any State High Court or Federal High Court via a process, *in forma pauperis*. This approach entitles an indigent litigant to proceed with filing their case without incurring cost or paying a professional fee. The process merely entails the poor litigant making an application, with an accompanying

affidavit deposing that the litigant is poor and is unable to engage the services of a lawyer on account of impecuniosity. Utilizing such a mechanism, the indigent litigant is seeking to invoke ‘the epistolary jurisdiction of the Honourable Court’ to have the court intervene and appoint an advocate that avails legal services to the litigant (Falana, 2017).

3.4 Barriers to access to justice in Nigeria

Some factors combine to frustrate or make impossible the attainment of equality and access to justice in Nigeria. The obstacles present themselves in three ways that represent different results that ultimately preclude some members of the society from enjoying unfettered access to justice. Okogbule (2005) presents the impediments in three different broad categorizations that include the substantive, the procedural, and the political and economic barriers. Under this compartmentalization, people are denied access to the enjoyment of justice due to substantive provisions of the laws, the procedural technicalities of the laws, and the nature of the political and economic conditions of the society. People are denied access to justice in multifaceted ways that include the nature, procedure, quality of the justice and the location of the justice seeker in the context of the judicial matrix (Okogbule, 2005). For Gwangudi (2002), it is not only procedural mechanisms that diminish access to justice but equally extends to other issues such as the physical nature of the facilities where the dispensation of justice is conducted, the standard of the personnel and the material resources that aid the dispensation of justice, the length of time it takes to get justice dispensed, the moral and ethical contents of the persons who dispense the justice, the extent of adherence to the guiding rules and principles for the dispensation of justice, the cost involved in getting the justice dispensed, the quality of the lawyers engaged in seeking the justice, and the objectivity and impartiality of the operators of the justice system. In Okogbule’s (2005) view, the factors that impede access to justice include delay in justice administration, prohibitive cost of litigation, constitutional indulgences, over reliance on technicalities, illiteracy, ignorance, judicial corruption. Other scholars have similarly

identified the barriers to justice to include poverty, illiteracy, poor justice administration, language barriers, and shortcomings in the laws (Muftau, 2016; Olusegun and Oyelede, 2022; Gwanguchi, 2002).

Going by the above findings and views about the factors that affect access to justice, we can distil the common strands of the issues that constitute hinderances to justice.

Distinctively, they fall under the inherent problems of the justice system on the one hand, and the inherent conditions of the justice seeker on the other hand. Each would now be dwelt upon one after the other.

3.4.1 The inherent problems of the justice system

There are certain problems and challenges bedevilling the justice system in Nigeria. These problems border on delays in the administration of justice, judicial corruption, technicality of the rules, constitutional bottlenecks, high cost of litigation, poor judicial infrastructures and facilities, poor quality of judicial officers, and poor working conditions of the staff. Due to the limited scope of this study, we shall concentrate on four of the factors.

3.4.1.1 Delays in the administration of justice

The Enugu State Judiciary (2015) in its Annual Case Returns 2014 reports that out of a total of 318 tenancy possession cases that came before the courts, only 71 of them could be concluded within the legal year under review. Cases are also known to linger longer in more contentious issues like land disputes. Akaniro (2009) finds that it takes a minimum of two years to conclude a land matter and can extend beyond that should the matter proceed on appeal. For criminal case trials, The Directorate of Public Prosecution (2016) indicates that they last a minimum of three years except in rare scenarios where the accused person pleads guilty on arraignment thereby saving the court the time and pains in entertaining claims, counterclaims, and addresses. Adegboyega (2011) notes that chieftaincy tussles last longer as was found in Ile-Oluji Community Chieftaincy dispute that lasted from 1998 through 2015 and the case of Okpaligbo-Ogu Community Chieftaincy that spanned from 2000 till 2014.

There is much truth in the popular aphorism that justice delayed is justice denied. As Justice Oputa (1999) opines, *'delay is a serious indictment on the efficacy of the justice system as it erodes public confidence in the adjudicatory process and in the administration of justice. Significant number of people find themselves to be victims or casualties of the crawling and most times, the crippling expense of the machinery of justice and are therefore forced into resignation, or being content with the lack of justice thereof.'*

There exists a plethora of reasons and excuses for the delays often experienced in the justice system, some of which have been endemic in the system. Some delays are occasioned by the officials of the justice system itself – the court clerks, court registrars, bailiffs, lawyers, and even judges – while some are due to the existence of a multitude of procedural rules which are often technical and complicated, and the bureaucracy often attending their applications' (Mamman, 2015). The lengthy adjournments in regular courts resulting in heavy backlogs of unheard and part-heard cases have heightened the need and concern for the expeditious resolution of cases.

3.4.1.2 Judicial corruption

Osborne (1997) views judicial corruption as the wrong, unlawful, and inappropriate practice and use of assigned judicial position for personal interests. The act of abuse has to do with the responsibility that a judicial officer holds and involves an unlawful exchange taking place between two individuals that gain at one end and, at the other end, the victim, who would lose their case because of the conspiracy between the judge and the victim's opponent. The debasement of adjudicatory ethics, the bastardization of judicial norms and the infestation of the judiciary with corruption and avarice have tended to reduce the confidence that people hitherto reposed on the judiciary. Corruption has an extraordinarily strong tendency to widen the justice gap. When the judicial system is corrupt, it would imply that access to justice is limited to only those who have the wherewithal and can influence the courts' verdicts.

The issue of whether corruption negatively affects the justice system can be deciphered by looking at the supply aspect of access to justice. Normatively, access to justice is a basic human right duly recognised by international laws as, for instance, postulated in The Universal Declaration of Human Rights, 1948, in its Article 7 (United Nations, 1948). Sen (2009) posits that every human right should have a threshold condition of importance having got a significant social value that can create a set of obligations for other people. Even as the international community, via the United Nations conventions and SDGs, has demonstrated a commitment towards access to justice, corruption has made rights espoused on papers to have divergences. Against this light, Albiston and Sandefur (2013) suggest that access to justice should be deemed a global common issue instead of merely being a concern about the poor and the less privileged.

3.4.1.3 Technicality of the rules

Justice exists in two forms that include substantive justice and technical or procedural justice (Akaniro, 2009). Lawyers have tendencies to engage in technicalities to gain victory at all costs (Olaniyi, 2014). The technical nature of law is such that it is not easily understood by persons who are not nuanced in law. Imperatively, to seek a redress from the law court would necessitate adherence to procedures which are not ordinarily spelt out in lay plain languages. Non-adherence to procedural or technical rules normally disentitles an individual from the right sought to be upheld.

Technicalities are usually spotted and explored by some lawyers to pick holes with the cases of opponents by looking at where the opponent is technically faulty as against looking at the merit of the case (Okogbule, 2005). An example abounds in the use of *locus standi*, which is the right to institute an action before a court. Some lawyers, relying on *locus standi*, have shut out litigants from being heard in the court. *Locus standi*, as a principle, requires that prospective litigants must demonstrate that they have substantial interest in a case before they can sue a person on the matter. This deliberate mischief has often worked

hardship on access to justice and discourages public interest litigants from instituting legal action as they are dubbed meddlesome interlopers (Okogbule, 2005).

3.4.1.4 Constitutional bottlenecks

The same constitution that guarantees access to justice still stifles access to justice by certain provisions in the Constitution. This appears ironical and contributes its own share to the impediments faced by people in accessing justice in Nigeria. The Constitution, in trying to strike a balance between parties in a criminal trial creates another challenge that hinders effective dispensation of justice. It is provided that whoever is charged to a court of law for a criminal offence shall have the right to be afforded enough time and facilities to enable the person to prepare their defence (Federal Republic of Nigeria, 1999). The interpretation and application of this provision is that every accused person has an unlimited right of time to present their case (Okogbule, 2004). This is a lacuna because the Constitution has not expressly stipulated any length of time within which the accused person should have presented their case. Given the extensive latitude of this provision, lawyers and litigants who feel that they have a bad case and are in court just to buy time have, most often, abused this privilege to cause delay in the trial process by being unreasonable in adjournments and proffering all manner of excuses and objections just to buy time to the detriment of the other party.

The letter and spirit of the provision is that any accused person that is unrepresented in a criminal matter by a lawyer must be obliged with a lawyer. It is reasonably felt that this ordinarily innocent provision should not constitute any cog in the wheel of progress of justice but given the characteristic Nigerian style and factor, a harmless provision is now being abused and applied to cause unjustifiable delays in justice delivery (Okogbule, 2004).

3.4.2 The inherent conditions of the justice seeker

On the part of the justice seeker, the barriers to access to justice include poverty, illiteracy, ignorance, and language barriers.

3.4.2.1 Poverty

Litigation is often an expensive endeavour that involves engaging the services of a lawyer and having to pay professional fees. The cost of litigation would be even more expensive when a litigant seeks to retain the services of a leading lawyer. According to Frynas (2001), considering the low incomes of the local people, potential litigants among them can rarely afford to engage lawyers and expert witnesses.

According to Igwe and Bassey (2021), poverty has tremendously hindered access to justice because the poor does not have the means to afford justice in Nigeria. In the same vein, Rule of Law Impact (2018) maintains that justice is not easily accessible to the poor, disadvantaged and socio-economically deprived citizens and this drastically limits their ability to challenge abuses, crimes, and rights infringements. The National Bureau of Statistics (2022) notes that a considerable gap abounds between the legal needs of the people and the avenues available to satisfy the needs, and thereby creates a 'justice gap' that holds the gravest consequences for the poor. In their finding, the National Bureau of Statistics (2018) notes that girls, vulnerable women, orphans, the poor and the elderly that are most likely living in poverty are equally most likely to be in dire need of access to justice (National Bureau of Statistics, 2022). In a related report, National Bureau of Statistics (2018) makes a startling finding that more than 133 million of Nigerians, constituting 63% of Nigerian population, are living in abject poverty.

Miserable and humiliating as the circumstances of abjectly poor people are, they are more preoccupied with the struggle for living that has to do with finding food to eat, shelter to sleep in and water to quench their thirst than spending money to get justice (Brems and Adekoya, 2012). Considering their economic situation, the natural tendency for most poor people when confronted with rights violations or imminent threats to their interests may be to resign to fate because one cannot give what one does not have. This has huge implications for them when it comes to seeking justice and having access to it. If as much as this proportion

(133 million) of Nigerians are poor, it implies that a significant segment of the population would certainly not be able to seek out justice if the expediency arises.

3.4.2.2 Illiteracy

Illiteracy undermines access to justice because a person who cannot read and write can hardly sufficiently know the full range of rights available to them except they are informed or guided by another person. Illiteracy creates distrust of the justice system and often makes the litigant intimidated before the courts (Okaru-Bisant, 2019). The court processes and documentations contain issues, claims and counterclaims that are strange to the litigant who is illiterate. That being the case, the illiterate litigant has a very fundamental barrier that limits them from understanding the language used as well as appreciating the implications of the documents and processes served on them. Not being represented as is often the case, the illiterate party will be subject to the harassment and intimidation of the opponent, who may be literate and or represented by a lawyer. According to Okaru-Bisant (2019), the court room experience of an illiterate litigant is always a harrowing one and this has resulted often in high drop-out rate in litigation by illiterate people. It is an ordeal dragging an illiterate person to court and oppressors use it to advantage in humiliating their opponents and traumatizing them throughout the rigours of the trial process (Okaphor & Akachukwu, 2014). In some cases, the mere service of court summons on some illiterate and uninformed persons in an initiated case have set them going to surrender and pacify the initiating litigant (Okaru-Bisant, 2019). That is the extent illiteracy works hardship on litigant and sets them defeated before and during the trial process.

3.4.2.3 Ignorance

Ignorance limits the information and awareness that people have of existing resources, rights, and opportunities. Ignorance can make a potential client to forfeit their ordinarily valid claim because they do not know the legal provisions regarding the steps and procedures they can explore in seeking redress in courts (Frynas, 2001). To seek justice effectively, the

potential client should have information and awareness about what are their rights and responsibilities, what are the basic provisions of the law concerning their basic rights and liberties, the location of lawyers and the courts, and the legal resources they can explore at each point in time.

When people are ignorant of legal and justice mechanisms, they will be at a difficulty in understanding what is at stake in many of the legal, justice and human rights issues that confront them (Frynas, 2001). This implies that, even in the first place, they do not know what constitute legal wrongs, torts, crimes, and liabilities. In the usual circumstances that they find themselves, they become miserable as they are vulnerable to the situations that can take a great toll on their rights, liberties, and interests. One of the most fundamental legal axioms is “*ignorantia juris non excusat*” or “*ignorantia legis neminem excusat*” which means “ignorance of the law excuses not” or “ignorance of the law excuses no one”. This legal maxim goes to demonstrate and insist that whether one is aware or not of the provisions of the law does not excuse one from liability when one infringes or breaches the law. In effect, people bear squarely the consequences of their actions (commissions) or inactions (omissions) that offend the law whether they are aware that such actions or inactions run afoul of the law. That is how strict the legal and justice systems can be, and it affects access to justice.

Impliedly, it is legal consciousness that guarantees people’s individual rights and liberties and dignity, enthrones a society within which equity and justice are protected and are available for the weak and the poor as well, and not a society where only might is right (Miller, 2024). For Sokolic (2022), legal information is power and a particularly important tool that people can utilize in making informed decisions and fighting for the causes that are cherished by them.

3.4.2.4 Language barriers

At no place is the essence of having a perfect understanding and being perfectly understood more crucial than in the justice system but rather unfortunately, with its technical and complicated language, it is still the place where language is most difficult to follow for majority of people (The Bell Foundation, 2022). The official language of the courts in Nigeria is English and all the court processes and documentations are in English and both would contain issues, claims and counter-claims that are totally strange to the litigant who does not understand any other language than their native mother tongue. If the language used in law is different from that which an individual is familiar with, that person will not follow and comprehend the very provisions and the consequences of the letters of the law (Okaphor and Akachukwu, 2014). According to Ogwezzy (2016), when people are unable to understand the language used in conducting the business of the court, they will not be in the best possible position to plead their rights or defend their claims.

Even for native English speakers, the technical legal and complex language used in the justice system can be quite befuddling and opaque (The Bell Foundation, 2022). According to The Bell Foundation (2022), legal practitioners are also quite convinced that aspects of law and its practice and language are ‘archaic’, ‘alien’, and ‘old-fashioned’ and therefore difficult to be understood by the ‘lay person’ that is ‘uninitiated’ into the practice of law and legal nuances. Understanding the language of the courts plays the instrumental role of ensuring that the parties whose matters are before the court and their witnesses can confidently express themselves and proffer the appropriate testimony and evidence for their cases (Easley, 2021). This suggests that the justice system uses ‘a different kind of English’ that is bewildering for people that use English as additional language (EAL). So, if the language of law and the practices of the courts are bewildering to users of EAL, then how much more would legal English overwhelm people who do not speak English at all? In the

face of language barrier, a party so affected is highly likely to lose their case due to inability to make appropriate claims and responses.

Chapter Four: Street justice in Nigeria

Some factors are prompting for people who feel that they are offended or that their rights have been infringed upon to resort to street justice or self-help actions to meet the justice of their cases. In this perspective to the pursuit of justice, individuals do not wait for the normal course of justice seeking apparatus to arrive at or satisfy their crave for the justice of their cases but would rather take out physical violent actions by themselves and get what they feel is lost or punish whoever they perceive to have injured or offended them.

The resort to street justice is experienced in every part of the world but remains most prominently used in Africa (Shodunke et al, 2023). It is the high rate of criminality and the corresponding lack of confidence in the justice system that exacerbate the waves of street justice (Shodunke et al, 2023). It is a widespread practice in Nigeria resorting to all kinds of self-help actions due to the inherent barriers to access to justice which have disintitiled a lot many people from the rights to justice as provided in the constitution and all other legislations that seek to guarantee equality before the law. There is a growing understanding that 'scores' should be immediately settled when an infraction of rights or infringement of interests occurs as experiences have shown that a whole lot of bribery, extortion, and miscarriage attend the justice system (Salihu and Gholami, 2018). Criminals and wrongdoers can easily escape the law, and this manifestly exposes the inefficiencies of the legal and justice systems in Nigeria (Dada and Oyedeji, 2015). There is rampant impunity for the law which serves as the *raison d'être* for the adoption of street justice and self-help in the pursuit and attainment of justice (Shoduke et al, 2023).

4.1 The spate of street justice in Nigeria

Lynching is a very common sight in Nigeria as extra-judicial killing is usually meted out to most crime suspects in Nigeria (Cole, 2012). Kpae and Adishi (2017) observe that street justice has become a recurrent issue in Nigeria and there are numerous casualties that are being recorded from the incidents across the country. The new trend in street justice is a

source of concern especially given the loss of innocent lives that have been wasted through the acts. It is even believed that the reportage of the incidents of the crime in the media is usually lower than the actual rate at which the phenomenon occurs because the media decide what to report and media reach does not cover everywhere and every time (Nwakpu et al, 2020).

The rate at which mob culture is embraced in Nigeria is alarming and has been increasing year after year. The media reports of 2020, 2021, 2022, and 2023 had 83, 107, 149, and 204 respectively of incidents of deaths resulting from street justice (Dahiru, 2023; Ogenyi, 2023; Mbah, 2024). It does appear that street justice has become institutionalized in Nigeria. Nwakpu et al (2020) are prompted by the staggering records of street justice to express the concern that it has become a persistent societal challenge given the remarkably high frequency of its occurrence. In the same vein, Osasona (2016) maintains that street justice has become a quite common phenomenon that is now deemed as an acceptable way of dealing with and responding to some cases of criminality like kidnapping, armed robbery, thefts, rape, pick pocketing, etc. The perception of the menace as acceptable, according to Osasona (2016), is because mobs aggregate and unleash mayhem on a suspect without any bystander being reasonable or bold enough to restrain them from wasting life extrajudicially. The situation is so perturbing that Mbah (2024) likens Nigeria to a jungle where the allusion to the survival of the fittest in the jungle perfectly situates.

4.2 Factors that account for the resort to street justice in Nigeria

Street justice is often resorted to for so many reasons. Among the reasons are corruption and ineptitude of the law enforcement agencies, lack of confidence in the justice system, absence of restorative justice in criminal cases, burden of proof on the prosecution in criminal trials, presumption of innocence of accused persons, social exclusion and alienation, poor socialization, ignorance of the actual situation, fallout of government's creation of anti-

crime militias and vigilante squads, revenge for previous encounter with a criminal, and mob mentality.

4.2.1 Corruption and ineptitude of the law enforcement agencies

The Nigeria Police has a tainted profile of being synonymous with corruption and consequently, inept (Okereke, 2012). The police in Nigeria pays premium on bribery and often accepts bribe to overlook crimes, compromise cases and allow criminal suspects to escape the hook of the law (Gholami and Salihu, 2018). Once the palms of a willing police officer is greased, they can find a way to trivialize a serious matter and play down on the evidence that would have been useful in the sustenance of the prosecution of a crime suspect (Gholami and Salihu, 2018). Consequently, the impression about the police in Nigeria is extremely negative because of their corrupt tendencies. The United Nations Office of Drugs and Crimes' (2017) survey indicates that the Nigeria Police is the most corrupt agency in Nigeria. Corruption, having eaten so deep into the fabric of the police formations, continues to undermine the effectiveness of the force in the performance of its duties. The overall effect has been that the force has lost all its glory and legitimacy, and so has public perception waned about the force. Impliedly, reporting cases to the police does not usually turn out to be a favourite decision for most people.

4.2.2 Lack of confidence in the justice system

The usual compromises associated with the Nigeria's justice system especially due to favouritism and corruption are pushing back the attainment of justice. As more people continue to lose confidence in the justice system, they are progressively led to embrace self-help to meet their justice needs however rightly or wrongly that may be (Iwarimie-Jaja and Lasisi, 2019). The widespread violent criminalities in Nigeria today, according to Iwarimie-Jaja and Lasisi, (2019), is associated with the despondency held by the people about the justice system. It is all too clear that the contradictions inherent in the justice system has thereby created the requisite conditions that enable social disorder to thrive. The current spate

of street justice in Nigeria points to the fact that some people do not trust that the justice system, as presently operates, can meet their dire justice needs. According to Gbeneme and Adishi (2017), the weaknesses and inefficiencies that characterize Nigeria's justice system has midwived a scenario of heightened frustration and exacerbated desperation in people which drive them to utilize mob justice as a way of ventilating their disaffection and displeasure over a wrongful act. In Makinde's (2017) study, 78% of respondents that participated preferred physical settlement of scores to litigation, reasoning that from arrest to investigation, trial, and the time of delivery of verdict, the justice system is susceptible to compromise that results to a miscarriage of justice. All of these go to buttress the fact that where the justice system is flagrantly bastardized and unable to perform its sacrosanct roles, social order will normally take a back seat while, for most justice seekers, it becomes a 'do-or-die affair' and should be pursued at all cost.

4.2.3 Absence of restorative justice in the criminal cases

The Nigerian Criminal Code has no provision for restorative justice at the end of a criminal trial. Restorative justice, according to Igwe and Odoh (2023) is a requirement that the accused person on conviction is made to remedy or replace or restore the loss suffered or property lost by the complainant on account of the accused person's wrongful act in such a way as would restore the complainant or their property as they hitherto were before the wrongful act. Restorative justice is about reparation, restitution, restoration, and replacement to originality. Going to court when a crime is committed only serves to punish the offender and not necessarily in any way to restore what was lost or stolen or dispossessed from the complainant. Reparation makes the victim of a crime to feel restored and compensated. However, Islamic jurisprudence has provision on *Diyya* which is a practice among Islamic faithfuls requiring that a commensurate reparation be made in favour of the victim of a crime or their family in cases where the victim has ceased to exist (Absar, 2023). This Islamic

precept is compensatory and makes a victim or the family satisfied to an extent that the wrongdoer has 'paid' for their wrong.

In Nigeria, if one succeeds at all in securing legal victory over an accused person, the most that can be achieved is that the convicted person gets and serves a sentence as prescribed by the court. A complainant may feel and question themselves thus: 'what do I gain by just getting the wrongdoer to be punished without getting back, for instance, what I have lost?'. A crime victim may feel that getting the accused to serve a prison term does not necessarily serve the justice of their case and consequently resolve to physically settle the scores there and then without involving the conventional case redress mechanism. This is one reason people do not spare a moment to lapse before meting out punishment or taking a revenge against anyone who is perceived to have done evil.

4.2.4 Burden of proof on the prosecution in criminal trials

The burden of proving the liability of an accused person in a criminal trial lies on the prosecution who speaks on behalf of the victim of a crime (Federal Republic of Nigeria, 1990). The implication of this requirement is that the victim of a crime, through the prosecutor, must furnish all facts and corresponding evidence that will prove 'beyond reasonable doubt' that the suspect (because he is presumed innocent until convicted) committed the offence that they are alleged to have committed. This is a very tall order because an accused person can decide not to say anything in their own defence all through their trial while the prosecutor, acting on behalf of the complainant (the victim) must strive to discharge their obligation by adducing all material evidence and sufficient facts to earn a conviction for the suspect.

In criminal trials, the standard of proof is 'beyond reasonable doubt' and is often exceedingly high and often extremely difficult to establish given that 'justice must not just be done but should be manifestly seen to have been done'. This means that the court must not have any iota of doubt in finding that the accused is as guilty as charged. This implies that

every element of the crime as alleged by the prosecutor must be supported and proven in evidence with material facts. Arriving at a verdict of guilt for a suspect is often particularly challenging as it means that ‘no stone is left unturned’ to enable the court to issue a judgment without doubt, bias, and prejudice. It is not just about the truth or veracity of the case but much more about the evidential materiality before the court as provided by the prosecution. Even if the judge saw the suspect committing the crime, it does not suffice to ground a conviction as the onus lies incumbently heavy on the prosecutor to avail before the court clear, compelling, and convincing evidence.

4.2.5 Presumption of the innocence of the accused person

Presumption of innocence is a basic principle in the justice system which provides that an accused person remains innocent until they are proven to be guilty (Ferguson, 2016). It is ordinarily a legal invention to safeguard the fundamental rights of an accused person from being violated. However, it has become a leeway that could be relied upon by an accused person, acting through their lawyer, to stifle justice. According to Weigend (2013), defence lawyers and accused persons are often exploiting the principle to make the trial extremely tortuous and cumbersome in some ways as we highlight in the lines that follow. Firstly, as the burden of proof lies on the prosecution, it often turns out exceedingly difficult proving that a suspect is culpable ‘beyond reasonable doubt.’ Secondly, such presumptions have sometimes resulted in acquittals of accused persons in cases that they would have been found guilty. Thirdly, presumption of innocence unnecessarily protracts cases and results in significant cost on the prosecution. Fourthly, it creates an atmosphere of uncertainty for the crime victims and the society and creates frustration that may eventually end the trial by abandonment of the case. Fifthly, the principle offers an opportunity for a corrupt justice system to be compromised via bribery and corruption. Overall, the thought of the fact the accused is presumed innocent fuels an indignation for the justice system and stokes the embrace of self-help in the pursuit of justice in Nigeria (Obinna, 2021).

4.2.6 Social exclusion and alienation

Social exclusion keeps people at the margin of the society and makes them far removed from governance, the state and its institutions. According to Scottish Centre for Crime and Justice Research (2016), when a group of people strongly feel marginalized at social, economic and political aspects, and have ultimately found themselves at the societal periphery, they naturally feel they do not belong and are not represented in the affairs of the state, and they may want to organize themselves and take some actions that include resorting to crime and violence. Many Nigerians find themselves at the bottom of the socio-economic ladder with no access to the facilities and benefits of governance. This situation results in social discontentment and makes people lose faith in governance and the ability of the state to address their needs (Agboti and Nnam, 2018). Nnaedozie (2021) illustrates social exclusion with the scenario of an urban jungle, Obiagu in Enugu State, Nigeria, as an instance. In this community, health clinic, schools, sports field and recreation park, electricity, pipe-borne water, and even police post are non-existent. The residents just feel like they are not part of the society as the state does not do anything for their welfare. To demonstrate their disdain for the state, two incidents of police men coming to arrest two persons from their community were opportunities they seized. On the first occasion, the youths could disarm the officers who had come to make arrest, seized their rifles, beat them up and made a public spectacle of them. On the second incident, the mobs gathered, beat up the police and set their patrol van ablaze (Nnaedozie, 2021). So, in this kind of place, street justice is the norm. Having been neglected over the years, they have started taking the laws into their own hands, setting up their own vigilante outfits, and have become responsible for themselves and to themselves, and even question the existence of state and government.

4.2.7 Poor socialization

It is in the character of people to act in ways that reflect the kind of environment they were groomed in (Mshelia and Yusuf, 2022). According to The Scottish Centre for Crime and

Justice Research (2016), the socialization process of imbibing behaviours and exhibiting them in a social environment can be deliberate sometimes and, at other times, unconscious. Ugwuoke (2015) studied the proclivity for street justice in Nigeria and could find preponderance of jungle tendencies in some of the slum settlements of Ajegunle and Ojuelegba in Lagos; Obiakpor in Rivers; Obiagu and Abakpa in Enugu; Ezzamgbo, Ikwo, and Ezza in Ebonyi; Oturkpo and Alaede in Benue; and Tudunmagaji in Abuja. Ellwood (1912) maintains that Lombroso ascribed violent criminality to poor socialization which finds fertile grounds in adverse geographical conditions, density of population, alcoholism, drug addiction, and economic hardship. It is based on this that Ellwood (1912) submits that most violent criminals owe their orientation to the social and physical environments that nurtured them.

4.2.8 Ignorance of the actual situation

At the root of most mob actions is ignorance. People are easily drawn to an episode of violence and join in expanding its flame and dimensions without necessarily knowing how and why it started. A mob action is usually initiated by a small number of people who would recruit others, through their own actions and incitement, that join to execute the agenda (Ifill, 2018). As often the case, the subsequent members of the group do not border themselves about establishing the veracity of the allegation against the victim(s) and would rely on the information proffered by the initiators. In situations where the subsequent joiners ask questions about the complicity of the victim(s), they, the joiners, would normally be fed with falsehoods and be satisfied by the information from the masterminds (Akala, 2019). Those who are in doubt about the veracity of crime as alleged would turn out to be active bystanders, just watching as cruelty and inhumanity are unleashed against innocent person(s) (Akala, 2019).

4.2.9 A fallout of the governments' creation of anti-crime militias and vigilante squads

As Nigeria got increasingly overwhelmed by insecurity and crimes, state governments were drawn into the formation of anti-crime militias and vigilante squads. The state governments, according to Ogbozor (2016), encouraged communities to establish vigilante groups or strengthen the existing ones if they already had them to function for the purpose of securing lives and property in their respective communities. The absence of any national or state legislation in regard to the operations of vigilante groups implied that no statutory financial allocation accrued to the states for the operational upkeep of the vigilante groups neither was there regulatory framework that spelt out how the vigilantes and militias carried out their duties of securing their communities. According to Fellab-Brown (2021), there was only a directive from the Inspector General of Police to the Divisional Police Officers to be in control of the respective vigilante groups within their authority.

Consequently, vigilante groups operated for a long time without funding leading them towards embarking on extortion, illegal deals, stealing, and some became willing tools in the hands of some politicians who appropriated them for the purpose of settling scores with perceived or manifest opponents (Obasanjo et al, 2023). Overtime, the members became outlaws who could no longer operate within the ambits of states' control and became a law unto themselves. It was very easy for them to get away with serious criminal conducts like public execution, and mob actions eventually found basis and support in the acts of these non-state security actors (Tiwa, 2022). It was therefore, for most of the times, not fashionable to go through the normal course of law enforcement agencies as any group of persons could just carry out whatever punishment they felt is appropriate for any perceived or alleged wrongdoing.

4.2.10 Revenge for previous encounter with a criminal

A person who has been dealt with by a criminal or whose relation has experienced a bitter encounter with a criminal in the past would have the natural tendency of wanting to pay

back a criminal suspect should they find an opportunity to do so. According to Obarisiagbon (2018), street justice increases by the day as people who have previously encountered criminals would want to unleash a great deal of punishment on any person they meet as a criminal suspect. For Obarisiagbon (2018), it is a way of revenging an ugly past experience and also a better way to obliterate or reduce social nuisances while discouraging further indulgence in crimes. The moral dilemma, however, remains that whereas in some instances the victims of street justice are culpable in the allegations against them, in other cases it is innocent persons that are rudely and brutally being subjected to mob callousness.

4.2.11 Mob mentality

It has been found by social psychologists that there are some explanations for mob action in the mentality of a mob. If people operate as a group, tendencies are that the members encounter de-individuation, a kind of lost awareness of self that propels them to be unlikely to obey normal restraints and be likely to lose their feeling on personal identity (Rosenthal, 2010). It is going by this tendency that an individual could be driven into behaviours that they would not have ordinarily embraced were they acting as one single individual.

Physical anonymity and group numerical strength increase the proclivity for mob behaviours. In such a setting, the members have a feeling of a great deal of complete diffusion of responsibility, abandon self-awareness and participate willingly in a criminally violent behaviour (Brown, 2021). The criminal act performed is viewed as the responsibility of the whole group and not an individual person's own act and responsibility. Similarly, anonymity could lead an individual person to feel they have little or no social limitation (Bello, 2019). According to Tolossa et al (2023), as individuals feel that what they do as a group would not be traceable to them as distinct persons, they have a sense of fewer restraint and would be disposed to contravene social norms and may even go to the extremes by indulging in violent criminalities like street justice. The issue arises therefore about the

susceptibility of individuals to mob mentality. People are susceptible to engaging in extremely violent criminal acts, but studies indicate that specific conditions like frustration, and individual traits such as behavioural atavism play a crucial role (Staub, 2003).

Chapter Five: Alternative Scenarios of Justice-Seeking Mechanisms

The obvious impacts of the flaws in the justice system are borne by the party whose rightful interests in a case are toiled with. The consequence of the scenario is described by Ofordile (2011) as litigation-phobia, a situation whereby people view it as sheer waste of time seeking justice from the courts and would therefore avoid, as much as possible, approaching the court if they have any case. According to Ofordile (2011), a situation where parties that have potentially meritorious matters do not fancy going to court due to the uncertainty of the verdict of their cases, the cost involved, and the time spent in the process, implies that alternative mechanisms must be explored. This is on the basis that human beings cherish justice and cannot prosper under injustice. As a result, exploring alternative remedies for whatever they perceive as wrongfully done to them is a natural tendency. There are many scenarios, apart from street justice, resorted to by people in their search for justice. For the scope of this study, we shall be exploring deities, customary arbitration, oath-taking, and covenant.

5.1 Deities

Deities are very prominent features of the traditional justice system in settling of cases between two or more contending parties. According to Agbedo (2007), deities are God's agents on earth and have powers of judgment and discernment from God and can exercise same on His behalf. People use deities in several ways to bring about justice. Part of several assigned functions of deities is to affirm the truth whenever there arises contention between two persons over an interest or right (Eze, 2010). Deities in Igboland, for example, have instituted a few restraints that have kept the activities of people under check using ordeal trials, secret societies, and the observances of certain restrictive customs and traditional norms (Onyeidu, 1999).

If a complaint is brought against a suspect to an offence, the suspect would be charged before a deity to absolve themselves of the material allegation(s) and if the suspect is

adjudged guilty, they are normally handed down a light or severe punishment depending on the gravity of the offence committed (Eze, 2010). Deities have the capacity to superintend the affairs of people on earth and possess the mandate to execute God's orders as quickly as possible (Ugwoke, 2012). In this sense, deities have proven to be extraordinarily strong mechanisms for social control that enthrone justice through their priests and whatever verdict they render is binding on the parties.

5.2 Customary arbitration

Customary arbitration entails arriving at justice between parties in a dispute whereby they subject themselves to the family, elders, or the community council for the differences between them to be resolved (2007). In customary arbitration, cases are initiated either by a party concerned or by the parties being invited for them to be heard and resolution reached (Egberi, 2015).

Justice is of primary concern to the family. When two or more members of a particular family have a dispute between them, the family as a unit usually quickly initiates intervention to settle the difference and midwife peace and justice for the parties. This much is echoed by Onyeozili and Ebbe (2012) that the 'court of original jurisdiction' is the 'court of the father of the house'. This is because people often find the family to be a vital institution for the settlement of the issues in marriage, inheritance, succession, and entitlements.

The elders' council court functions as the second level of institution in the quest for justice within Nigeria. The village elders' court is usually constituted by the heads of the constituent families in a particular village (Onyeozili and Ebbe, 2012). Matters proceed to the elders' court either as appeals from families or as fresh cases when the parties are from different families in a particular village (Onyeozili and Ebbe, 2012). At the elders' court, civil matters can be peacefully resolved but in criminal cases, penalties are usually imposed which

range from restitution, expulsion or outright banishment, depending on the gravity of the offence committed (Onyeozili and Ebbe, 2012).

5.3 Oath-taking

Oath-taking has become a quite common justice seeking practice in Nigeria (Dine, 2007). It takes different shapes and forms and can be undertaken in various kinds of places like churches, rivers, streams, forests, and all other settings as may be decided by the people concerned in a matter (Egberi, 2015). For Oraegbunam (2009), oath-taking is administered on a person who is being suspected of having committed an infraction or crime wherein they swear by a 'juju' that 'a certain act was not perpetrated by them'.

5.4 Covenant

The idea of a covenant is an undertaking between two or more parties whereby they undertake to be bound by certain terms of engagement in their contract, relationship, or transaction (Oraegbunam, 2009). Covenant is a ritual of treaty of obligations by parties guaranteeing that they have obligations to be bound by those terms and conditions which they jointly or collectively reached. When a covenant is entered, parties in the relationship have most conscientiously undertaken among themselves that they are under obligation to uphold their agreement or face certain consequences if they renege on their obligations (Oraegbunam, 2009).

Chapter Six: Conclusion and Recommendations

6.1 Conclusion

We have sought in this dissertation to explore the barriers to access to justice and the drivers of street justice in Nigeria. In doing this, we set out to interrogate the inherent conditions of the justice system that make it ill-equipped to live up to its expectations as the last hope of the common man. We have also sought to ascertain the inherent factors in individuals that undermine their capacity for enjoying the unfettered rights freely endowed on them by the Constitution as free citizens. The drivers of street justice were also identified and dwelt upon. The study went further to find out what alternative mechanisms people explore, apart from street justice, against the background of their inherent inability to access justice. Following from the research, we have been able to elicit answers to the research questions as follows:

6.1.1 What are the barriers to access to justice in Nigeria?

Here, we identify two broad aspects of inherent barriers to access to justice in Nigeria. While one part of the barriers emanates from the legal and justice system, the other part of the barriers is pertaining to the peculiar challenges of the justice seeker themselves. We could find that the justice system is beleaguered in several ways. Key among the challenges of the justice system is delay in the administration of justice. Cases linger for years in the courts and frustrate either of the parties who may lose interest in the matter and resign to fate. As the often-quoted aphorism echoes it, 'justice delayed is justice denied.' The justice system equally faces the threat of corruption which has continued to institute miscarriage of justice as the norm. There is also the problem of the technical nature of some rules which are often employed by a disgruntled party for the perversion of justice. Lawyers often resort to technical rules to work mischief on the justice system and frustrate a party who should be ordinarily entitled to justice. Bottlenecks are also found here and there that make access to justice near impossible for some persons.

On the other hand, the justice seeker may be in certain conditions in which the attainment of justice becomes impossible for them. Of all the factors in the life of the justice seeker, the most potent frustration they may face is poverty. Money plays a very important role in the justice seeking process. As a Nigerian version of corrupt English has it, ‘person wey no get money no dey go near court’ meaning: A poor man does not get close to court. A lot of money is involved in litigation like costs of engaging a lawyer, filing the case, and funding logistics. Illiteracy also contributes to work hardship on illiterate litigants as they would have to be grappling with understanding the law and its implications. Related to illiteracy is ignorance which works like a blight to disable some people from being aware of resources and avenues for meeting the justice of their case. It was found also that language barriers are large part of the barriers that a litigant may face in seeking justice.

6.1.2 What factors account for the resort to street justice in Nigeria?

Both corruption and ineptitude characterize the performance of the Nigeria Police and other law enforcement agencies charged with the mandate of securing lives and property as well as initiating the arraignment process in the criminal justice system. Having flagrantly disappointed and dismayed the expectations of the people in crime prevention, crime fighting, and crime investigation, few people still go to the police to lay complaint of a crime against someone. Impliedly, public perceptions about the law enforcement agency are so low hence the tendency to overlook or bypass the police and embrace jungle justice. The courts too are unable to discharge their responsibilities fairly and expeditiously. Cases linger in Nigerian courts and even when they get delivered, they do not represent the direly needed justice. Equally befuddling is that there is no compensatory provision to the victims of crimes apart from the accused person serving terms of their punishment. In the circumstance, a crime victim would naturally feel that going to court would not be worthwhile since the accused person would not pay reparation or make compensation beyond serving the court’s prescribed punishment.

As the onus lies on the victim, through the prosecution, to prove that the accused person indeed committed the alleged offence, it is always a challenge for the prosecution to discharge this obligation as any iota of doubt is usually resolved in favour of the accused person. Similarly, when the accused person is presumed innocent until the contrary is proved by the victim, the accused person has always explored a leeway to earn acquittal from culpability. This has been found not to augur well for justice for the victim of a crime and for this, they are motivated to explore what they perceive is faster and easier and they find it in jungle justice.

Street justice appears attractive for people who are socially disconnected. On the other hand, there are people who were not properly brought up or were exposed to bad influences and, as a result, have inherent anti-social tendencies that make them not to perceive street justice as abnormal and will not realize its socio-legal implications. It is equally the case that ignorance is at the root of most mob activities because in majority of scenarios, the masterminds are few, but many joiners would eventually get involved even without knowing what happened. To an extent too, mob practice in Nigeria is a bye product of the failure of the states in Nigeria to effectively manage the affairs of vigilantes and militias which the states had hitherto encouraged their formations.

Street justice has seemed to serve the ends of people who have had a close shave with criminals. For some people, engaging in street justice does not encumber them with moral or legal burden and dilemma because they encounter de-individuation, i.e., loss of awareness of themselves, they have a feeling of absolute diffusion of responsibility, and they have a proclivity to view group acts of violent crimes as a collective responsibility and never their individual responsibility.

6.1.3 What other alternative justice seeking scenarios do people whom justice has failed or who lack confidence in the justice system explore?

Some alternative justice seeking mechanisms are embraced by people considering the barriers to access to justice. People have found solace in the ability of supernatural powers to obtain justice in their cases. Lacking trust in the conventional justice system, they embrace deities. The gods and spirits are perceived by them as omnipresent, omniscient, and omnipotent, and therefore can undertake their battles for them to get justice. The family, village elders and community have been found to intervene in disputes and disagreements given the ties that exist among the members. As a result, these institutions form the pots of first call when issues between members of their domain arise. Also, people require that suspects in an allegation subject themselves to oathtaking. This is done by swearing that the act they are being suspected of was not indeed committed by them and that a certain evil should befall them if they lie on the oath. It is an affirmation of an accused person's innocence in an allegation. Similarly, covenants are being used by persons in a contract or relationship to guarantee their utmost good faith, fairness and justice in all their engagements. It serves as a spiritual solemn obligatory undertaking to be bound by all terms and conditions stipulated and agreed in the contract or relationship.

6.2 Recommendations

In light of the barriers to access to justice and the drivers of street justice, we make bold to proffer the following recommendations:

- a. The governmental authorities must make fundamental decisions that restore the hopes of the citizens in governance and make a public example of justice for all.
- b. The governments at the federal, state, and local levels should make the reporting of crime easier for people so that people can reach law enforcement agencies easily. For instance, emergency numbers should be designated in Nigeria for the purpose of reaching the police and other security agencies whenever there is an emergency.

- c. Public enlightenment and orientation are especially important for people to know the law and how it works.
- d. Educational curricular should incorporate human rights and civic responsibilities to imbibe sanity, decency, and responsibility on young people.
- e. Partnership should be created between the local people and the police where they should interface and co-operate on reporting, arresting, handling, and surrendering of offenders to the law enforcement agencies.
- f. The police and other security agencies should be bolstered to provide adequate security for the citizens through operational logistic supports like vehicles, arms and ammunitions, electronic gadgets, and surveillance equipment as well as attractive working conditions.
- g. The police should be trained and retrained on operational mandates, crime prevention, investigation, information gathering and intelligence monitoring and utilization.
- h. Community policing should be statutorily created with regulatory framework and clearly spelt out *modus operandi* to support mainstream police formations with grassroot policing.
- i. There should be synergy among traditional institutions and authorities, town and village unions, and law enforcement agencies.
- j. The legal and justice system should be holistically reformed and rejigged for the delivery of swift and steady justice for all.
- k. There should be established a National Legal Aids Scheme akin to the National Health Insurance Scheme or National Housing Scheme where people can resort to for the purpose of accessing legal advice and legal representation if necessary.
- l. The procedure for the appointment of judicial officers should be more transparent to ensure that people have opportunities to scrutinize the persons sought to be appointed

into judicial positions and raise their concerns, if any, about the pedigree and antecedents of candidates for judicial positions.

- m. An integrity-specific provision should be included in the Constitution so that only lawyers of proven integrity can be appointed to the bench as judicial officers.
- n. A mechanism for bringing complaints against judicial officers who are erring should be put in place and punitive measures that should apply where a judicial officer is found to have erred need to be stipulated.
- o. There should be a requirement for definite timing in the conclusion of a case and the delivery of judgment in any case that comes before the courts.
- p. Measures like computerization should be adopted to fastrack the dispensation of justice.

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