



AN EXAMINATION OF NIGERIA'S ADVERSARIAL JUDICIAL SYSTEM: THE NEED FOR REFORM

ABSTRACT

The legal system of any country is comprised of both civil and criminal proceedings. For effective court proceedings, various courts are created with a view to ensuring that litigants that appear before them as much as possible feel satisfied with their decisions¹. How these courts are able to deliver their final judgments with a view to determining the rights of the contesting parties is always crucial in any judicial system of a country.

In Nigeria, the courts operate an adversarial system; the judge maintains the balance between the parties to the action and decides the case on the evidence brought by both sides and by applying extant laws. The adversarial system of justice works to resolve cases in court by pitting partial advocates for each side against one another with a judge who works to ensure that the rules of court and law are followed.² This system thrives by its use of interested opposing parties debating over an issue in order to ensure the pursuit of justice. This system of justice delivery has been criticized for its value of winning over truth, but another school of thought relies on studies showing how it has led to the development of law in recent times.

This paper examines the operation of the system in general and highlights its advantages and disadvantages and proffer recommendations on how to improve the system generally.

1.0 INTRODUCTION

Long before the colonial masters arrived on the shores of the entity now known as Nigeria, complex disputes were settled by the traditional heads. In cases of household matters, the head of the family which at most often is the man settles such dispute. However, due to the complexities of disputes sometimes, certain matters are settled before the district head, Emirs (North), the Obas (West) and the Obis (East) or any other authorised personnel saddled with such responsibility.

More often, the palace of these heads served as the courtroom with litigants representing themselves on matters ranging from divorce, marriage-related issues and also custody of children to matters of land and farm matters.

¹Rufai Muftau 'Access to Judicial Justice in Nigeria: the Need for Some Future Reforms' <<https://core.ac.uk/download/pdf/234650565.pdf>> Accessed 19 June, 2021.

² Ikenga Oraegbunam 'The Jurisprudence of Adversarial Justice' <<https://www.ajol.info/index.php/og/article/view/187809/177102>> Accessed on 19 June, 2021.

With the advent of western education and civilization introduced by colonial masters, a code of human conduct was desirous. It was aimed at ensuring that human beings should not take laws into their hands; that an aggrieved person should make a formal complaint before an impartial body which is now known as a court of law. The most important aspect of this modern civilisation is the judiciary; this is because it interprets whatever law that underlies what is to be done and adjudicates when it is finally done poorly or wrongly.

This onerous, critical and principal task of the judiciary is carried out through the help of a judicial system. The judicial system has the framework and the structure that enables the smooth running of the state through the courts.

This occasioned the establishment of various courts which include the Magistrate Courts, State High Courts, Federal High Courts, the National Industrial Court, various specialised tribunals, The Court of Appeal and the Supreme Court. To this end, judicial powers of both the federation and the states have been vested on only these superior courts of record. In this respect, **Section 6 (6) (b) of the 1999 Constitution of Nigeria (as amended)** provides:

"The judicial powers vested in accordance with the foregoing provisions of this section:

a. ...

b. Shall extend to all matters between persons, or between government or authority and any person in Nigeria, and proceedings relating thereto, for the determination of any question as to the civil rights and obligations of that person."

In a similar light, Justice Oputa of blessed memory in his book: *The Law and the Twin Pillars of Justice*³, observed as follows:

'The court exists to do justice to all manner of men without fear or favour, affection or ill will towards anybody, and distinction or discrimination as to class or social status; poor; to do justice as well as to the small and seemingly inconsequential man.'

2.0 JUSTICE AND THE JUDICIAL SYSTEM

The concept of justice as understood is different from the way an ordinary man in Nigeria conceives the word to be. Technically, and in the legal sense, the word justice comprises all the legal rules and technicalities. But, in a layman's perception, the word justice is simple in form. Therefore, an ordinary man is only interested that justice is done in a manner in which he is directly or indirectly interested, and that it is devoid of all the legal technicalities. But as a negation of how it is being perceived in this latter sense, it is often said that law should be devoid of the mainstream of sentiment.

The word justice has been understood in various senses by many people. For example, some people find it convenient to describe it, using such phrases as the quality of being just, fair play and fairness, etcetera. At times, it is also understood to mean being just and impartial between two or more contesting parties without preference as to class or race. In this regard, it has been observed that the word justice bears a tripartite connotation and performs a tripartite function in the judicial process, in the sense that it relates to the plaintiff, the defendant and the court in a civil matter, and in a criminal matter, it relates to the accused person, the state

³ Oputa, C.A. *The Law and the Twin Pillars of Justice* (Owerri), 1981, p. 67.



and the court: therefore, it is justice, if it covers this tripartite ramification and signification, and it is not justice if it covers only one or two of the above⁴.

It is also usual to relate the concept of justice with such expression like hear both sides, meaning that a man is to be heard before being condemned. In this context, the courts are duty-bound to listen to all the parties in any dispute brought before them before delivering their decisions or judgments.

Therefore, Erle, C.J. observed:

"It is an indispensable requirement of justice that the party who has to decide shall hear both giving each an opportunity of hearing what is urged against him."⁵

In another respect, Lord Denning defines justice as follows:

"The measures authorized by the law to keep the streams of justice Pure: to see that trials and injuries are fairly conducted, that arrests and searches are properly made; that lawful remedies are readily available and that unnecessary delays are eliminated."⁶

2.1 Forms of Justice

There are various theories of justice but only two of them will be considered here.

2.1.1 Formal Justice

This theory postulates that the court must apply the law strictly without any regard to any extra-legal considerations. In other words, the judge is bound to give effect to the law as it is and has no discretionary power to mitigate its harshness.

Justice is said to be done when a case is decided strictly according to law. Perhaps, a classical example of the application of formal justice could be seen in the case of *Awolowo v. Federal Minister of Internal Affairs*⁷. In that case, a popular political leader from the old Western Region was charged with the offence of treasonable felony punishable by either death or life imprisonment. The learned Trial Judge was reported to have said: "My hands are tied", implying that whatever his sympathies for the accused might be, he was nevertheless constrained by law to convict him.

Many reasons have been adduced to justify this mechanical approach in the exercise of judicial power. Formal justice, it is said, ensures the clarity and certainty of the law. According to Lord Eldon in *Sheddon v. Goodich*⁸: "It is better that law should be certain than that every judge should speculate upon the improvement in it."⁹

The theory has also been justified on the ground that it makes for impartiality and independence in adjudication since a judge is denied the opportunity of showing partiality to either of the parties.

⁴ . Chief Isekwema and Ors v Bilepe and Ors. Suit No. PHC/56/87. See also *Ogboode v The State* (1987) 2 NWLR Pt. (54), p.20.

⁵ . In *Re: Brook*, 16, CBNS, in a Selection of Legal Maxims, 10 Ed, p.65.

⁶ The Due Process of Law: (Butterworths), 1980 Ed,

⁷ (1962) L.L.R. 177.

⁸ (1803) 32 E.R. 441at p. 447.

⁹ (1803) 32 E.R. 441at p. 447.



2.1.2 Substantive Justice

This theory requires that where the strict application of the law may produce manifest absurdity or injustice, the judge may consider some extra-judicial factors in interpreting the law in order to arrive at a just decision. This is the attitude that led to the development of the doctrine of equity. The practice of liberally interpreting the provisions of the law by a judge to advance substantive justice is now commonly known as judicial activism.

2.2 The Judicial System

The judicial system is the system of law courts that administer justice and constitute the judicial branch of government. The judiciary (also known as the judicial system or court system) is the system of courts that interprets and applies the law in the name of the state. The judiciary also offers the requisite schemes, procedures and processes for the resolution of disputes.

In some nations, under doctrines of separation of powers, the judiciary does not necessarily make or enforce the law; rather it interprets the law and applies it to the facts of each case. In other nations, the judiciary can indeed make law, this is known as the Common Law and it sets the pattern for other judges to follow. Most often than not, the foremost preoccupation of the judiciary is to ensure and assure the people of their equality before the laws of the land.

In many settings, the judiciary is empowered to change laws through a judicial review process. Courts with judicial review power can annul states' laws and rules when it conflicts with a higher norm, like; the primary legislation, the provisions of the constitution, or international law.

The importance of the judiciary in any political system cannot be over-emphasized; hence the constitution provides for its full independence to enable it to perform its sacred constitutional function without sentiments and reservations.

In the judicial system, judges are the ones who interpret and implement the constitution. For a people to establish and keep the 'Rule of Law' as the operative norm in social constructs great care must be taken in the election and/or appointment of unbiased and thoughtful legal scholars whose loyalty to an oath of office is without reproach.

3.0 THE INQUISITORIAL METHOD

Trials here are conducted in form of inquiries and not full-scale litigation. The main distinguishing feature of this method lies in the fact that the judge or the adjudicating body has considerable control over how the evidence is collected and presented. The judge or the adjudicator here does not stand as an umpire. Rather, he can enter into the "arena" of the trial by investigating facts himself and questioning parties and witnesses. In some cases, the body may even appoint its expert assessors or rely on the opinion of experts who have not appeared personally before it. The inquisitorial system is used in some civil law systems (that is, those deriving from Roman law) where a judge or group of judges investigates the case.

The practice of relying on an expert who has not appeared personally before the body has been unsuccessfully challenged in ***R V. Deputy Industrial Injury Commissioner, Ex parte***.¹⁰ In that case, Ms. Moore had suffered from a form of slipped disc, which she claimed was due to her bending at work in her job as a crane driver. The tribunal held against her and she took her case to an appeal tribunal. Before this tribunal, a consultant surgeon gave evidence on her

¹⁰ (1965) 1 Q.B 603.



behalf. Government medical officers gave evidence suggesting that a pre-existing condition and not the bending caused the disc problem. The tribunal also heard reports of the opinions of two other doctors given in previous cases as to the likely causes of disc problems. These doctors did not appear before the tribunal and could not, therefore, be questioned in an adversarial way by Ms. Moore.

Nevertheless, the tribunal relied on their opinions and those of the government doctors in concluding that the weight of evidence was against Ms. Moore. Ms. Moore then asked the ordinary courts to overturn the decisions on the grounds that the tribunal acted against the principles of natural justice, which required a fair hearing. The Court of Appeal dismissed her claim. Lord Justice Diplock¹¹ drew attention to the essentially inquisitorial nature of the tribunal in the following terms:

"... There is an important distinction between the functions of an insurance tribunal and those of an ordinary court of law, or even those of an arbitrator ... a claim by an insured person to benefit is not strictly analogous to a Lis Inter Partes (adversarial litigation). Insurance tribunals form part of the statutory requirements which entitle him to be paid benefit out of the fund. In such an investigation, neither the insurance officer nor the Minister (both of whom are entitled to be represented before the insurance tribunal) is a party adverse to the Claimant. If an analogous be sought in ordinary litigious procedure (literally friends of the courts). The insurance tribunal is not restricted to accepting or rejecting the respective contentions of the claimant on the one hand and of the insurance officer or Minister on the other. It is at liberty to form its own view even though this may not coincide with the contentions of either..."

Many tribunals in Nigeria today have a semi-inquisitorial character. The Nigerian courts have embraced the above liberal approach of an inquisitorial body to the investigation of fact. In **Baba v. Nigeria Civil Training Centre**¹², the Appellant was employed by the Respondent as an Assistant Security Officer. The Respondent terminated his appointment with a one-month salary in lieu of notice. Before the termination, the Appellant faced an investigating body set-up by the Respondent to investigate the allegation leveled against the Appellant by some of his subordinates. The investigating panel submitted its report. The Respondents gave the Appellant a copy of the findings of the panel, which were adverse against him and invited him to defend himself. The gravamen of his complaints was that he was not given a copy of the allegation against him nor was he allowed to cross-examine his accusers. In short, his constitutional right of fair hearing was violated. In dismissing his appeal, the Supreme Court held that:

"... Refusal to permit cross-examination of a witness at an administrative hearing will usually be a denial of natural justice. However, deprivation of the opportunity to test evidence by cross-examination is not a violation of natural justice if the tribunal can and does decide merely on the strength of an inspection or oral or written submissions supplemented by its own local or specialized knowledge ... In this case, the appellant was given a reasonable opportunity of defending himself ..."

4.0 ADVERSARIAL SYSTEM OF JUSTICE

The adversarial system or adversary system is a legal system used in the common law countries where two advocates represent their parties' positions before an impartial person or group of people, usually a jury or judge, who attempt to determine the truth of the case. This system is in sharp contrast to the inquisitorial system used in some civil law systems where

¹¹ Ibid

¹² (1986) 5 NWLR (p.-) 641.



a judge or group of judges investigates the case. The adversarial system is the two-sided structure under which criminal trial courts operate, that pits the prosecution against the defence. Justice is done when the most effective adversary can convince the judge or jury that his or her perspective on the case is the correct one. The prosecutor tries to prove the defendant is guilty, and the defendant's attorney argues for the defendant's acquittal. The case is then decided by a judge (or a jury) who does not investigate the facts but acts as an impartial umpire. It is also called the accusatorial procedure.

In Nigeria, court proceedings, whether civil or criminal is that of an adversarial type as opposed to the inquisitorial type. This system postulates that the courts are to remain passive throughout the whole proceedings, while the parties are to be in control of the entire proceedings. Mostly, the stages and processes of the proceedings are to be dictated by the parties themselves.

This method gives each party and his lawyer a great deal of control over the way in which facts are collected and presented. Each party has the obligation to assemble his witnesses and present his evidence in a manner most favourable to his case and adverse to that of the other party. The parties apparently appear as adversaries and engage in a contentious argument with each other and accusing one another as the cause of the dispute. This is why this method is called "adversarial" or "accusatorial."

Each party calls his witnesses one by one and tries to establish evidence that is material to the success of his case through them. This process is known as examination-in-chief. After the examination-in-chief, the witness will then be cross-examined by the counsel for the opposite party. The objects of cross-examination are to weaken a party's case by means of his opponents' witnesses. If a witness is not cross-examined, it is implied that the truth of his evidence is admitted by the other party. After the cross-examination of a witness, the party calling him has a right to re-examine him. The object of re-examination is merely to give the witness an opportunity of explaining any seeming inconsistency in his answer and to clear any doubt relating to matters arising from the cross-examination.

In the whole scenario of the legal "battle", the role of a judge can be likened to that of an umpire, ensuring that evidence is presented following certain ground rules of evidence and procedure such as the rules that hearsay evidence is inadmissible that a lawyer must not ask his witness a leading question and that a party must not take the other side by surprise.

Based on the evidence adduced, the judge must make up his mind on the balance of probability which version of the facts and legal argument he prefers. The judge may feel that some important evidence is missing or that the lawyer has failed to ask the right questions or call all the relevant witnesses but there is nothing he can do about that. He must make up his mind based on the evidence presented and must not descend to the legal "arena" to search for evidence on behalf of the parties even if the facts are well known to him. He also cannot question a witness himself except to clarify an ambiguity in the witnesses' answers.

The adversarial method presents a classic case of parties who are theoretically on a level playing ground. The parties are bound by the same rules. Neither side is forced to disclose the details of his evidence in advance before the trial to the other. The judge will decide the case on the balance of probability, which favours neither party. If the imaginary scale of justice tilts in favour of a party judgment will be given in his favour.

4.1 Features of the Adversarial Judicial System

The following are the basic features of the adversarial system of justice in Nigeria:



- a. **Role of the Parties:** The two adversarial parties have full control over proceedings. That is, they are responsible for pre-trial procedures, and preparation and presentation of their respective cases. They must gather evidence, organise witnesses and employ experts. On a procedural level, they are also responsible for determining the time and place of the hearing. This role ensures that parties have the ability to present the best case possible.
- b. **Role of the Judge:** The judge's main role is to control proceedings and ensure that rules of evidence and procedure are followed. This means that a judge decides what evidence is admissible, inadmissible, and which is to be excluded from the trial. At the conclusion of the two parties' presentations, a judge will instruct the jury if there is one, summing up the case and instructing them of the relevant law to be followed. With or without a jury, the judge decides the relevant law to be applied. However, when there is no jury, the judge decides on questions of fact. That is the judge determines which presentation of evidence is more persuasive and truthful, before reaching a verdict. The judge always decides on the sanction (in criminal cases) or remedy (in civil cases).
- c. **Rules of Evidence and Procedure:** Rules of evidence and procedure are strict in the adversarial system of trial and aim to ensure that the trial is fair and unbiased and that parties have an equal opportunity to present their case. The rules of evidence are also developed based upon the system of objections of adversaries and on what basis it may tend to prejudice the trier of fact which may be the judge or the jury. In a way, the rules of evidence can function to give a judge limited inquisitorial powers as the judge may exclude evidence that is not trustworthy or irrelevant to the legal issue at hand. All evidence must be relevant and not hearsay evidence.
- d. **Standard and Burden of Proof:** The burden of proof refers to who has the responsibility to prove their case in court. In criminal proceedings, the prosecution must prove the defendant's guilt, and in civil proceedings, the plaintiff must prove that the defendant was liable. Standard of proof refers to the level of convincing required to prove a case. In criminal cases, the prosecution must prove that the Defendant is guilty "beyond reasonable doubt". In civil cases, the Plaintiff must prove that the Defendant infringed their rights on the "balance of probabilities" i.e., it is more likely than not that the defendant was in the wrong.
- e. **Need for Legal Representation:** The responsibility of preparing and presenting one's case is delegated to legal representation, and a party will be disadvantaged without it. Legal representatives are vital in assisting the parties. They understand the complex rules involved in bringing a case to court that an ordinary citizen may not, and are therefore able to ensure that a party's case is prepared and presented in the best possible manner. It requires the skills of counsel on both sides to be fairly equally pitted and subjected to an impartial judge.

4.2 Differences Between the Adversarial System and The Inquisitorial Method of Justice

- a. **Mode of Conducting Trials:** Adversarial and inquisitorial systems of justice represent two different means of conducting trials with adversarial systems used in common law jurisdictions such as England and the commonwealth nations with Nigeria being inclusive and the inquisitorial system is prevalent in mainland Europe. The adversarial system is based on the opposing sides acting as adversaries who



compete to convince the judge and jury that their version of the facts is the most convincing. The lawyers are given free choice in terms of which issues are presented, what evidence to adduce in support of their submissions and what witnesses to call. The judge presides over the trial and rules on disputed issues of procedure and evidence, asking questions of the witness only to clarify evidence, and concludes the trial by summing up the facts for the jury and advising them of the relevant law. It is not open to the judge in an adversarial system to enquire beyond the facts and evidence that are presented by the opposing lawyers; his role is largely passive; he is an impartial referee who advises the jury on matters of law. This differs dramatically from the role of the judge in an inquisitorial system which is based, as the name suggests, on an inquiry into the case thus the judge is not limited to hearing the submissions of the parties but can direct the lawyers to address specific points or to call particular witnesses.

- b. **Determination of Guilt:** Unlike the adversarial system, the role of the inquisitorial system is not to determine the guilt or innocence of one particular person but to find the truth. As such, the judge, as investigating magistrate, conducts an inquiry that involves the questioning of witnesses and suspects, the issue of search warrants, and an examination of the evidence with the aim of discovering both incriminating and exculpatory evidence. The prosecution and defence lawyers will keep a close eye on the judge's investigation and can request that he considers specific evidence or takes a particular course of action but the ultimate responsibility for the line of inquiry remains that of the judge. If at the conclusion of the investigation, the judge decides that there is a case against a particular suspect, the matter will proceed to trial which will take an adversarial format. An inquisitorial system involves a preliminary investigation conducted by an investigating magistrate as a means of seeking the truth. It is accepted that the adversarial system does not do this. A trial does not involve the pursuit of truth by any means... the judge's role in that system is to hold the balance between the contending parties without himself taking part in their disputations. It is not an inquisitorial role in which he seeks himself to remedy the deficiencies of the case on either side (*R v Whit horn* (1983) per Dawson J at 682)¹³. As the respective lawyers for the prosecution and the defendant in an adversarial system have the freedom to choose what evidence to present to the court, there is a possibility that the truth in its entirety will not emerge at all. Although the adversarial system does operate within a system of rules of disclosure, this does not compel both sides to be entirely open with regards to the evidence that they possess; it merely requires that they disclose any information that is specifically requested by their opponent. Of course, this operates to restrict the emergence of evidence; if it is not known to exist, it will not be requested. Therefore, in an adversarial system, if the defence is in possession of negative evidence, they can merely ignore it and hope that it is not requested by the prosecution (and vice versa). This would not occur in an inquisitorial system as the investigating magistrate is in charge of an examination of all of the evidence. Although he can be directed towards evidence by the lawyers on both sides, they do not have the ability to withhold or obscure evidence from him. This approach, then, seems to be a more effective way of finding the truth in a particular case as there are no restrictions on the emergence of key evidence thus all the facts and evidence are available for scrutiny.
- c. **Investigation and Identification of Fact:** The inquisitorial system appears to be more adept at identifying and investigating the relevant facts and ensuring that this

¹³ 152 CLR 657



is all taken into account when deciding to proceed with a trial. As such, it seems to be a more cost-effective method of conducting a criminal trial. The central question, however, is whether it dispenses justice. An investigating magistrate may reach an erroneous conclusion that leads to the wrong individual being tried in circumstances where his presumption of innocence is eroded. An adversarial system protects against wrongful convictions by ensuring that the process is slanted in favour of the defendant in the belief that it is better for ten guilty men to walk free than for one innocent man to be imprisoned.

4.3 Advantages of the Adversarial Method

- a. It reduces the element of bias in the adjudicator since the judge or adjudicator has to decide the case based on the evidence adduced and argument canvassed by the parties. It is therefore easy to detect where a judge or adjudicator has perverted justice. A judgment if challenged may be reversed on appeal if it is against the weight of evidence.
- b. It allows each party to present his case and also discredit the case of the other party to the best of his ability. It is therefore possible for a party with an apparently weaker case to ultimately put forward a better case depending, on the quality, dedication and commitment of his lawyer to the case.
- c. The method seems to be more acceptable to the parties than the inquisitorial method because it gives the parties an equal chance to win after exhausting their arsenals.
- d. The method may greatly enhance the development of the law since the lawyers have a greater degree of control over the conduct of the case, they can come up with certain ingenious legal arguments or points, which may be novel to the adjudicator. Such brilliance has in the past assisted the court in the exposition and development of the law.
- e. The decision of the court is binding on the parties and it is self-executing and does not require another tribunal to give it a force of law.

4.3 Disadvantages of the Adversarial Method

The adversarial method is not without some disadvantages:

- a. It promotes the "sporting theory" of justice. Those with the best lawyer (and often it is the rich who can afford them) are the most likely to win.
- b. It is oftentimes acrimonious. It is viewed by many (unfortunately including some lawyers) as a way of continuing a legal fight instead of resolving a dispute.
- c. Since cases are decided based on the evidence adduced by parties and their lawyer may go to any length to produce "admissible" evidence such as procuring witnesses to lie on oath or forging certain documents. For instance, in **Whitehouse v. Jordan**¹⁴ the judges strongly criticized the lawyer for the Plaintiff for "doctoring" the experts' evidence along a particular line. It suffices to say that a lawyer is forbidden by the rules of professional ethics from resorting to 'sharp practices' to circumvent the rules.

¹⁴ (1980) All E.R 650



- d. Since the method vests the production of evidence in the parties and their lawyers, it allows them a chance of determining the pace of the legal process. A party who has no real defence may resort to all sorts of delay tactics to either frustrate the plaintiff or force him into a settlement. Lawyers in adversarial systems are also often indicted of deliberately prolonging a case to enhance their fee. While this accusation may not be true in most cases, it suffices to say that the undue delay, which cases usually in court suffer under the system, is a cause for serious concern. In *Ajani v. Giwa*¹⁵, Oputa J.S.C (as he then was) observed as follows:

“As of now, this case has been before the courts for 16 years. There is something radically wrong with a system that takes up to 16 years before a claimant can know whether or not he is the owner of a piece of land.”

- e. Long delay may impair the fact-finding efficiency of the system. For instance, witnesses may have died or relocated to another jurisdiction. Where the witnesses are available, they may not be able to fully recollect the facts of the case after some time. A vital piece of evidence might have become lost or destroyed over time. Some rules have however been developed to ensure that parties do not unduly delay the hearing of the case by giving the court more power to control the trial. For instance, a suit may be struck out where the plaintiff in a civil case or prosecutor in a criminal case is absent from the court without any reasonable excuse. Also, judgment could be obtained in the absence of the defendant or cost awarded against him. It is however doubtful, whether these and other rules have significantly helped to overcome the problem of delay in the adversarial method.

4.4 Challenges of The Adversarial Method of Justice

The following are the major challenges facing the adversarial method of justice in Nigeria:

- a. The adversary system is that it is slow and cumbersome. The judge, acting as a neutral fact-finder, can do little to accelerate a trial, and procedural and evidentiary rules further slow the process. Likewise, the wide availability of appellate review means that a final determination can take years or even decades.
- b. Lawyers are obligated to challenge the evidence against their clients, even if that means impugning the police or attacking a victim's or witness's character. It is their job to win an acquittal by whatever legal and ethical means within their power.
- c. It is not possible for people with limited resources to enjoy the same access to legal services as do wealthy people, the system affords the wealthy and the *la crème* of the society access to more successful lawyers who use their expertise to delay the court process.
- d. The image of the courtroom as a battleground or playing field where contestants vie for victory is evident in the news media's preoccupation with who is "winning" or "losing" or "scoring points".
- e. Some scholars are of the view that the adversarial system employed by the court is the major reason why courts are congested with a lot of cases and lawyers are

¹⁵ (1980) 3 NWLR (Pt. 20 at 797.

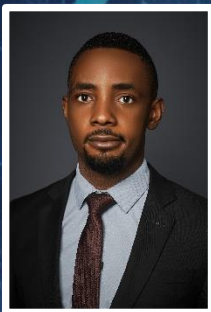


given the opportunity to file frivolous applications and motions all in a bid to 'win' the case for their client.

5.0 CONCLUSION AND RECOMMENDATION

It is recommended here that to allow for an effective justice delivery system, the positive aspects of both the adversarial and inquisitorial methods should be harnessed to create a hybrid legal system, one that is the best of both systems.

Doing so would ensure that justice in the true and practical sense of the word is been served. The law must remain a tool of social engineering, one that works for man and as such, legal systems must be made for the benefit of man and not man for the law.



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