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Editorial

This issue of NIU *Journal of Legal Studies* touches on the Role of Arbitration in Resolving Corporate Governance Dispute in Nigeria, Lagos State Land Registration Law of 2015, Implementation of the Administration of Criminal Justice Act of Nigeria, as well as Legislative Oversight Functions in Nigeria.

One of the papers, in this edition, observes that despite the numerous advantages and successes recorded in the use of arbitration to achieve an amicable resolution of corporate governance disputes, it is still faced with some limitations. The study therefore in its conclusion, recommended various strategies that can be employed to enhance the use of arbitration in resolving corporate governance disputes.

Another paper reveals that there has been a lapse in the effective implementation of ACJA in Nigeria. It was therefore concluded and recommended that the Administration of Criminal Justice Monitoring Committee set up by the ACJA of Nigeria exact their duties in check-mating the police, the office of AG of Nigeria, and the courts to ensure the maximum enforcement of their functions.

On the whole, this issue of *NIU Journal of Legal Studies* features many empirical and theoretical based articles which can be of great benefit to every reader.

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Legal Issues Concerning the Role of Arbitration in Resolving Corporate Governance Dispute in Nigeria

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Abstract. This study conceptualized dispute as an integral part of man's existence and a common occurrence in all human interactions; social, political, industrial, international, national, corporate, commercial, etc. In a corporate organization, disputes may result owing to strained relationships between the various stakeholders who are involved in the determination of the direction, and performance of the company. However, what is important is that the parties should be able to find a common ground and resolve such disputes amicably hence the need for an informal, quicker, less expensive, effective, and confidential mechanism as opposed to the formal, strict judicially entrenched way of resolving disputes. Based on this background, the focus of this research is the examination of arbitration as a necessary and successful tool in the resolution of corporate governance disputes and, consequently, helping to preserve the privacy of the parties in the dispute and the company, contributing to the improvement of corporate governance practices through the strengthening of investors' confidence, increasing shareholder value, enhancing the access to financing, promoting business continuity, and reducing the overall costs arising from corporate governance disputes. Concerning this, the study adopts a doctrinal method of study, the primary and secondary sources of the material relied on were analysed through a descriptive and analytical method. The study therefore observes that despite the numerous advantages and successes recorded in the use of arbitration to achieve an amicable resolution of corporate governance disputes, it is still faced with some limitations. The study therefore in its conclusion, recommended various strategies that can be employed to enhance the use of arbitration in resolving corporate governance disputes.

Keywords: Arbitration, Dispute, Corporate Governance, Nigeria

1. Introduction

Despite the economic decline that hit Nigeria after COVID-19 which forced several corporate organizations either to liquidate or to constantly swim against the tides of bankruptcy, some companies not only survived the tough times but also grew tremendously despite the odds. The 2023 Inaugural Financial Times Report that ranked Africa's Fastest Growing Companies (Satope and Akanbi, 2014), indicated that Nigeria has emerged as one of the countries with the highest concentration companies showing high-growth in Africa (Adpinega, 2014). The Report listed 100 companies which were arranged according to their Compound Annual Growth (CAGR) in revenues generated between 2018 and 2021. It was based on this growth rate and several other criteria that 27 Nigerian firms out of 100 companies from 42 African countries, were selected as businesses that are showing strong base, alongside successful growth potential in the country and possessing good prospects for further growth (Okongwu, et al., 2023). Indeed, the numbers of corporate organizations in Nigeria are increasing steadily. The rapid and steady growth of urban centers and the ever-increasing demand for goods and services keep accelerating the number of corporate organizations in the country. Corporate organisations are the main drivers of every nation's industrialization process, commerce, providing employment, and general economic growth and development (Aidonojie et al., 2022). The major purpose of establishing them is often to provide certain services or produce or exchange goods for consumption by individuals, organisations and government. Companies in Nigeria are taxed

periodically in other to generate income for the government, they provide job opportunities for the teeming population, and help in small way in the improvement of the standard of living of the people thereby ensuring and sustaining growth or development. Based on the above factors, the survival of corporate organizations is of interest to both government and individuals hence the need for promoting good corporate governance (Ablna, 2008).

Upon the incorporated of a company, it acquires what is generally referred to as a legal personality and then, it becomes a legal entity, separate and different from the shareholders or members of the company (Masajuwa et al., 2020). This is trite law. However, because the company is not a real person, but an artificial being, it can only operate, act and function through the instrumentality of its human agents in other words; natural persons. Indeed, disputes are generally inevitable resulting from human interactions. It is usual for human beings to disagree on and at almost every point of their engagement as long as they interact and so it is with a body corporate (Reuben, 2005). Just as there are different types of interactions and dealings, so are numerous parties involved in determining the direction and performance of a corporation. These parties include those who contributed capital to the organization (shareholders), those whose responsibility it is to run the everyday operations of the company (management) and then, those whose duty it is to oversee the managers and also protect the interest of the shareholders of the company (directors). Thus, considering all these parties, their influences and the many contractual relationships that exist between them, disputes in a corporate organization becomes quite frequent and unavoidable (Adison, 2000).

Expectedly, when two parties are in dispute, the final consequence is usually to submit their case to a third party (usually the court), in order to get a possible solution for their differences. However, a dispassionate review of many cases reveals that most corporate governance cases ought not to have gone to the courts in the first place. Court cases have a way of diverting key personnel from productive activities, tarnishing reputations, taking up enormous sums of resources and destroying a profitable relationship between members or officers of a company (Orojo and Ajomo, 1999). However, apart from court processes being expensive, acrimonious, time-consuming, uncertain and its final judgment, a subject of further laborious appeals, the often-enormous damages the dispute will cast on the good image or reputation of a company in the business world usually tax the company's business heavily due to occasioned loss of confidence in the eyes of prospective investors, associates and even employers.

In recent times, parties to governance corporate dispute in Nigeria have engaged arbitration as an alternative to litigation and which is capable of nipping disputes in the bud, resolving long-standing disputes/cases, and can even produce win-win solutions to such old and bitter fights that might have otherwise only leave both sides damaged. Further, the Supreme Court of Nigeria has held in the case of Ras Pal Gazi Construction Company Ltd v. FCDA (2001) 10 NWLR Part 722 page 559, that an award given at the end of a successful arbitration proceedings is at par with the with the court judgment. Also, its peculiarity for corporate and commercial disputes has made it acceptable to litigants both locally and internationally. Arbitration secures the privacy of the parties involved in the dispute, as well of that of the company. It is efficient, less complex, speedy and its flexibility ensures that it can be adapted to suit the needs of the parties in a particular dispute. It also grants autonomy to the disputing parties (Olagunju, 2007). Generally, arbitration could be referred to as one of the best alternative dispute resolution strategies that is being used in the world today. However, in spite of its tremendous achievements, arbitration in the corporate sector is faced with numerous limitations.

This study therefore, examines the arbitration technique as well as its prospects and viability as an effective mechanism for the settlement of corporate governance disputes. These disputes may arise between the company board and its shareholders or between the board directors and the executive management of the company. They can also be between shareholders or directors themselves or between them and other stakeholders. This work intends to showcase that although generally, litigation has been the most commonly used mechanism for the settlement of disputes, in the sphere of governance corporate dispute, arbitration is the preferred methods of dispute resolution because of certain obvious factors.

2. Methodology

Research methodology could be seen as the systematic process that is being used by researchers to investigate, explain, examine, scrutinize or to predict phenomena in a structured rigorous and precise manner. The research methodology adopted is the doctrinal approach. The doctrinal approach involved a review of the laws and principles that govern the subject materials. The primary and secondary sources constitute very important and helpful reference

materials. Materials considered in the research and which form the primary sources include statutes on arbitration and corporate governance, in addition to judicial pronouncement and judgments on the subject-matter. These are all considered as primary sources and they shape the foundation upon which actions and opinions are formed.

The secondary sources are related published and unpublished research works of scholars in the field of research. These materials include journal articles, books, seminar papers, monographs, internet materials on arbitration as well as on cooperate governance. In the utilization of these materials mentioned above, the work adopted a conceptual and theoretical analysis of the materials by making comparism and contrasting them when necessary. This is with a view to the forming of opinions and then, arriving at conclusions.

3. Conceptual and Theoretical Clarification

Arbitration is one of the forms of alternative dispute resolution (ADR). It has been seen as a semi-judicial and less formal dispute resolution process in which a dispute is decided by a qualified and independent third party, usually called an arbitrator, who render the "arbitration award" and the award is legally binds the disputants on both sides and is enforcing in the courts (Nahal Allahhi, 2016). In this system, a dispute between not less than two parties is referred for determination in a judicial manner by a neutral person or persons other than a competent court (Kumaraswamy & Yogeswaran, 1998). It can be either voluntary or mandatory and there are usually limited options or rights of review and appeal of awards giving in the arbitration. The uniqueness of arbitration is that it helps in preserving and sometimes enhancing the relationship existing between conflicting parties. Analysis of the foregoing definition indicates that for the method of arbitration to be activated, there must be a dispute involving at least two or more parties who have agreed to arbitrate, agreed on an arbiter or a neutral third party known as the arbitrator, and also, the finality and binding nature of the arbitral decision or award. Also, it can be affirmed that in an arbitration, the parties have an option of choosing more than one arbitrator, and as a result of that, it affords them the opportunity of presenting their dispute to a neutral third party who are chosen by them and are knowledgeable enough to make a binding decision called an Award (Jensen & Meckling, 1976).

Corporate governance can be deduced as a system by which corporate organizations are directed and controlled. It is a set of inter-relationships between the board of directors of a company, its shareholders and other stakeholders like the management; all of which are involved in providing the structure that sets the objectives of the company and the means by which those objectives are attained, while monitoring the performance (Abid et al., 2014). A corporate organizations or company is made of different organs, performing various functions. The Board of directors is the organ responsible for the governance of the organization. They are saddled with the responsibilities of setting out the company's strategic aims, providing a company management that will put them into effect, supervising the day-to-day management of the business, and then, reporting back to the shareholders on their activities and stewardship. The role of the shareholders is to provide the capital, appoint the directors and also satisfy themselves that an appropriate governance structure has been put in place (Clark, 1998). It is then the management of the company that carries out the day to day running of the company towards the achieving of the company's overall goal. Corporate governance therefore entails a set of inter-relationships between the management of the company, its board of directors, shareholders, and perhaps, other stakeholders. It is this corporate governance that provides the structure that sets the company, as well as how the means of actualizing those set objectives and the monitoring of performance are determined (Agyris, 1973).

From the above definitions, the key constituents of corporate governance that are common are: corporation (company) and stakeholders (the principal players) (Majekudumi et al., 2022). As earlier stated, a corporation is a juristic person distinct and separate from its shareholders and/or managers. However, a corporation being an abstraction is bound to operate through natural persons in diverse capacities as directors, shareholders, managers and other employees (Daily et al., 2003). It is these relationships between a company and these natural persons that create some responsibilities and duties between the company and the operators, as well as relationships among the operators themselves. This relationship is expected to protect the interests of each party with the aim of minimizing disputes and producing beneficial outcomes, but sometimes the relationships itself breeds disputes (Egielewa & Aidonojie, 2021). By way of conceptualization, it has been offered that a dispute exists when a claim or assertion made by a party is rejected by another party and the party who made the claim or assertion does not accept the rejection (Padilla, 2002). From this definition, it can be explained that disputes involve conflicting parties and that it is more certainly to arise when the conflicting parties demonstrates an action or arguments to a controversy. Disputes entails

disagreement over issues. David Foskett concludes that an 'actual' dispute may not occur until one party insist on a claim and it's 'disputed' by the other.

A corporate governance dispute involves corporate authority and its exercise. It mainly concerns the organs and officers' powers responsibilities and actions or their failure inability or refusal to act. Corporate governance disputes can arise in various (Runesson & Guy, 2007). It may emerge as a disagreement between the shareholders of the company and its board; between the board of directors and the Chief Executive Officer (CEO) and/or the senior management; even among the board directors themselves; between the board and the company employees' representatives; or between the company board and social communities. It should be noted that a dispute may involves the company as a corporate entity, but yet, that dispute does not concern or pertain to its governance. These disputes are experience in the course of doing business, it is part of business, and it is usually up to management to find ways of resolving them (Agrawal & Chen, 2008). As part of its responsibility of oversight and monitor, the board is usually informed of significant litigation that may affect the operations, finances and reputation of the company. Also, it is proper for the company board to ensure that that in the company's policy and guidelines, there are in place, dispute resolution policies and mechanisms that can mitigate disruptions and reduce expenses that might result from these disputes (Oladele et al., 2022).

However, the agency theory which is rooted in economic theory, was exposited by Alchian and Demsetz (1972) and further developed by Jensen and Meckling (1976). This theory showcased that there exists an agency relationship between principals, such as the shareholders holders of a company and their agents, such as the company's directors, executives and managers. By this theory, the shareholders who provide capital for the company and are the owners or principals of the company, hires the agents (directors, executives and managers) to perform certain task. These principals delegate the running of the company business to the directors or managers, who are the shareholder's agents. Indeed, Daily et al (2003) argued that two basic factors influence the prominence of the agency theory. First, the theory is conceptually a one in that it reduces the corporate organization to two participants, which are referred to as principal and agents. Second, agency theory proposes that employees or managers in organizations can pursue their own interest or become self-interested.

Further to the above, Agyris (1973) argues that agency theory view as an economic being, the employees of a company and that they suppress their own individual aspirations and then, must act and make decisions in the interest of the principal. Although, in some cases, the decisions of the agent may not necessarily be in the best interests of the principals. The agent may give in self-interest, exhibit opportunistic behavior and then, fall short of the congruence between the aspirations of the principal and the desires or pursuits of the agent. With such setbacks, disputes may arise which ought to be settled fast, effectively and efficiently.

4. Corporate Governance Disputes in Nigeria

It is pertinent to know that disputes in corporate governance is almost inevitable. This dispute may arise between the board of a company and its shareholders or between board of directors and management of the company. Such dispute may also emerge between and among the directors themselves (Okongwu et al., 2022). The list of possible sources of dispute between these players is endless and can include issues pertaining to the company itself (what is being carried out - related-party transactions, strategic priorities, company control, etc), the board processes (this concerns how things are done, for example, in the appointment of new directors, defining of board agenda, planning succession in the company, etc), and personalities (who is doing things - behaviors, attitudes and styles of directors) (Imoisi et al., 2023).

In identifying the nature of the dispute, critical attention must be paid on the parties' identity and the nature, cause and type of the dispute, so as to distinguish a corporate governance dispute from other forms of corporate disputes (Oaihimire & Aidonojie, 2023). For example, a contract for goods or services can be awarded by the management, in violation of the company's policy on related transactions. This can result in a dispute the board and management (Sloan, 2009). This form of dispute would be regarded as a corporate governance dispute. However, where there is a supply of goods or services and a dispute erupts between the supplier and the company's management over the terms of the aforementioned contract, this could be properly described as a commercial dispute. Those involved in governance dispute resolution must understand the nature of corporate governance of each company; the ways that corporate governance disputes can arise within them and the manner of such disputes (Reuben, 2005).

Generally, corporate governance dispute can be classified into two main categories, namely; internal and external corporate governance disputes. An internal corporate governance disputes arises within the company. This is especially among the company's directors or between the directors and senior management or officers of the company (Adpinega, 2014). Such disputes usually have as their source, the relationship between the board chairmen and the CEOs and/or other directors (executive and non-executive). These rifts are usually concerning the board role or functions, problems of agency, strategy of the company, or certain specific corporate control or financing transactions. This suggests that corporate governance disputes are likely the consequence of struggles of power between the company's top management and certain board factions. External corporate governance disputes arise between the board of the company and the shareholders or sometimes, between the shareholders themselves. Matters and areas that often lead to battles between the company board and the shareholders can include a wrong done to the corporate right of a shareholder, a proposed acquisition, a disposal of a substantial part of the company's assets, valuation of the company's share and bond, lack of disclosure, non-respect of corporate governance best practices, nomination/appointment of new board members, and then, corporate social responsibility (Jensen & Meckling, 1976).

Corporate organisations are composed of board of directors, shareholders and officers that are skillful, thoughtful, outspoken and independent-minded. This is good and not a bad thing. There should be robust debate and vibrate arguments especially in the boardroom, and decisions should expectedly result from a process in which the board is seen to consider all reasonably and available information (Daily et al., 2003). It is believed that a company board that never argues, debate or disagrees among themselves is most likely to be a passive, inactive, or inattentive board. Better put, a board that is not effective is neither carrying out its duty of care nor fulfilling its oversight function in the company. Also, shareholder activism, or the ability of shareholders to influence the company direction or to assert their ownership power, is a positive trend (Runesson and Guy, 2007). When shareholders scrutinize a company's performance and question its strategic decisions, it makes for a healthy and sound corporate governance system that can help protect their rights and keep the board members and senior executives up to their responsibilities.

Yet, if a boardroom disagreement and/or a shareholder conflict is not handled promptly and properly, it can degenerate into a full blown and acrimonious dispute that undermine a company's operation and performance. Disputes left unchecked and unattended can easily and quickly escalate into public matters that can have terrible, disastrous and long-term consequences for the company and its key stakeholders (Aidonojie et al., 2024). An acrimonious corporate governance disputes can divert the boardroom resources, can disrupt and disorganise board's work thereby paralyzing them from making critical decisions, obstruct and frustrate company's operations, delay major strategic decisions. Such dispute can undermine the company's hard-earned reputation, reduce its market share, dissuade potential investors, divert the company's financial resources, divert the human resources, cause a breakdown in stakeholder relations, hinder growth, weaken the trust of internal and external stakeholder, prompt resignation of board members and senior executives, and then, affect corporate results. All these have the tendencies of hastening the company's demise.

Indeed, corporate governance disputes 9isorganizes the cordial relationship between the organs of a company and constitute a hurdle to its corporate growth. It is therefore important that machineries ensure the quick and amicable resolution of corporate governance disputes are put in place to the satisfaction of the disputing parties, and thus, reduce to the barest minimum the resort to litigation as a means of settling such disputes.

5. Litigation Mechanism in Settling of Corporate Governance Disputes in Nigeria

Whether in Nigeria or other jurisdictions, the conventional way to settle disputes, even corporate governance disputes, is by litigation. However, the impact or cost of litigation on corporate governance disputes has become increasingly counter-productive (Brown & Marriot, 1999). In a country like Nigeria with our weak and unreliable legal system, litigation mechanism for the settlement of disputes is usually slow and cumbersome, lacks a tailored resolution, is costly, and is full of uncertainties. Thus, the use of litigation in settling corporate governance disputes can radically escalate the dispute, increase its cost, damage the company's hard-earned reputation, and occasion the delay in the resolution of strategic issues (Masajuwa and Aidonojie, 2020). The longer the dispute persist, the more or greater the costs in out-of-pocket expenses, distraction of the management, consumption of the time of the board, and impairment of strategic and operational decision-making. Moreover, corporate governance disputes usually lack the legal basis and tenet of a court case and are more often premised on personal issues and/or business

judgment, other than on legal principles (Ovwigbo, 2010).

What can easily be designed from the above is that the cornerstone of a good corporate governance is a recognized, simple, speedily, efficient and cost-effective strategy of resolving the disputes that might inevitably emerge. For these reasons, there is great need of a dispute resolution techniques and processes that can proffers solutions quickly so that the company board and management can fulfill their duties and obligations to the company and its shareholders (Aidonojie & Agbale, 2020; Gunawan et al., 2023).

6. Arbitration Strategies for the Settlement of Corporate Governance Disputes in Nigeria

The legal framework for providing arbitration practices in Nigeria is the Arbitration and Mediation Act (2023). It is essentially based on the albeit of the UNCITRAL Model Law on International Commercial Arbitration, with some modifications, adaptation and domestication. It provides for a uniform legal framework for quick, fair and efficient settlements of disputes by arbitration and conciliation, and to make applicable in Nigeria, the Convention on the Recognition and Enforcement of Arbitral Awards. Generally, arbitration is preferred to litigation especially as it relates to corporate governance disputes. The following are some reasons behind its efficiency:

a) Selection of Arbitrator: The opportunity to select an appropriate arbitrator or one's choice is the hallmark and a major benefit of corporate governance arbitration. Given that arbitration is a final, adversarial process, ideally a party would want a decision maker who will identify with his position or will at least be open to his position (Ovwigbo, 2010). In corporate governance arbitration, when the party chooses an experienced arbitrator or panel of arbitrators, the arbitrator(s) usually help in the identification and framing of the relevant interests and issues of the parties, also, help the parties in testing their case, and then, evaluate the risk/reward of pursuing the matter. If asked, an arbitrator can provide a helpful and objective analysis of the merits of each party's case, suggest and even foster creative solutions, and identify and assist in solving impediments to settlement.

b) Speed and Efficiency: One thing that really matters in corporate governance is the opportunity and time for officers and directors to carry out their organizational responsibilities. Time is important in governance and arbitration has been a far more expedited settlement process than litigation. An Arbitration process can be commenced and concluded within weeks or months, and often in less than a year and are hardly a subject of an appeal (Idigbe, 2010). The reason for this is because an arbitral awards or decisions are mostly the consent of all the parties involved in the conflict and which considers the most suitable action for everyone concerned. This equally makes it quite efficient.

c) Less Expensive: When arbitration processes is engaged in corporate governance dispute, the process often results in reduce lawyer's fees, cost of filling court processes and related expenses, all of which puts burden on a company finance (Falusi et al., 2023). This is because the arbitration as a simple mechanism for settling dispute, usually does not include the discovery process that is common in courts in Nigeria. This process is often times time consuming and expensive.

d) Party Autonomy: A major merit of corporate governance arbitration is that by its very private nature, it is known to afford parties to a dispute the opportunity to exercise greater control and flexibility over the way their dispute is resolved rather than the way it would have been resolved if it was settled using court litigation. Parties in a corporate governance are at liberty to customize the arbitration process based on their specific needs, style and preferences. They can choose the arbitrator or arbitrators that understanding the nature of their dispute or that is amenable to their reasoning, establish the rules and procedures of the proceedings, and determine the timeline for the overall process. This autonomy helps streamline the process and ensures a more efficient and agreeable resolution.

e) Privacy and Confidentiality: Corporate governance arbitration just like other arbitration proceedings is resolved in private and this makes it very attractive. Only the parties, their arbitrator (s), counsel and witnesses (if any) attend the proceedings. Confidentiality of the corporate governance arbitration is taking very seriously. Also, parties can agree on sensitive testimony and documents, (Falusi et al., 2023). It is often tagged a private affair as no good company wants to wash her dirty linen in public. Only people who are invited can attend a corporate governance arbitration session. Even the arbitrator or arbitrators as the case may be are generally bound not to divulge any information disclosed in the process.

f) Finality of Award: In corporate governance arbitration, just like in any other arbitration proceedings, decisions made by an arbitrator or the arbitral award is usually considered to be final and binding on the parties. It is only contested in certain limited circumstances (Abright, 2012). This serves as

a great advantage to the disputing parties. The reason for this is because the finality associated with the award prevents any delay in the decisions as well as retains the cost of an appeal procedure.

g) Preservation of Existing Relationship: The directors, shareholder and officers of a company are like members of a family and can be likened to a body with different parts. Arbitration tends to value and foster the parties' existing relationship. The belief here is that if parties can be convinced to abandon or adjust their original positions and instead, shift their attention to those interests that underlines their positions, then, they can find ways of satisfying those their interests. They can produce different options, some of which could provide higher value for both parties and perhaps offer them a win-win solution (Ojielo, 2001). Arbitration proceedings are less adversarial and can resolve a dispute in a manner that saves a business or personal relationship that, ultimately, the parties would prefer to save.

7. Limitations of Arbitration in Corporate Governance Dispute in Nigeria

Suffice to say that in spite of the lofty benefits associated with arbitration as an alternative dispute mechanism in corporate governance, there is however a handful of limitations connected with same. As a general and practical rule, the arbitrator's decision or arbitral award can hardly be appealed in court (Abright, 2012). This is to say that in corporate governance arbitration, only in certain limited circumstance, such as upon the proof of an arbitrator's misconduct, corruption, fraud or undue influence or when it can be shown that the arbitrator exceeded his or her mandate or authority or upon, will an arbitral award be reviewed by a competent court. This rule is strict. Also, it has been argued that corporate governance arbitration may not really be a cost saving mechanism in resolving disputes (Abright, 2012). This parties will have to take care of the arbitrator's fees and expenses. This can be substantial. There is also administrative fees and expenses, which may also be high especially if fees are assessed in reference to the disputed amount. To be paid also are fees needed to be paid on other facilities that are required to facilitate a smooth arbitral process. All thess adds to the cost of arbitration. The arbitrators themselves can only exercise limited powers in the course of resolving corporate governance. But in sum, arbitration still remains a widely accepted and utilized method for resolving corporate governance disputes, but careful consideration has to be given as to whether it is applicable to or preferable in a particular dispute.

8. Conclusion and Recommendations

In Nigeria today, most people spend most of their life time contributing or working in a company. This brings about interaction and relationships between them which may end up becoming sources of disputes. This paper points out the numerous challenges and shortcomings of the Nigerian justice system. The considered embrace and implementation of arbitration mechanism with its characteristic features, increases the company's shareholder value and therefore making it more profitable and the company attractive to investors, secures the privacy of the parties in the dispute and the company, can be adapted to the needs of the parties and the particular dispute and preserve the often-hard-won image of the company.

It is, however, baffling that despite the many gains or benefit of arbitration, so many corporate organisations in the Nigeria still lacks arbitration provisions in their articles, by-laws, legal contracts and frameworks. This paper concludes that there is need to make arbitration in corporate governance dispute compulsory and enforceable. Arbitration provisions and clauses ought to be inserted in the contracts and binding documents of companies. Inserting this has the important consequence of placing the dispute resolution framework at the relationship's beginning, not when a conflict arises. It is reasoned that by making arbitration provisions a part of a company legal framework, the various parties that may be involved in a corporate governance dispute become used to the process. Then, their minds become more attuned to meeting, discussing, and the identification of disputes and the resolution of the disputes based on an identity of interest, while focusing on preserving relationship in other to achieve agreed goals.

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Navigating the New Norm: Understanding the Provisions and Impacts of the Lagos State Land Registration Law of 2015

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Abstract. The introduction of the Lagos State Land Registration Law (LRL) in 2015 marked a significant shift in the regulation of real property transactions in Lagos State. Prior to this, various laws such as the Registration of Titles Law, the Land Instrument Registration Law, the Electronic Management Systems Law of 2007, and the Registration of Titles (Appeal) Rules governed the registration process. However, these laws were repealed by the comprehensive LRL, which came into effect on 21 January 2015. The primary aim of the LRL was to establish a unified legal framework for the entire State, eliminating the previous dual system that caused confusion due to the parallel registration processes for titles and instruments. This paper examines the provisions and advancements introduced by the LRL regarding land registration in Lagos State, maintaining that the overarching goal of the LRL is to merge the previously distinct and concurrent registration systems in Lagos, thus promoting clarity and reducing the uncertainties that plagued the pre-2015 era in the State. Though the paper acknowledges that due to the partial implementation of the law, many of its provisions remain untested in both judicial proceedings and practical applications to evaluate their actual efficacy, it maintains that its conclusion remains justified by the text of the law itself and other primary sources. The paper, therefore, advocates for a pressing revision of the LRL 2015 to enhance its practicality and self-executing nature. This is to ensure prompt enforcement to facilitate the immediate enhancement of land systems and registration in Lagos State to align with international standards and best practices in conveyancing procedures.

Keywords: Land Registration; Real Property; Lagos State; Conveyancing; Power of Attorney; Sublease; Mortgage; Sale of Land; Registrar; Land Registry; Register

1. Background: Laws Regulating Property Law Transactions in Lagos State Before 2015

The Registration of Titles Law (RTL)[1] which was a Law to provide for registration of titles to land in Lagos State,[2] was first introduced in Lagos in 1935.[3] and thenceforth operated as a system known as the system of registration of titles in Lagos State. The Governor determined which areas the Law applied in Lagos State. Such areas were collectively referred to as the Registration District of Lagos.[4] Under the RTL, title of every registered land owner within the Registration District was guaranteed by the State, and a Certificate of Title was issued to every successfully registered title holder.[5] Thus it was unnecessary for the purchaser to investigate the root of title of the land for the purpose of satisfying himself that the vendor had a good title. This is unlike what obtained under the system of registration of documents governed by the Land Instruments Registration Law (LIRL), in which each subsequent purchaser must conduct a fresh investigation of the land. The LIRL was a Law to consolidate and amend the Law relating to the registration of instruments and the filing of judgments affecting land in Lagos State.[6] The LIRL defined "instruments" to include documents (excluding a Will) affecting land in the State, by which one party (a grantor) transfers, confers, limits, charges or extinguishes in favour of another party (the grantee)

[1] Cap R1, Laws of Lagos State, 2003
[2] See the Long Title to the RTL
[3] YYD Dadem, *Property Law Practice In Nigeria (1st ed, Jos Univerty Press Lts) 156*
[4] See RTL, section 2
[5] *Op Cit, section 3*
[6] See the Long Title to the LIRL

any right or title to or interest in land in the State and a certificate of purchase and a power of attorney under which any instrument may be executed while a "judgment" meant a judgment or decree of the Court of law by which title to land in the State is or shall be affected or by which the validity of any instrument registered under the Law was affected.[7] Hence the LIRL governed registration of documents affecting land as opposed the RTL which regulated the system of registration of titles to land. A major difference between the system of registration of documents and the system of registration of titles under the RTL was that titles registered under the RTL were guaranteed by the State, and thus indefeasible unlike registration of documents under the LIRL. There was thus some dichotomy as two different and parallel systems of registration existed in Lagos State before 2015. This dichotomy which created some confusion was part of the reason for the introduction of the Land Registration Law, 2015. As is discussed in this article, the Land Registration Law, 2015 repealed all these Laws and created one uniform system applicable to the entire Lagos State.

2. Purpose of The Land Registration Law (LRL), 2015

The major objective of the LRL, 2015,[8] is to harmonize the system of registration of titles and the systems of registration of land instruments in Lagos State and bring all systems in under one uniform system with the result that one uniform system now operates across the length and breadth of Lagos State. The Law expressly repeals all the laws hitherto existing on the subject, including the Registration of Titles Law,[9] the Land Instruments Registration Law, Lagos,[10] 2003, the Electronic Management Systems Law 2007 and the Registration of Titles Law & Registration of Titles (Appeal) Rules,[11] 2003, and replaced them with one uniform system of registration, thereby erasing the dichotomy that hitherto existed between the system of registration of instruments under the Land Instruments Registration Law, and the system of registration of titles under the Registration of Titles Law. The LRL tries to strike a balance between the two systems. The Lagos State Land Registration Law, 2015 (LLRL) was enacted to establish a standard and modern system of registering and keeping the record of all transactions on ownership and transfer of interests in lands in Lagos State.[12] The law was enacted to consolidate all laws relating to registration of land in Lagos State.[13] A look at the definition given to the words, "document," "holder," "registration," "registered land," Registrar," in the interpretation section of the Law, reveals that the term "registration" under the Law is used to include any one or more of the following: registration of documents affecting Land; registration of holders of land; registration of titles to land; registration of dealings/transactions in land; and registration of land. Document includes any deed, judgment, decree, order or other document in writing requiring or capable of registration under the LRL, and includes a Certificate of Occupancy.[14] A holder is a person registered under the Law as having legal interest in land including assignments, sub-lease, mortgage or sub-mortgage.[15] Registered land means land registered under the LRL,[16] while Registrar means Registrar of Titles.[17] Meanwhile, while the short tile of the Law tends to suggests that it is all about "land registration," a look at the Long Title would reveal that the object of the Law is to make provisions for the "registration of title to land in Lagos State." Besides, the Law provides[18] that the head of the Land Registry Division of the Ministry of Lands shall be referred to as "The Registrar of Titles." On the other hand, it would appear that the Law is also concerned with registration of "documents of interest or title to land in Lagos State,"[19] or "registration of transactions" relating to land as the Law provides[20] for a "register of all transactions relating to transfer of interest in land." The Law talks also about registration of "land documents,"[21] and "registration of documents."[22] In view of the above, and by way of summary, the LRL could be described as a Law introduced to synchronize the systems of registration of titles to land, registration of land instruments and registration of transactions and dealings relating to land in Lagos State. It is neither entirely about registration of titles, nor entirely about registration of documents or transactions. It incorporates all the systems in one single document, and thus puts in place uniform procedures, processes and systems applicable to all parts of the State.

[7] *Op Cit*, section 2
[8] signed into law on 21 January 2015
[9] Cap R1, Laws of Lagos State 2003
[10] Cap L58 Laws of Lagos State
[11] Cap R4, Laws of Lagos State
[12] 'Practice Under the Land Regitration Law, 2025' (gravitasreview) <gravitasreview.com.ng/shop/registry-practice-land-registration-law-lagos/> accessed 02 April 2024.
[13] *Ibid*
[14] See LRL, section 1
[15] *Ibid*
[16] Ibib
[17] Ibid
[18] Section 4 (1)
[19] See section 1
[20] Section 3 (4) (a)
[21] See section 17
[22] See section 26

3. Documents Required To Be Kept And Maintained In Each Land Registry Division[23] In Lagos State

For the purpose of enforcement and implementation of provisions of the LRL, and of a smooth operation of the system of registration under the LRL, the Registrar of Titles is mandated to maintain the following documents in the Lands Registry; this is among the differences that exist between the system under the LRL and the system under the LIRL of the various States in Nigeria, because the LIRL does not require some of these registers to be kept:

Register of Transactions relating to transfer of interest in land: This register shall be kept in both electronic and paper form.[24]

Land Registry Map: this is a map compiled from plans and kept by the Registrar,[25] showing the boundaries of every parcel of land that is registered under the Law. Submission of a survey plan is a condition precedent to registration of any document under the Law;[26]

Parcel File: is like a register of the land parcels, numbered consecutively, as shown in the survey plan.[27] The Parcel File contains documents and any plan filed in the Registry and which supports existing entries in the register.[28] Land parcel means any area separately shown on the Land Regsitry Map;[29]

The Day List: all applications to the registry shall be recorded chronologically in this document and numbered consecutively;[30]

Mutation Record: This is a Form containing changes made by the Registrar of Titles to the land registry map kept by the Registrar. The Registrar is empowered to make necessary alterations on any boundary shown on the Map.[31] However, note that the altered or new parcels shall still vest in the person or persons in whose names they are registered -- that is, the registered holders;[32]

Nominal Index: contains in an alphabetical order, the names and particulars of all land holders in the State together with the particulars of land parcels as the Registrar may direct;[33]

Register of Power of Attorney:[34] contains particulars of all Power of Attorney registered in the State. It is submitted that existence of this register implies that power of attorney is among the registrable instruments in the State under the LRL.

4. The Land Information Management System (LIMS)[35]

4.1 Establishment

The LIMS provides a platform for online storage of documents, virtual searches and payments, virtual applications and certification of documents, licensing of user groups, as well as for consolidation of all registrations, old and new, in Lagos State.[36] Every land document in Lagos State must be registered using the LIMS procedure.[37] Land documents already registered before the commencement of the LRL must re-registered using the LIMS.[38] The object of the LIMS system is to integrate the use of Information and Communication Technology into the system of registration of real property in Lagos State in order to make the system more efficient and seamless.

4.2 Registers to be Kept For Operation of the LIMS

The following registers shall be kept in the Registry for purpose of registration using the LIMS, and shall provide information on the subject and files as the Registrar may prescribe in the LIMS: (a) Day List; (b) Register of Mortgages; (c) Register of Caution; and (d) Any other Register as the Registrar may prescribe. Each of these Registers must contain the names and addresses of the parties to the affected transactions, description and location of the property that is subject of the transaction, and the survey plan of the

[23] Land Registry Divisions shall be as created by the Governor. See sectio 3
[24] See section 4(a) of the Law
[25] Section 1
[26] Section 12 (3)
[27] Section 12 (4)
[28] Section 3(4)(c)
[29] See Section 1
[30] Section 3(4)(d)
[31] See sections 1 and 13
[32] See s. 15 (2)
[33] Section 3(4)(e)
[34] Section 3(4)(f)
[35] Established by section 17 of the LRL
[36] Oluwakemi Mary Adekile, "The Lagos State Land Registration Law 2015: Needs, Principles, Provisions and Potentials" (SSRN, 27 January 2017) 6. Workshop: Essays on the Lagos State Lands Registration Law 2015, Department of Private and Property Law, University of Lagos, 2015, <https://ssrn.com/abstract=3111203> or <http://dx.doi.org/10.2139/ssrn.3111203> Accessed 02 April 2024
[37] Section 18
[38] *Ibid*

property.[39] All registers kept in the Land Registry before the commencement of the LRL shall now form part of the registers in the LIMS.[40] A document produced electronically from the LIMS is admissible in court provided that such document qualifies as a document under any relevant law.[41] An application for the CTC of any such document kept in the Registry may be made by completing the prescribed Form 5.[42]

4.2.1 Conducting Searches Under the LIMS

On being issued with a Letter of Accreditation[43] after the payment of prescribed, renewable fees,[44] any of the following persons or organizations may log on to the LIMS to conduct searches or to download information:[45] Law Firms; Financial Institutions; Corporate Organisations; and Registered Estate Surveyors and Valuers.

4.2.2 Procedure For Conducting A Search Under The LIMS

- Complete and submit an application in the prescribed form to the Registrar of Titles;[46]
- Application may be submitted online after the applicant has made relevant payments using his Credit Card or other permissible form of electronic payment;[47]
- Consideration of application and conduct of search by or on the orders of the Registrar;
- The Registrar shall issue an official report of search in the prescribed Form 4.[48]

4.3 Registration Under The LRL[49]

The timeline for application for registration is within sixty (60) days after the grant of Governor's consent, where applicable.[50] There is penalty for late registration of subleases and mortgages where such subleases or mortgages are not registered within six months from the date on which consent is given to such transaction.[51] Prescribed Forms for registration of interests covered by Certificate of Occupancy or Deeds are as in Form 1 and Form 2 attached to Schedule 1 of the LRL.[52] The Registrar shall not register any assignment or sublease unless the land has been surveyed to the satisfaction of the office of the Surveyor-General.[53] A document creating any interest in land may not be registered without a survey plan describing and delineating the particular land.[54] Registration of any interest shall be sufficient evidence of holding of such an interest on the affected land, together with all accompanying rights, privileges and appurtenances, except the right to mineral resources or mineral oils.[55] Every document registered shall be sealed and marked by registrar as evidence of such registration.[56] Documents submitted for registration shall be registered the same day or the next working day;[57] But note that the Registrar reserves the right to refuse to proceed with any matter (including registration) until the appropriate fees and rates have been paid.[58] For determination of the appropriate fees.[59] On completion of registration, the Registrar shall issue to the registered holder a Land Certificate, which shall be a *prima facie* evidence of matters contained in it.[60] Such registered holder shall produce the Certificate to the Registrar for endorsement each time any mortgage or further disposition is made in respect of the land[61] and at any time rectification is ordered in respect of the land.[62] The Registrar shall upon request give a CTC of any book, register or filed document.[63] The Registrar shall, upon a subpoena or order of any court, produce or cause to be produced, free of charge, any register or file of registered document in his office or CTC of same.[64]

4.3.1 Instances That Require Registration Under the LRL

- Documents of grants, subleases (excluding a sublease below three years), and all Power of Attorney;

[39] See section. 20
[40] Section 19 (3)
[41] Section 24.
[42] Section 21 (1).
[43] Section 25(1)
[44] Section 25(3)
[45] Section. 25
[46] The prescribed form is Form 3, attached to Schedule 1 of the Law.
[47] Section 22 (2), (3) and (4).
[48] The Form is as attached to Schedule 1 to LRL
[49] See sections 6, 7, 26, 27
[50] Section 26(1)
[51] Section 28(3)
[52] Section 26(1)
[53] Section 101
[54] Section 12(3)
[55] See section 27
[56] See sections 6 and 11
[57] Section 29 (2)
[58] Sections 113 (4)] & 118
[59] See section 113 (1) to (3)
[60] See section 35
[61] Section 36 (1)
[62] Section 99(5)
[63] Section 109
[64] Section 108

- Any succession to land under Will or Intestacy, on production of the Grant of Probate or letters of Administration;[65]
- Any revocations, acquisition and excision of land pursuant to the Land Use Act --- this is the responsibility of the Director of Land Services in the State;[66]
- Trusts, rights or interests acquired by operation of law and overriding interests.[67]
- Purchaser of a mortgage property after a foreclosure or in exercise of mortgagee's power of sale. Note that in such a case, production of the Land Certificate for endorsement, as required under section 36 (1) of the Law, is unnecessary.[68]
- Mortgages created by a holder of land, sublease or mortgage. To be registered as an encumbrance, and shall have effect only as a security.[69]

Judgment or writ of execution issued by any court in respect of any land, sublease, or mortgage in Lagos State. Note that the Registrar shall not accept for registration any document in respect of such land, sublease or mortgage if the document is inconsistent with the judgment or writ already registered. While registration of a judgment does not cure any defect in that judgment, non-registration of the same would not affect its validity or effect.[70]

Subject to obtaining Governor's consent, Certificate of Purchase issued to a purchaser pursuant to the provisions of the Sheriff and Civil Process Law.[71]

Every transfer of land, sublease or mortgage by Deed. Transaction is not complete until registered. Note that no transfer of part of a registered land shall be allowed unless the holder has first subdivided the land, after which the new interest shall then be registered.[72]
Registration is mandatory in the case of any "grant" or "sublease" of State land that exceeds five years. Thus, every sublease or grant by a land holder must be registered. Until so registered and the seal of the Land Registry impressed upon the document or documents evidencing such grant or sublease, such documents or their CTC shall not be admissible in court.[73] Note that anywhere a document is admissible, a CTC of the document is equally admissible.[74]

Registration of Restrictions: registration of restrictions is done for the purpose of protecting unregistered interests in land or mortgage created before or after registration, by prohibiting subsequent registration of any disposition or change of holding affecting the land or mortgage. [75]

Registration of caution/caveat: a person having an interest in an unregistered land that entitles the person to object to any disposition of the land being made without the person's consent may apply to the Registrar to register a caution to the effect that he (the Cautioner) is entitled to notice of any application for registration in respect of the land.[76] Once a caveat has been lodged and is subsisting, no disposition of the land, sublease or mortgage shall be made except to the extent that the caveat or caution permits,[77] and no entry affecting any such disposition shall be registered without the consent of the cautioner or caveator until the end of fourteen (14) working days[78] after service by the Registrar on the caveator or cautioner of a notice of the proposed registration,[79] or except by order of a competent court of law.[80] However, where notice is served on the Cautioner or Caveator and he or she fails to respond within 14 days, the Registrar may go ahead with registration.[81] The Registrar has a duty to give notice of any caveat or caution entered or subsisting, to the holder whose land is affected by it.[82] A caveator or cautioner has a duty to furnish the Registrar with his address for service and any changes therein.[83] A caveat may be removed or withdrawn[84] with the consent of the caveator or by order of court or by the Registrar.[85] It may also be renewed.[86]

[65] See also section 31 (b)
[66] Section 26(5)
[67] Section 31
[68] Section 36 (3)
[69] Section 49.
[70] See sections 58 and 59. See also section 60 for cancellation of registered judgments.
[71] Section 61
[72] See s. 62 and 63
[73] See section 108
[74] Section 109(2)
[75] See s. 64
[76] Section 69 (1)
[77] Section 69(2)
[78] See excpetions (where registration may be made before the 14 days) in section 69(7). But in such a situation, the cautioner or caveator is entitled to be given notice of such registration: section 69(10)&(11)
[79] Section 69(3)
[80] See section 69(6)
[81] See also section 69(3)(a)&) and (4)
[82] Section 69(5)
[83] Section 69(8)
[84] See section 69(9). The form for removal of caveat or caution is as in Form 7 attached to the Schedule.
[85] See section 71
[86] Section 72

Registrar May Compel Registration:[87] The Registrar may by notice require the registration of a registrable document. Registration fees and any additional fees payable in respect of such documents shall become payable as soon as the Registrar has given the notice, whether or not the notice is complied with by the person who has the authority to present the same for registration. In other words, once the Registrar has issued a notice to the person having the authority to present a registrable document for registration, any registration fees and other relevant fees payable in respect of such document would become due and payable whether or not such documents are presented for registration. Any person upon whom such notice is given must comply within one month of service of the notice. There is a penalty for noncompliance.

Optional Registration: Registration is optional in the case of an original land holder. Thus, a person who has power to assign or is entitled to any land within the State may apply to be registered as the holder of the land.

Refusal Of Registration: The Registrar may refuse registration, although a document in respect of which registration is refused my be represented for registration.[88] However, where registration of a document is refused, the fee paid on delivery for registration shall not be refunded and in the event of the document being re-delivered for registration, a new fee becomes payable.[89] Instances in which Registrar may refuse registration include the following:[90]

- Registrar may refuse to proceed with a registration process unless and until the appropriate fee has been paid[91]
- Power of Attorney relating to transfer of land on which the consent of the Governor has not been endorsed;[92]
- Documents declared void or in respect of which registration is prohibited under the Law; [93]
- Document that has not complied with the provisions of the Law;[94]
- Non fulfillment by an applicant of the requirements for registration;[95]
- Where the Registrar is of the opinion that a question of priority or conflict of interest has arisen between or among documents submitted to him, the Registrar may refuse registration until he has heard and determined the rights of the parties interested in the documents;[96]
- Where registration of restriction is required by the holder of the land or mortgage in respect of a document, the Registrar may refuse to register the restriction unless such document is presented in order that the restriction is entered;[97]
- Registrar may refuse registration where the proposed registration will prejudicially affect an unregistered interest;[98]
- Registrar shall refuse an application for registration of a disposition or transmission where such registration would result in the entry of more than ten (10) persons in the register as holders of any land, sublease or mortgage, until partition is sought or the family appoints representatives in the manner prescribed by this Law;[99]
- While any judgment or writ of execution continues to be registered against any mortgage, the Registrar shall not accept for registration any document in respect of such land, sub-lease or mortgage that is inconsistent with the judgment or writ of execution;[100]
- May refuse registration on grounds of conflict of interest;[101]
- May refuse to register on ground of applicant's failure to pay relevant rates;[102]

Cancellation of Registration: Registration already effected, may be cancelled in the following instances: Mistake; Where registration was obtained by fraud; Cancellation of varied sublease;(s46) Cancellation of surrendered sublease; (s. 47(2) Cancellation of determined sublease; (s s.48) Cancellation of registration of a judgment; (s 60) Cancellation of registration of discharged mortgage; (s 55(2) Cancellation of restrictive covenants; (68) Cancellation of altered boundaries; (15(1)(a) . Note that registration shall not be canceled or amended so

[87] See section 26(4)
[88] Section 9(3)
[89] Section 9(4)
[90] Sections 7 and 9
[91] See section 113(4)
[92] Section 7
[93] Section 9
[94] *Ibid*
[95] See section 5(1)(c)
[96] Section 29(4)
[97] Section 64(2)
[98] See section 69(7)(a)
[99] See section 89(5)
[100] Section 59
[101] See section 29 (3) and (4)
[102] Section 118

as to adversely affect an interest acquired for consideration by the holder who is in possession, unless such holder is a party or privy to the omission, fraud or mistake in consequence of which cancellation or amendment is sought, or caused such omission, fraud or mistake or substantially contributed to it by his act, neglect or default.[103]

4.4 Effect of Registration or Non Registration

Registered document or CTC of the same issued by or on the authority of the Registrar, shall be admissible in any court to prove the interest/transaction so registered;[104]

Any document or instrument registrable under the Law, but is not registered shall not be admissible in court as affecting the land to which it relates;[105]

Late registration attracts fine[106]

Registration governs priority[107]

Transaction remains inchoate, meaning that no interest is transferred or created unless and until the relevant document is registered.[108]

The Register shall constitute conclusive evidence of all entries in it, and extract of the contents of the Register may, with leave of the court, be given as evidence in court. Such extract or certified copy shall be *prima facie* evidence of the original entry in the registry. However, no such leave may be granted where secondary evidence would suffice.[109]

Failure to register any judgment shall not affect the validity or effect of the judgment.[110]

The registration of any judgment shall not confer on it any effect or validity which it would not have had.[111]

4.5 Creation and Registration of Sublease Under LRL[112]

The holder of land may create a sublease for a fixed term, or subject to the happening of a contingency,[113] and such must be registered where the term is five (5) years or above, subject to obtaining of Governor's consent.[114] Sublease of below three years does not require registration.[115] A sublease requiring registration must be presented for registration within six months from date on which governor's consent is given; else it would attract payment of fine as penalty.[116] No sublease may be created in respect of land or property which is subject of a mortgage except with the prior written consent of the mortgagee, unless the instrument creating the mortgage expressly provides otherwise.[117] Similarly, no sublease which is subject of a mortgage or under-lease may be surrendered except with the written consent of the mortgagee or under-lessee as the case may be. Where a sublease is created to commence on a future date, such a date shall not exceed twenty-one years from the date of creation of the sublease and no person shall be put on notice of such sub-lease until it is registered.[118] Any document purporting to create a sub-lease to commence on a date more than twenty-one (21) years from and including the date of the document shall be void.[119] The agreements, conditions and terms contained in any sublease may be varied, and when so varied, the documents shall be submitted for registration before the expiration of the current sublease. Any agreement or conditions contained in sublease[120] maybe varied, and the terms may, by agreement be extended and registered before the expiration of the subsisting sublease.[121] Under such circumstances, the Registrar may cancel the previous sublease and register the new one.[122] A sublease may be surrendered, and upon presentation of the surrender document to the Registrar, the Registrar shall cancel the surrendered sublease.[123] Meanwhile, no sub-lease which is subject to a mortgage or under-lease shall be surrendered without the consent in writing of the mortgagee or under-lessee as the case may require.[124] The Registrar may, upon an application by the sub-lessor, cancel a sublease that has been determined.[125] A holder of sublease in respect of a land may create a mortgage upon the same land.[126]

4.6 Registration of Mortgages Under LRL

Under the LRL,[127] "mortgage means an interest in land securing the payment of money or money's worth or the fulfillment of any condition and includes the

[103] Section 99(6)
[104] Sections 6, 24, 30, 108 and 109 (2)
[105] Section 30
[106] Section 28
[107] Section 29
[108] Section 40
[109] Section 39
[110] Section 59(2)
[111] Section 59(3)
[112] Section 42 to 48
[113] Section 41(1)
[114] Section 42
[115] Section 26(2)
[116] Section 28(3)
[117] Section 43
[118] Section 44(1)
[119] Section 44(2)
[120] Unless the sublease has been forfeited
[121] Section 45
[122] Section 46.
[123] Section 47(1)&(2)
[124] Section 47(3)
[125] Section 48
[126] Section 49
[127] Section 1

interest in land known as mortgage, and "sub-mortgage" shall have the corresponding meaning. "Mortgagee" means the holder of a mortgage while "mortgagor" means the holder of any land the subject of mortgage under this Law. A person upon whom a mortgage has vested shall be be entitled to be registered as holder of that mortgage.[128] Where there is a foreclosure, a purchaser from the registered holder of a mortgage selling under the power of sale conferred by the mortgage, may be registered as the holder of the land or sub-lease and a new certificate or title to that land or sub-lease may be re-issued without the production of the old certificate of title to the land.[129] A holder of land under the LRL may create a mortgage in respect of that land, and the document creating the mortgage may be registered as an encumbrance,[130] and such shall have effect as security only.[131]Under the Law,[132] mortgages or charges created in respect of property or land within Lagos State are registrable. Further, creation of subsequent mortgages is permitted, provided that exercise of power of sale by the subsequent mortgagee shall be subject to the rights of the prior mortgagee.[133] Consolidation of mortgages is permitted, the right of consolidation shall take effect only after the registration of the proposed consolidation by the holder of the mortgages.[134] Where a court issues a judgment or writ of execution affecting any mortgage, the judgment or writ of execution shall not bind or affect any land, sub-lease or mortgage, unless it is registered[135]. While any judgment or writ of execution continues to be registered against any mortgage, the Registrar shall not accept for registration any document in respect of such land, sub-lease or mortgage that is inconsistent with the judgment or writ of execution.[136] A mortgage shall be discharged by registration in the Registry of a Deed of Release.[137] A discharge of mortgage may be made by a deed of release in the prescribed form and the word "Discharged" may be written or printed on the document creating the mortgage, which may be registered. The discharge shall be completed when the Registrar cancels the registration in the register.[138]

4.6 Registration of Power of Attorney Under LRL[139]

Creation of Power of Attorney is permitted.[140]Power of Attorney authorizing any person to deal with any land, sublease or mortgage must be delivered to the Registrar for registration. Notice of revocation of any registered Power of Attorney must be given to the Registrar, otherwise the Power of Attorney shall be deemed to be subsisting and, as such, no disposition in purported exercise of such Power of Attorney to a person who was ignorant of such revocation shall be adversely affected by reason only that such Power has been revoked. The aforesaid shall not apply to an irrevocable Power of Attorney. Revocation of a Power of Attorney shall not affect any payment made or steps taken in good faith pursuant to the Power of Attorney if at the date of making the payment or taking the step, the Power of Attorney had been revoked without the knowledge of the 22one of the Power. There is penalty of a fine[141] for noncompliance with provisions of section 56 relating to Power of Attorney. Governor's consent and registration are mandatory for an Irrevocable Power of Attorney relating to any land in Lagos State, and the Registrar shall not accept such Power of Attorney for registration unless the consent of the Governor has been obtained in respect of the same.[142] A document of transfer, such as Deed of Assignment, Deed of Legal Mortgage or Deed of Sublease, among others, executed by an Attorney shall not be accepted for registration unless there is an irrevocable power of attorney authorizing such Attorney to execute the said document and the power of attorney has been duly registered or filed in the registry.[143] The Registrar shall not register any Power of Attorney relating to transfer of land on which the consent of the Governor has not been endorsed.[144]

5. Encumbrances and Restrictions on Power of A Registered Holder To Dispose Of Land

The interest of a registered holder shall be indefeasible. Accordingly, a registered holder who is a purchaser for value is not affected by an express or implied notice of any unregistered interest of a previous registered holder.[145] Besides, such a registered purchaser for value is not required to inquire whether the terms of any caution or restriction have been complied with, where such caution or restriction

[128] Section 34
[129] Section 36(3)
[130] Section 49(1)
[131] Section 49(2)
[132] sections 49 (1) and 54
[133] Section 50
[134] Section 52
[135] Section 58
[136] Section 59
[137] Section 55
[138] Section 56
[139] Section 56
[140] Section 56(1)
[141] of N100,000. See section 56(7)
[142] See section 57.
[143] Section 94
[144] Section 7
[145] Section 111

relate to a time prior to his own (the holder's) registration.[146] However, the interest of a registered holder is subject to the following: Registered encumbrances, conditions or restrictions; Liabilities, rights or interest not requiring registration under this law; Interests prior to the transfer; the law relating to bankruptcy; Provisions relating to the winding up of companies; Overriding interests. The Law lists out the interests that make up overriding interest.[147] "Restrictive covenants" affecting the land (not being a covenant made between a sub-lessor and a sub-lessee), in respect of which a notice has been registered in accordance with the provisions of the Law, unless such restrictive covenant has been canceled or released.[148] Prohibition or restriction of transfer or disposal on grounds of fraud or improper dealing or for other sufficient cause.[149] Prohibition and restriction on dealings on land or any interest therein by persons under 18 years of age.[150] And where any document is already registered in the name of a minor, the registrar shall place a restriction on such document or transaction, as he (the Registrar) may deem fit. For the purpose of dealing in his land or interest in it, a minor, idiot, lunatic, or a person under any other form of disability is to be represented by his/her Guardian duly appointed for that purpose, and such Guardian shall produce evidence of such appointment otherwise the document so executed shall not be accepted for registration.[151]

5.1 Form and Execution of Registrable Documents

Forms of documents:[152] Any documents for registration must be presented in duplicate copies – consisting of the original and a true copy. The original copy shall be returned to the holder on completion of registration. A document for registration must state the consideration, and the part of it that has been paid. And where consideration is monetary, the amount must be stated in both words and figure. Under the LRL, it is an offence to make false statements in a registrable document or to destroy or to counterfeit a register or book or filed document or any part of it,

Form of Execution of Documents:[153] Every document shall be executed by all parties, and shall be deemed to have been duly executed if signed by a natural person; in the the case of a corporation aggregate, if sealed with the seal of a corporation and attested to by its clerk, secretary, director or other officer; in the case of a corporation sole, if signed and the official seal affixed; in the case of a corporation not required by law to have a common seal, if signed by persons so authorized by law or the statute of the corporation[154] or, in the absence of any such express provision, by two or more persons duly appointed for that purpose by the corporation. Documents required by this law to be stamped but which are not so stamped shall not be accepted for registration unless otherwise exempted under this law from such stamping.[155] For purposes of registration, a document includes all certificates and matters endorsed on or attached to it.[156] A document executed outside Nigeria shall not be registered in Lagos State, unless it has attached to it a certificate showing that it was attested to by a Nigerian or foreign judge, magistrate, Justice of the Peace (JP) or a Notary Public[157] Where a grantor is an illiterate, the document of transfer must be attested to by a judge, magistrate, Justice of the Peace (JP), Notary Public or Commissioner for Oaths.

6. Registration of Family Representatives for Dealings on Family Property[158]

Where land is registered in the name of a particular family name, without any representatives, the family shall hold a family meeting and appoint not more than 10 (ten) members of the family to represent the family. The appointment shall be published in at least one national newspaper, and calling for objections if any. Where no objection is received by the Registrar within 21 days from the date of such publication, the Registrar shall enter the names of such representatives in the register. But where an objection is received from a member of the affected family, the registrar shall not enter the names of the representatives in the register unless he has received a retraction of the objection or a court order directing him (the registrar) to enter the names of the representatives in the register. The Registrar shall not entertain any application for registration of a disposition of family property where the number of representatives is beyond ten (10)

[146] Section111
[147] See s. 66
[148] See sections 67 and 68
[149] Section 73
[150] See section 93
[151] Section. 94 (3) & (4). See also s. 95
[152] Section 74
[153] Section 76 (1)
[154] See the Companies and Allied matters Act, 2020 (Nigeria), sections 98, 100, 101, and 102. Execution by a company is now governed by section 163 Evidence Act (where the company has or wants to use common seal) or section 102(2) CAMA (where the company executes without a seal).. See also section 840 for form of execution by corporation aggregates not being incorporated companies.
[155] Section 77
[156] Section 75
[157] Section 76 (2) & (3)
[158] Sections 89 - 92

persons.[159] When registered, the family representative shall have exclusive power to act for the family in respect of family land.[160] A disposition of family property shall not be valid if it is executed by a number of family representatives less than those whose names appear on the register.[161]

6.1 Amendment To The Register Of Family Representatives

The registrar shall delete the name of a family representative from the register where there is proof that a family representative whose name is on the register has died, or if the registrar is satisfied that the family representative is unable to act by reason of mental or physical incapacity, absence or imprisonment. Meanwhile, on the application of a family member, the Registrar may insert additional family representatives where it consists of less than ten (10) members. On receipt of a CTC of a court order to that effect, the Registrar shall delete, substitute, add, or insert additional family representatives to the register. Addition or removal of the name of a family representative from the register shall not limit the powers of the remaining family representatives to act on behalf of the family. A sole representative duly appointed shall have powers to act for the family.

6.2 Rectification of the Register[162]

The Registrar may, with the consent of all affected persons or upon an application by a registered owner or an owner of a registered interest, amend the contents of the register or correct any error or errors therein. Rectification may be done notwithstanding that it may affect any land, rights, mortgage or interest acquired or protected by registration or entry in the register.[163] For the purpose of any rectification, the land certificate and any mortgage certificate which may be affected must be delivered to the Registrar.[164] The following are grounds for rectification: where a court has decided that a person other than the registered holder is entitled to an interest in the registered land; where the Court makes an order for rectification; where all affected persons consent to rectification; where entry in the register is obtained by fraud; where two or more persons are mistakenly registered as holders of the same land or mortgage; where any person appears to have acquired land or interest[165] --- that is, concealment of registration or consolidation of mortgages; in any other justifiable case for reasons of error or omission, etc; where the title of the registered holder has been extinguished under the limitation law. And in such a case, the holder shall not be entitled to any compensation. Rectification may also be carried out for the purpose of giving effect to an overriding interest, which may affect the interest of a registered holder in possession and may only be carried out where it is shown that[166] the registered holder or his privy is privy to, or has by his act or neglect caused or contributed to, the fraud, mistake or omission in consequence of which such rectification is sought,[167] or that the disposition to the holder is void or the disposition to the person through whom the holder claims is void; but the second leg of this paragraph does not apply where the disposition to such person (through whom the holder claims) is for valuable consideration, or on just and equitable grounds, or pursuant to a court order.

7. Role of the Court in resolving disputes under the LRL[168]

The Chief Judge of the State shall make rules of practice and procedure to regulate proceedings before the Registrar and appeals from decisions of the Registrar. But note that the Magistrates' Court' Rules shall apply pending when the Chief Judge makes rules for proceedings before the Registrar. The Commissioner is empowered to make regulations in respect of incidental matters. Where the Registrar is in doubt or encounters any difficulty in relation to any question of law or fact, he may apply to the court for direction. He may also state a case for the opinion of the court where any question arises in the performance of his duties or functions. If anyone fails to comply with an order of the Registrar, the Registrar may refer the matter to the Court to enforce compliance. Any person aggrieved by a decision of the Registrar may give Notice of Appeal to the Registrar in the prescribed form, of the aggrieved person's intention to appeal against such decision. On receipt of such Notice of Appeal, the Registrar shall prepare a brief statement of the question in issue to the court, the appellant and other interested person, and on the hearing of such appeal, a party may appear and be heard in person or by a legal practitioner. After hearing the appeal, the court may make any other as it may deem fit, and all parties shall be bound by such order. A Notice that an appeal is pending shall be entered

[159] Section 89(5)
[160] Section 91)
[161] Section 92
[162] Sections 96 –100
[163] Section 99 (3)
[164] See section 99(5)
[165] Under sections 11 and 51
[166] Section 99 (3)
[167] See section 99 (3 (a) & (6)
[168] See sections 103, 104, 105, 106, 107, 108, 116 & 120.

against the entry in the register affected by the appeal. But such appeal shall not affect any dealing for value registered prior to the delivery of the Notice of Appeal to the Registrar. These provisions shall apply to appeals to the Court of Appeal in the same manner as they apply to an appeal to the High Court. Note the power of the Registrar to order production of relevant title documents.[169]

7.1 Acquisition of Title By Adverse Possession

The holding of land may be acquired by adverse possession against the state after a period of twenty (20) year and in any other case, after a period of twelve (12) years. After the expiration of the period (20 or 12 years as the case may be), the person acquiring such interest shall give notice of such acquisition to the Registrar, and thereafter apply to the court for an order directing him to be registered as the holder of such land/interest. But note that a person (that is, an agent) who is in possession on behalf of another person (a principal) shall be deemed to be holding the possession of such other person. Any application required to be signed by any person may be signed or made on that person's behalf by a Legal Practitioner. Officers in the lands registry and other officers engaged for the purpose of the Law are immune from civil action for acts or omission made in good faith and in exercise of their statutory powers.[170] The Law provides for offences and penalties.[171] As has already been pointed out, the Law repeals certain laws hitherto regulating registration in Lagos State.[172]Any reference to any title made under any of the repealed Laws shall be deemed to be reference to a title under the LRL.[173]

7.2 Powers and Duties of the Registrar Under the LRL

The Registrar of Titles must be a lawyer of not less than 10 years post-call and is appointable by the Governor and is under the general direction of the Commissioner for Lands.[174] Apart from that the Registrar is responsible for all matters relating to registration of interest in land and the control and administration of all Land Registry Divisions[175] created under the LRL,[176] the Registrar has the following additional powers and duties:[177] power to require the holder of an interest in land to produce any land document as may be necessary; power to summon a holder of a legal interest or any interested person to appear and give information as may be necessary for the purpose of the administration of the LRL;[178] power to refuse to register any document presented to him on grounds of non fulfillment of registration conditions; power to administer oaths and to require that any proceedings, information or explanations affecting registration be verified on oath; to order that the costs, charges and expenses incurred by him or any "other person in connection with any investigation or hearing held by him or survey made for the purpose of this Law, shall be paid by such persons in such proportions as he may think fit; power to compel registration;[179] power to maintain necessary registers and documents as prescribed by the Law, for effective administration of the LRL; power to conduct or allow registry search on land; power to register all documents or title or interest or transactions or land required to be registered under the Law; power to issue CTC of documents in tfthe registry;[180] power to cancel registration; power to register family representatives;[181] power to amend the register of family representatives;[182] power to rectify the register;[183] power to amend the register; to refer matters to [184]court in appropriate cases; power to destroy documents;[185] power to mark documents;[186] power to retain documents;[187] power to require survey plan as may be necessary;[188] power to combine or subdivide land;[189] cancel or prepare new registers;[190] power to prescribe the forms to be used to access any information in the Registers kept in the LIMS;[191] power to allow searches to be conducted;[192] power to approve partition or to partition land;[193] duty to issue Land Certificate upon completion of registration;[194]

[169] Section 110
[170] Section s. 117
[171] See section199.
[172] See section 122
[173] Section 121
[174] Section 4(1)(a)
[175] See section 3(1)
[176] Section 4(3)
[177] See section 5
[178] Section 115
[179] Section 26(4)
[180] Sections 108 and 109
[181] Section 89
[182] *Ibid*
[183] Section 96
[184] Section 67
[185] Section 9(2)
[186] Section 11(1)
[187] Section 11(3)
[188] Section 13(1)
[189] Section 14
[190] Section 15.
[191] Section 21
[192] Section 22
[193] Section 34
[194] See Section 35(1): The Registrar shall issue to the registered holder of any land or mortgage a document showing in the prescribed manner all subsisting entries in the register affecting the land or mortgage.

power to issue extract of lost title documents;[195] power to issue a new Land Certificate on production of an affidavit of loss and a police report;[196] power to register restrictions;[197] power to issue certain notices;[198] power to cancel restrictive covenant;[199] power to require a caveator/cautioner to prove his claim;[200] power to remove the caveat or caution from the register;[201] upon expiration of a caveat, power to refuse to accept a further caveat or caution by the same person or anyone acting on his behalf in relation to the same matter as that protected by the previous caveat or caution;[202] power to order the removal or variation of any restriction;[203] power to allow land included in any number of titles or any number of registered mortgage to be dealt with by the same document;[204] power to destroy documents not required by this Law to be retained by the Registrar or documents already retained by him for up to five years;[205] power to delete the name of a deceased joint-holder from the register;[206] power to register transfer, discharge of mortgage or surrender of sublease;[207] duty to obey order of the court in relation to any registered land on being served with the order;[208] power to apply to the Court for the determination of any question of doubt or difficulty of Law or fact arising in connection with his duties under this Law or to state case for the opinion of the court;[209] power to refer a matter to the High Court or to direct compliance where any person fails to comply with an order of the Registrar;[210] power to refuse to proceed with any matter until the appropriate fee has been paid;[211] power to accept the signature or declaration of a legal practitioner or agent in respect of any application or declaration that is required to be either signed or made by any person;[212] power to examine persons on oath in certain circumstances;[213] among other powers and duties.

7.3 Miscellaneous Provisions

The Law makes provisions on transmission, trust & bankruptcy.[214] Matters a purchaser or his solicitor shall rely on for investigation of the title include Inspection of the register of title or of a CTC of an extract from the register; statutory declaration as to the existence or otherwise of encumbrances; and evidence of registered encumbrances

7.4 Use of Forms and Precedents

In the Schedule to the LRL are attached prescribed Forms for the following purposes:

S/N	TITLE OF FORM	USE OF FORM
1.	LRL Form 1	Application form for registration of titles to land
3.	LRL Form 2	is the Application Form for the Registration of Land Covered by Deeds/Certificate of Occupancy;
4.	LRL Form 3	Application form for conducting searches
5.	LRL Form 4	form of Electronic Search report issued by the Land Registry
6.	LRL Form 5	Form of Application for obtaining CTC
7	LRL Form 6	Application form for registration of caution
8	LRL Form 7.	Form of Application form for withdrawal of caution

8. Conclusion

8.1 Summation

In this survey, the author has, it is believed, successfully provided researchers, law teachers, lawyers, law students, conveyancers and the general public with a handy source material which explains or exposes major provisions of the LRL on land registration in Lagos. Beginning with a discussion of the pre-2015 position, and then to explaining the purpose of the LRL which is, the author believes, to create a uniform platform for land registration in Lagos State while improving upon hitherto existing systems by upgrading to the incorporation of the ICT into the system of land registration in the State, the author has discussed the nature of registration under the LRL, documents required to be kept by the

[195] Section 37
[196] See section 37(4)&(5)
[197] Section 64
[198] Sections 67, 69(5), 71(2)(a), and 73(4)
[199] Section 68
[200] Section 69(4)(a)
[201] Section 71(2)(b)
[202] Section 71(5)
[203] Section 73(6)
[204] Section 74(4)
[205] Section79(2)&(3)
[206] Section 80(1)
[207] Section 82
[208] Section 99(4)
[209] Sections 104(1) and 106(1)
[210] Section 105
[211] Section 113(4)
[212] Section 115(5)
[213] Section 115(6)(a)
[214] See sections 80 to 93

Registrar of Titles for purpose of administration of land registration in Lagos, a discussion of the operation of the newly introduced Land Information Management System (LIMS) and the process and system of registration under the LRL, instances of mandatory and optional registrations, and other forms and variations of registration under the Law. Also discussed are such special provisions as registration and cancellation of restrictions and cautions/caveats, when and how the Registrar may compel registration, optional registration, refusal of registration, cancellation of registration, and effects or consequences of registration or non registration under the LRL. Special provisions of the Law as they pertain to creation and registration of transactions such as sale, sublease, mortgages, power of attorney as well as encumbrances, restrictive covenants, form and execution of instruments under the Law have been discussed alongside powers and duties of the Registrar under the LRL. The paper has also discussed other innovative provisions of the Law including registration of family representatives, amendment of the register of family representatives, rectification of the land register, role of the courts and lawyers under the LRL, plus acquisition of title by adverse possession. The various Forms prescribed under the Law for use in effecting land registration are displayed.

8.2 The System of Land Registration Under the LRL Versus the Other Systems In Nigeria

From the totality of the discussions above, the author has identified some distinction between the system in Lagos State under the LRL and the system in States that still operate system of registration of documents under the Land Instrument Registration Law. First,

unlike the repealed RTL, "first registration" under the LRL refers to registration of any dealing with the land or any sublease or mortgage affecting the whole or any part of the land (excluding a document having effect only as caveat or caution); thus, registration now has a much wider scope than what it had under the RTL which was strictly about registration of title and nothing more. Second, the LIRL is strictly about registration of documents, unlike LRL which is a consolidation of various systems of registration including registration of transactions, registration of holders, registration of land, registration of title, registration of documents, among others. Third, under LIRL registration does not make for indefeasibility of the document registered, unlike what obtains under the LRL. Fourth, under LIRL, there is difference in the registers and in the documents required to be kept at the Land Registry by the Registrar, for the operation of the respective registration systems. Fifth, under the LIRL, the Registrar need not conclude registration within 24 hours, unlike under the LRL where the Registrar has a duty to conclude processing of every application for registration within 24 hours of submission of the application and fulfillment of registration requirements by the applicant. Sixth, under LIRL unregistered registrable documents are admissible to prove transaction or payment of consideration but not to prove title. On the other hand, under the LRL, unregistered registrable documents are not admissible at all. Seventh, under the LIRL there is no issuance of Land Certificate to the holder upon completion of registration, unlike in LRL where the Registrar must issue a Land Certificate upon a successful registration. Eight, under the LRL the Registrar possesses power to compel registration in respect of unregistered registrable lands, transactions or titles. Ninth, under the LRL a sublease above three years may not be registered on property that is subject of an existing mortgage without the prior written consent of the mortgagee, unless the terms of the mortgage provide otherwise; this restriction is absent in the LIRL system. Tenth, under the LRL in order for a revocation of a registered Power of Attorney to be effective, notice of such a revocation must be given to the Registrar; this requirement is absent under the LIRL system. Eleventh, immunity avails Land Registry Officials under the LRL,[215] unlike under the LIRL.

9. Recommendations

By way of recommendation, while the author believes that the introduction of the LIMS system is commendable, as a step towards upgrading the system of land registration in Lagos State to try to measure up to prevailing global trends and international best practices and standards with a view to complying with the demands of 21st-century's globalized economy, it is submitted that the provisions in respect of the operation of the LIMS are too weak to be impregnable enough to be effective in implementation and in realizing the objectives of introducing the system in Lagos. Considering the volume of transactions being conducted daily in Lagos State, nothing short of full digitization of all processes and procedures for land registration would effectively serve the interest of

[215] See see LRL, section 117

residents of Lagos State. It is therefore recommended that the LRL be urgently amended to introduce provision abolishing all manners of manual transaction of the business of land registration in Lagos. Full digitization or digitalization would serve the purpose of killing many birds with one stone. Full conversion to, and dependence on, virtual processes will help to minimize corrupt practices on the part of land registry officials, increase efficiency and effectiveness as well as enhance security of the process and documents used in the process. It would also reduce cost, save time by reducing the unnecessary delays being encountered currently. The merits of full digitization are so numerous that it would be difficult to enumerate all here. Registration of family representatives is another commendable innovation of the LRL, aimed mainly at reducing

Activities of Louts, Land Speculators, and Land Grabbers: The Omo N'Ile127 quacks and other non-expert Land Speculators and Grabbers unleash their own terror…. To checkmate the activities of these land grabbers in Lagos State, Governor Akinwunmi Ambode had on 15 August 2016, signed into law the Lagos State Properties Protection Law, 2016, which is geared towards the prohibition of forceful entry and illegal occupation of landed properties, violent and fraudulent conducts in relation to landed properties in Lagos state. The main objective of the law is to provide legal comfort and assurance to interested investors that they can carry on legitimate land and property transactions without fear of harassment, intimidation or unnecessary exploitation by these land grabbers.128 The Anambra State of Nigeria had earlier in 2012 enacted the Prohibition of Fraudulent Practices on Land and Property Law 2012.129 Activities of these land grabbers, which cut across states in Nigeria, have serious adverse effects on conveyancing law practice in Nigeria; indeed, it is one of the major challenges faced by lawyers in conveyancing practice in Nigeria. Some writers have tried to explain the menace of land grabbers,130 but the phenomenon persists. Recently, the Lagos State Government vowed to go tough on land grabbers.131

nefarious activities of speculators, land grabbers and racketeers some of whom disguise as family representatives in dealings over supposed family lands, while in fact ripping off unsuspecting conveyancers and their clients as well as innocent members of the public. When representatives of all land-owning families are registered, it becomes easy by a simple search in the Lands Registry, to find out who the genuine representatives of each land-owning family are. In this way, it becomes difficult for innocent dealers in land to fall prey to criminals masquerading as representatives of families in land transactions. Udemezue and Shaeeb have made the following observations on the negative impacts of the criminal activities of land grabbers, racketeers and *Omo N'Iles* especially in Lagos State:

It could therefore be concluded that the provisions on registration of family representatives, rectification of the the registers and the other safeguards put in place by the LRL, are good developments. However, the 24-hour time-line given the Registrar to conclude registration, is unrealistic. A more pragmatic provision that takes into consideration prevailing socioeconomic realities, including the poor and dilapidated infrastructure, poor internet connectivity, lack of adequate and killed manpower, low funding, epileptic power supply, among others challenges, would have been more been better in the circumstances. Again, how long does it take to process and obtain Governor's consent? It is not enough to make governor's consent mandatory in certain situations, without first rejigging the procedure for processing Governor's consent to make it more effective and less strenuous than it currently is in Lagos State. Then, why the immunity provision in favour of Land Registry officials? Would this not encourage impunity and recklessness on their part? Further, the provision of the LRL, to the effect that unregistered registrable documents are not admissible at all is both unjust and untenable in view of the decision of the highest court in Nigeria, that such instruments, although not admissible to prove title, are admissible to prove existence of the transaction and as evidence of payment of consideration. The position taken by the courts, is more reasonable and balanced.[1] Moreover, it is

[216] Sylvester C Udemezue and Olajumoke M. Shaeeb, 'Delimiting Lawyers' Involvement In Sale of Land In Light of The Steady Diminution of The Law Practice Space In Nigeria', (2022) 3(2) Law and Social Justice Review (LASJURE), 183. <https://www.nigerianjournalsonline.com/index.php/LASJURE/article/view/2976> or <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3818892> or <https://heinonline.org/HOL/LandingPage?handle=hein.journals/lwadsljerw3&div=51&id=&page=> Accessed 02 April 2024

[217] Abdullahi v Adetutu (2019) LPELR-47384 (SC). See also Ojugbele v. Olasoji (1982) 4 SC 31; Akintola v. Solano (1986) 2 NWLR (Pt. 24) 598, (1986) 4 SC 141, (1986) All NLR 395; Edokpolo v. Ohenhen(1994)7 NWLR (Pt. 358) 511, (1994) 7 SCNJ 500

disheartening that more than nine years after its passage and coming into operation, the Lagos State Land Registration Law is yet to be fully implemented. Much of the applications, payments, searches, certifications, processing and registrations are still being conducted manually in spite of the electronic-processing requirements of the LIMS system. Making a law is not enough if the law is not impregnable which is a precondition to effectiveness implementation which is yet a different aspect. A law made but not being effectively implemented is as good not made at all. It is accordingly respectfully suggested that an urgent review of the LRL 2015 be undertaken by relevant stakeholders with a view to amending it or altogether repealing it and replacing it with a more pragmatic, self-executing and impregnable legislation that would compel instant implementation and ensure that land systems and registration in Lagos State are urgently upgraded in line with global benchmarks and international best practices in conveyancing practice and procedures. All eyes are on Lagos to take the lead in this area, and the State which prides itself as the Centre of Excellence, cannot afford to continue to dawdle, saunter or wander. It requires repeating that it is unfortunate, and unacceptable that a Law which came into force in 2015 is yet to be put into full operation by 2024.

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The Legal Issues Concerning the Implementation of the Administration of Criminal Justice Act of Nigeria

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Abstract. No doubt that the Administration of Criminal Justice Act of Nigeria 2015 brought innovative provisions in ensuring justice is served to society. However, despite the innovative provision of the Act, there seems to be a high level of maladministration of justice. Given this, the study undertook doctrinal and non-doctrinal research on how effectively the police, the prison officers, the office of the Attorney-General of Nigeria, and the court have been able to enforce their functions as provided by the ACJA of Nigeria. The study used online survey questionnaires sent to 302 legal practitioners (randomly selected) in Nigeria, given their pragmatic knowledge of ACJA of Nigeria. A descriptive and analytical statistic was used to analyse the respondents' response in ascertaining if the above ministers of justice have been effective in enforcing their roles as specified by ACJA of Nigeria. Given the data generated, the study found that there has been a lapse in the effective implementation of ACJA in Nigeria. It was therefore concluded and recommended that the Administration of Criminal Justice Monitoring Committee set up by the ACJA of Nigeria exact their duties in check-mating the police, the office of AG of Nigeria, and the courts to ensure the maximum enforcement of their functions.

Keywords: Criminal Justice, Criminal Law, Justice, Law, Nigeria

1. Introduction

The term justice is the most significant interest of man on earth and the ligament which holds civilized nations together. The essence of criminal law in every given society is to prevent crime and ensure that justice is achieved. The black law dictionary defined the concept of justice as follows: 'The fair and proper administration of laws.' However, it is very apt to state that for decades, the Nigerian criminal justice system had suffered perilously due to the deficiency that existed within the criminal procedure law that was operational. Some of these deficiencies include; abuse of the rights of a suspect, flawed prosecution of criminal cases, and delay in getting justice for the victim, defendant, and society. However, these deficiencies inherent in the criminal justice system are a result of the lapse existing in Nigeria criminal laws.

Given the above anomalies inherent in Nigerian criminal law, the Administration of Criminal Justice Bill was signed into law in 2015. The law repealed the principal legislations that govern the administration of the criminal justice system in Nigeria. The Administration of Criminal Justice Act of Nigeria introduces some innovative provisions to the existing laws governing the criminal justice system. The purpose of the law is to ensure that the system of criminal justice in Nigeria; promotes efficient management of criminal justice institutions, speedy dispensation of justice, protection of the society from crime, and protection of the rights and interest of suspects, the defendants (accused persons) and the victims. Furthermore, the Administration of Criminal Justice Act recognises the major bodies or institutions to ensure effective implementation.

Given the above innovations brought in by the Administration of Criminal Justice Act in Nigeria, this study tends to theoretically and empirically examine how

effective is the implementation of the Administration of Criminal Justice Act in Nigeria, concerning the role of attorney-general, the police, prison, and the court.

2. Research Methodology

This study adopted hybrid research of doctrinal and non-doctrinal survey approach methods. The theoretical session is aimed at theorising and establishing the various institution of the administration of the criminal justice system in Nigeria and their relevant roles in the effective implementation of the Administration of Criminal Justice Act of Nigeria. Furthermore, the authors also made use of descriptive and analytical quantitative research methods in gathering data that are objective, statistical, mathematical, and numerical for analysis. These data were obtained through online questionnaire surveys. In this regard, the quantitative (non-doctrinal) method allows the authors to collect and analysed extensive data (respondent response to the questionnaire) from legal practitioners in various states of the Federal Republic of Nigeria. Using Lawyers in the various state of the Federal Republic of Nigeria as a respondent is concerning the fact that they are very conversant with the Administration of Criminal Justice Act and they have a better practical experience concerning whether or not the various bodies or institutions have been effective and efficient in ensuring effective implementation of the Administration of Criminal Justice Act. Furthermore, it will also enable the researchers to reach a concluded generalization if there is a need to checkmate the institutional bodies in ensuring effective implementation of the Administration of Criminal Justice Act.

3. Literature Review

It has been observed that the reference to crime entails the existence and reference to law. According to Aluyor, crime had been defined as an act or omission, which renders the person doing the act or making the omission liable to punishment under the code. In strict legal definition, a crime is a violation of the criminal law, which is subsequently followed by legal punishment. In this regard, a crime is an act or omission, which affects sanctions, such as fines, imprisonment, or even death. However, the whole essence of curbing crime is to ensure a safe and secure society and ensure justice is attained.

Justice is usually acknowledged as a pre-condition for peace and stability in society. The total of justice is equal to the fair application of rules, with the effect that "laws" should be fair and reasonable in themselves, according to Denham (1983) he stated that:

"Justice is concerned with content, laws should be fair and reasonable in themselves. It is not just a matter of applying the rules reasonably; whatever those rules might be, it is also about making society a faller and more reasonable place to live. Such justice may be called distributive justice since it is about distributing obligations and opportunities in society."

Justice from the forgoing ensures peace and stability, a fair and just act necessary for the workability of an effective system in a society. However, in criminal law, for justice to be attained, the bodies (criminal justice system) responsible for implementing the criminal law must jointly effectively discharge their role as stipulated by the criminal law that is operational. In a further statement by Newman, he gave a proper explanation of the components of the criminal justice system when he stated that a significant operating characteristic of a criminal justice system (which is a legal entity comprising of the police, prison, and court) is that what affects the function of one part can potentially affect other parts, as well as the entire system. Furthermore, according to Rush, the criminal justice system involves an interrelated system of agencies or personnel whose duty is to enforce criminal law. In the opinion of Dambazau in evaluating the concept of the criminal justice system, stated the criminal justice system involves a legal process and the machinery through which someone who is suspected of having committed a crime is processed and subsequently disposed of either through sentencing or discharge of the defendant. Given the analysis by the renowned scholar, the criminal justice system is an instrument responsible for the regulation and control of criminal behavior. In this regard, no meaningful and just law can be implemented to the letter without an effective criminal justice system.

However, while various scholars had dealt more with the relevance of the criminal justice system in ensuring that there is just dispensation of justice, this study tends to focus more on the role the police, prison, and the courts in Nigeria have undertaken in order to ensure the effective implementation of the Administration of Criminal Justice Act.

4. Major Innovations Introduce by the Administration of Criminal Justice Law in Edo State

The Administration of Criminal Justice Act of Nigeria was enacted into law in 2015 as a result of deficiency that exists in the criminal justice system. Some of these

deficiencies include the inability of the existing criminal laws to respond to the dire need of the society in checkmating the rising crime rate, flawed litigation procedure, delay and abuse of justice for the society, the victim, and the defendant. Given these deficiencies, the Administration of Criminal Justice Act was enacted, it introduces innovative provisions to ameliorate and alleviate the smooth prosecution of criminal cases to a logical conclusion. The main essence of the law is to ensure justice for society, victims, and defendants. However, irrespective of the beautiful, innovative provision introduces by the Administration of Criminal Justice Act of Nigeria, it can only be effective if the institutional bodies saddled with the responsibilities of ensuring effective implementation of the law duly execute their role or function as specified by the ACJA. In this regard, the role or function of these institutional bodies as specified by the ACJA will consider as follows:

4.1 The Role of Police

The word police was derived from the Greek word "Polis," meaning that part of non-ecclesiastical administration having to do with the safety and order of the state. It is a government department responsible for the preservation of law and order, detection of crime, and enforcement of civil law. The police are arguably the most visible agent of the government, and citizens often assess the character of a government through its police force. This is because the police are the "guardians" of society. To a large extent, the growth, actions, and behaviors of the police as an institution not only reflect the political and economic character of society but also mirror what those in power are willing or able to tolerate or condone or perhaps even demand of the police.

However, some of the functions and duties of the police as provided by the ACJA are as follows:

- Informing a suspect of the cause of his arrest
- Notification of a suspect of his right to remain silent and not answering or endorsing any statement until after consultation with a legal practitioner
- Not arresting a person in place of a suspect
- Fair and humane treatment of arrested suspect without subjecting a suspect to any form of torture and cruelty
- Not arresting an individual for civil wrong or breach of contract
- Recording the statement of a suspect in the presence of his legal practitioner or before a legal aid officer, or a justice of the peace, or any other person of his choice
- Keeping of adequate record of an arrested suspect and a detailed investigation of a crime
- Granting bail to deserving suspect in accordance with the ACJA without extra monetary charge section
- Submission of record of all arrested suspects without a warrant to the nearest magistrate on the last working day of every month
- Ensuring the recording of confessional statement via electronically retrievable video CompLaw disc or such other audiovisual means

4.2 The Role of the Attorney-General

The office of the Attorney–General, is provided under the constitution of Nigeria. By *section 150 of the 1999 constitution*, which provides at the federal and state level, there shall be an Attorney-General of the federation to be recognized as the chief law officer. The incumbent of the office of Attorney–General must be a legal practitioner with at least ten years of practice. The Attorney-General is also a member of the executive arm of government as a minister of justice or a commissioner of justice. However, Section 174 of the constitution of Nigeria spells out the powers of the Attorney-General of the federation and the state. Furthermore, that of the state Attorney-General power is subsumed under *section 211 of the 1999 constitution* as amended, having the same content as provided for the federal attorney general. However, in the case of *Emeakayi V. C.O.P* court further stated that the power of the Attorney-General is not only provided for directly from the constitution; their role and functions are also provided for in-laws enacted or deemed enacted under the constitution.

Given the above, some of the relevant functions in the administration of justice as provided for by the ACJA are as follows:

- Furnishing of legal advice to the police and the court concerning the prosecution of a criminal case within 30 days of receipt of an investigation report from the police unit
- Diligently prosecuting criminal cases to a logical conclusion within the time limit specified by the ACJA
- Ensuring that lawyers within the Ministry of Justice are always ready for the day-to-day trial of a defendant as prescribed by section 396(3) of the ACJA
- Using the concept of a plea bargain in decongesting prisoner awaiting trial concerning minor offences cases

4.3 The Role of the Prison

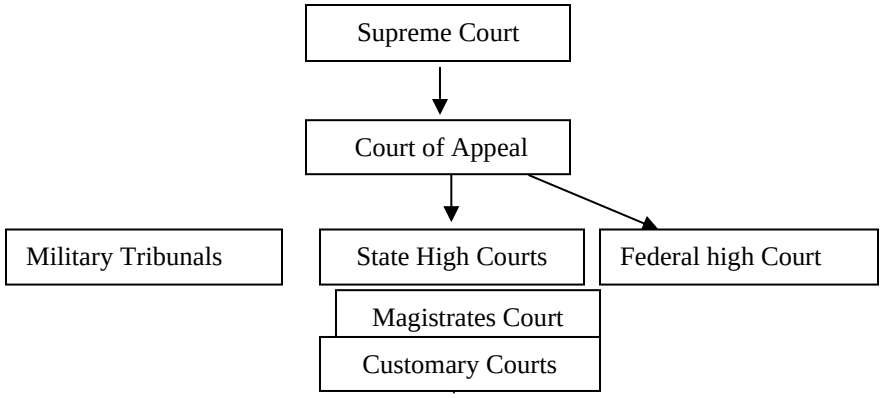
The prison is responsible for the custody of the final product in the criminal justice process. Prison is considered as a reformatory home, organized to make the convicted defendant a better person to reintegrate them into the society for positive contribution to the development of the larger society after conviction or completion of their prison term. However, The Nigerian Prison Service was founded as an institution to correct social deviants, punish and reform criminals, and to complement the processes of legal adjudication and law enforcement. However, the Nigerian prison reform is part of the Nigerian criminal justice system reform policies that are in line with a global trend to shift prison service from a punitive and retributive penal system to a reformatory and rehabilitative system whereby the welfare of the offender is given pride of place. However, the Administration of Criminal Justice Act provide for the role or function of the prison as follows:

- Bringing of the suspect before a trial court when required to be present in a criminal trial
- Submission of a report of a suspect awaiting trial and held in custody to the chief judge of the state at every ninety days (3 months)
- Submission of a report of a suspect awaiting trial and held in custody to the Attorney-General

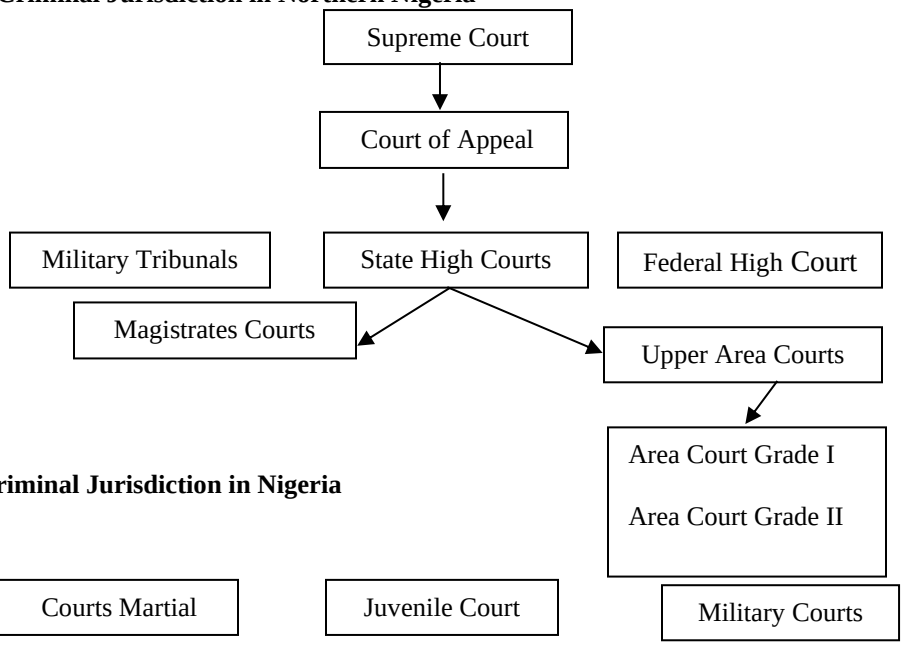
4.4 The Role of the Court

In Nigeria, the judiciary is the third branch of the Government, separate and equal to the Executive and legislative branches and also an ambit of the Nigerian criminal justice system. The courts are mainly presided over by judicial officers who are lawyers. The *Constitution* defines a judicial office to mean the office of Chief Justice of Nigeria or a Justice of the Supreme Court, the President or Justice of the Court of Appeal, the office of the Chief Judge or a Judge of the Federal High Court, the office of the Chief Judge or Judge of the High Court of the Federal Capital Territory, Abuja, the office of the Chief Judge of a State and Judge of a High Court of a State, a Grand Kadi or Kadi of the Sharia Court of Appeal of the Federal Capital Territory, Abuja, a President or Judge of the Customary Court of Appeal of a State, or President or a Judge of the Customary Court of Appeal of the Federal Capital Territory. It also adds that a reference to a *judicial officer* is a reference to the holder of any such office. However, the diagrammatical follow of the Nigeria criminal court is as follows:

Courts of General Criminal Jurisdiction in Southern Nigeria



Courts of General Criminal Jurisdiction in Northern Nigeria



Court of Special Criminal Jurisdiction in Nigeria

However, the Administration of Criminal Justice Act provides for the following functions or role of the court in ensuring the effective implementation of the law; some this function is as follows:

- Ensuring the police officer in charge of a police station nearest to the jurisdiction of any court submit a record of all arrested suspect and bail granted on the last working day of every month
- Directing the arraignment of a suspect kept in custody over a long period
- Admitting bail to a suspect that the police have refused bail
- Conclusion of criminal trial within a reasonable time by ensuring a day-to-day trial of a defendant
- Filing of quarterly return of all criminal cases by a judge to the chief judge
- Ensuring that there is a speedy conclusion of criminal cases to decongest cases in court and prison
- Ensuring that there is an electronic recording of court proceedings
- Ensuring a suspect is not remanded beyond the time limit as specified by section 295 and 296 of ACJA

5. Data analysis

5.1 Sampling Technique and Sample Size

The researchers designed an online questionnaire was designed by the researchers (which suit the purpose of ensuring social distancing as a result of the Covid19) distributed to the respondents. The respondents were randomly picked to provide both predetermined options and free opinions from a cluster of questions. In selecting the respondents, the researcher used 'simple random sampling techniques,' which involve a random selection of lawyers (the respondents) from the various state of the Federal Republic of Nigeria. The simple random sampling technique is considered the best for this study, concerning the fact that the sample size focuses on lawyers in Nigeria. As stated by Bajpai *et al.*, in their research work, "Law Research Methodology: 'Sampling Techniques'" stated that the advantage of simple random sampling techniques is:

- It is a hassle-free method of sampling the population. It is homogeneous.
- There is no chance of a personal bias of the researcher to influence sampling.

Although there are several thousands of lawyers in Nigeria, however, to successfully arrive at an unbiased general conclusion, this study used a sample size of 302 legal practitioners from the various state of the Federal Republic of Nigeria.

6. Data presentation/analysis

The following research questions have been formulated for this study.

Research Question One: Does the ACJA provide for innovative provisions in ensuring justice for the society, the victim, and the defendant?

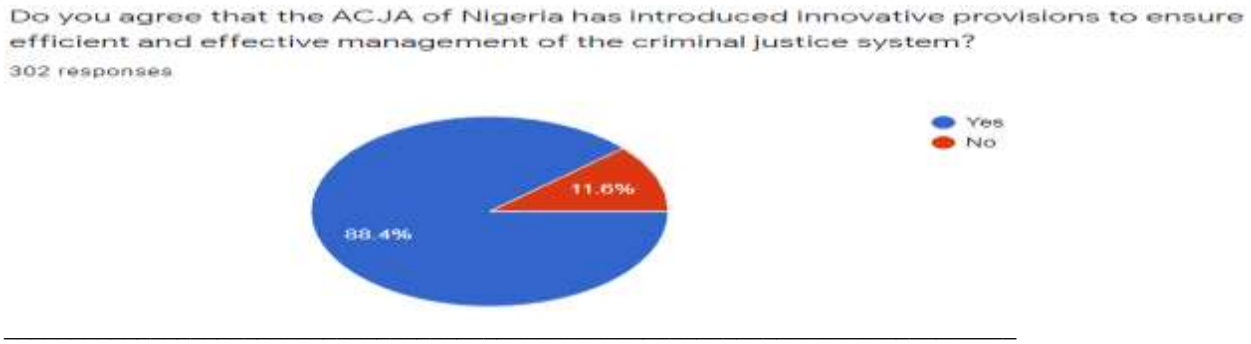


Figure 1: Respondent identification of the fact that the ACJA Provide for Innovative provisions in ensuring justice and fairness.

	Response	**Percent**
Valid Yes	267	88.4
Valid No	35	11.6
Total	**302**	**100%**

Table 1: Valid response of respondents' identification of the fact that the ACJA provide for Innovative provisions in ensuring justice and fairness

Figure 1 and Table 1 represents respondents' awareness of the fact that there are several innovative provisions provided for by the Administration of Criminal Justice Act.

Research Question Two: Have the police been effective in enforcing its functions as provided by the ACJA?

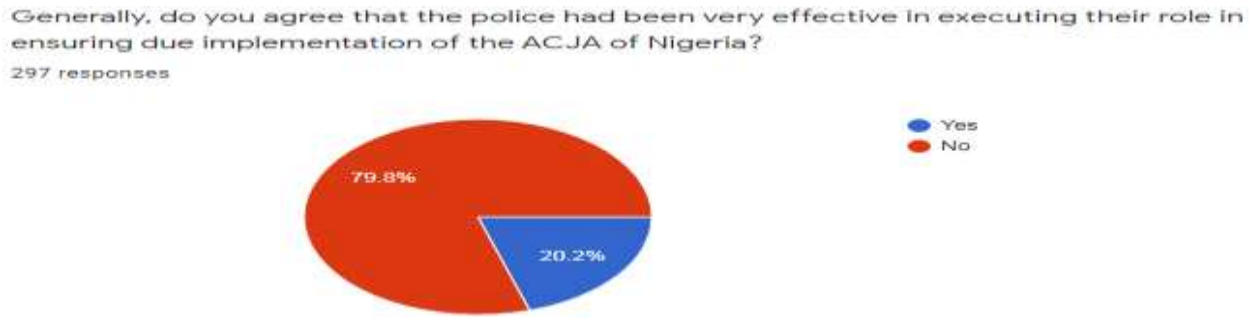


Figure 2: Respondent identifies whether or not the police have been efficient in executing its functions specified by the ACJA.

	Response	**Percent**
Valid Yes	60	20.2
Valid No	237	79.8
Total	297	100%

Table 2: Valid response of respondents' of whether the police has been efficient in executing its functions

Figure 2 and Table 2 represent the respondents' response in ascertaining the effectiveness and efficient implementation of the ACJA by the police, given their role as specified by the ACJA of Nigeria.

Research Question Three: Which of the following functions of the police has not been duly implemented by the police?

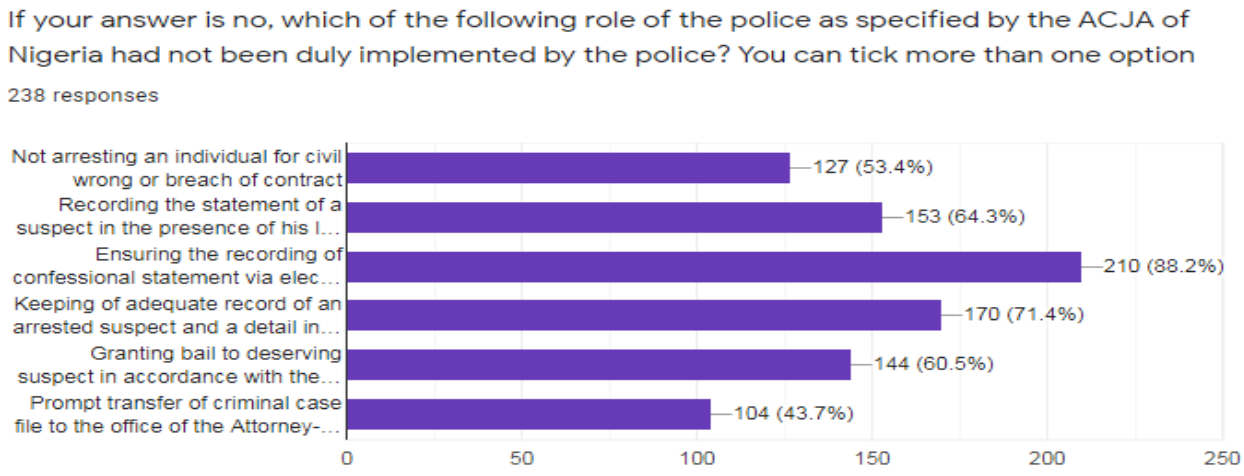


Figure 3: Cluster of respondents' response identifying various roles of the police that have not been duly implemented as specified by the ACJA

S/N	Cluster of response	Response	Percentage
1	Not arresting an individual for civil wrong or breach of contract	127	53.4
2	Recording the statement of a suspect in the presence of his legal practitioner or before a legal aid officer, or a justice of peace, or any other person of his choice	153	64.3
3	Ensuring the recording of confessional statement via electronically retrievable video CompLaw disc or such other audiovisual means	210	88.2
4	Keeping of adequate record of an arrested suspect and a detail investigation of a crime	170	71.4
5	Granting bail to deserving suspect in accordance with the ACJA without extra monetary charge	144	60.5
6	Prompt transfer of criminal case file to the office of the Attorney-General upon request or conclusion of an investigation	104	43.7

Table 3: Valid Cluster of respondents' response identifying various roles of the police that have not been duly implemented

Figure 3 and Table 3 is a representation of respondents' response identifying the various roles of the police in ensuring the due implementation of the ACJA but was have not been duly observed and implemented effectively by the police.

Research Question Four: Has the office of Attorney-General been very effective in implementing its functions as specified by the ACJA?

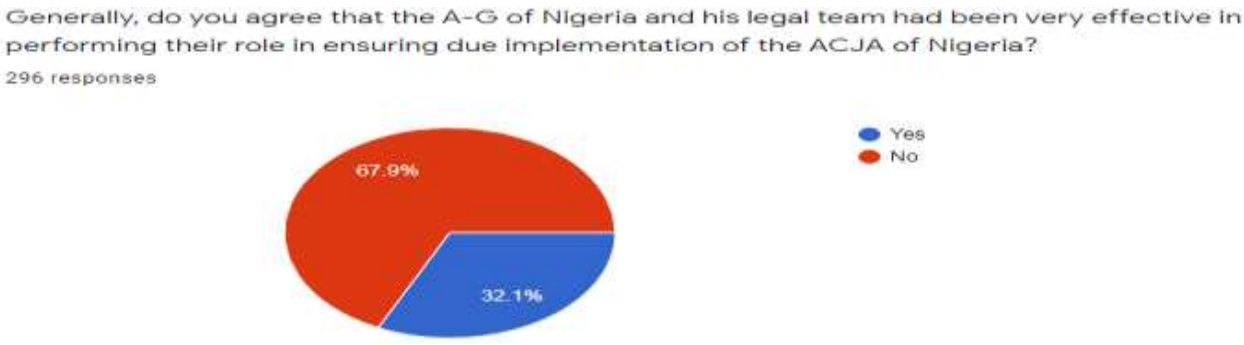


Figure 4: Respondent identification of whether or not the office of the AG has been efficient in executing its functions as specified by the ACJA.

	Response	Percent
Valid Yes	95	32.1
Valid No	201	67.9
Total	**296**	**100%**

Table 4: Valid response of respondents' identifying if the office of the AG of Edo State has been efficient in executing its functions

Figure 4 and Table 4 is a representation of respondents' response to research question four, which is aim at ascertaining if the office of the Attorney-General has been effective in enforcing its functions as specified by the ACJA.

Research Question Five: Which of the following role of the office of AG has not been duly implemented as specified by the ACJA?

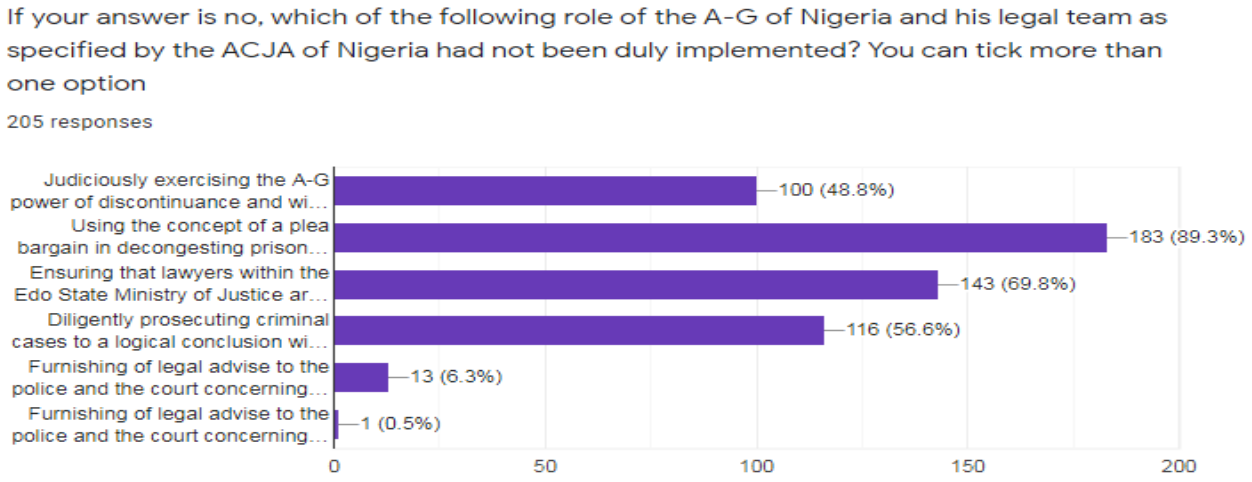


Figure 5: Cluster of respondents' response identifying various roles of the office of the AG not been implemented as against the ACJA

S/N	Cluster of response	Response	Percentage
1	Judiciously exercising the A-G power of discontinuance and withdrawal of criminal charge either in part or in whole	100	48.8
2	Using the concept of a plea bargain in decongesting prison and concluding criminal cases awaiting trial with regard to minor offences cases	183	89.3
3	Ensuring that lawyers within the Edo State Ministry of Justice are always ready for the day-to-day trial of a defendant as prescribe by ACJA	143	69.8
4	Diligently prosecuting criminal cases to a logical conclusion within the time limit specified by the ACJA	116	56.6
5	Furnishing of legal advice to the police and the court concerning the prosecution of a criminal case within 14 days of receipt of an investigation report from the police unit	13	6.3
6	Furnishing of legal advice to the police and the court concerning the prosecution of a criminal case within 30 days of receipt of an investigation report from the police unit	1	0.5

Table 5: Valid Cluster of respondents' response identifying various roles of the office of the AG that have not been duly implemented

Figure 5 and Table 5 is a representation of respondents' response to research question five, which required the respondent to identifying various roles of the office of the AG that been left as blanket functions and have not been duly implemented by the office of AG as specified by the ACJA of Nigeria.

Research Question Six: Have the prison officers been very effective in implementing its functions as specified by the ACJA?

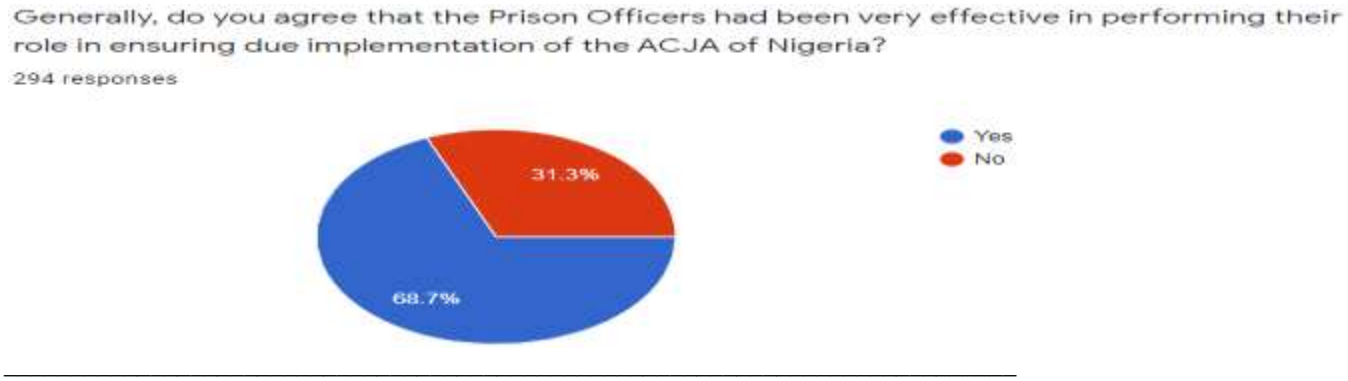


Figure 6: Respondent identification of whether or not the prison officers have been efficient in executing its functions as specified by the ACJA.

Figure 6 represents the respondents' response in identifying if the prison officers have been very effective in implementing their functions as provided for by the ACJA.

Research Question Seven: Have the courts been very effective in implementing its functions as specified by the ACJA?

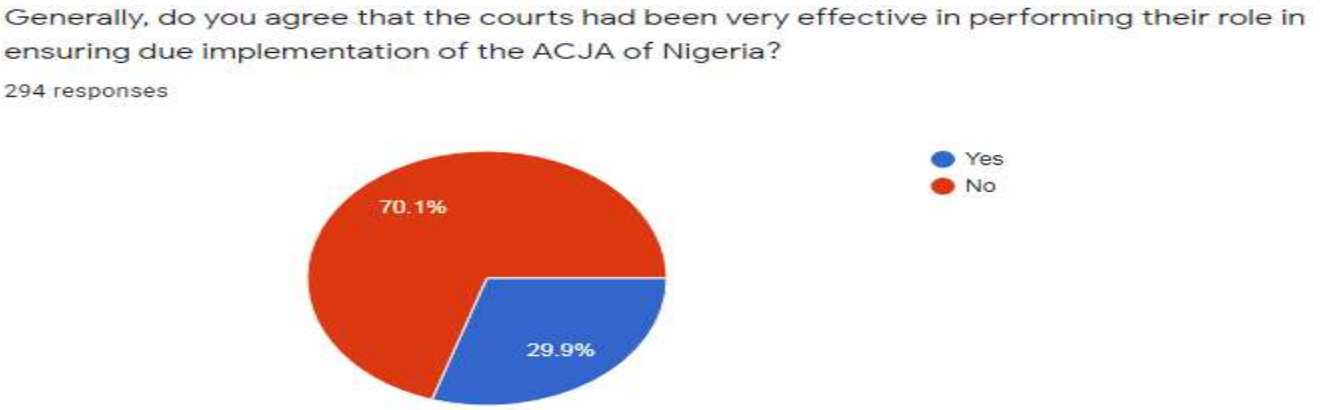


Figure 7: Respondent identification of whether the courts had duly executed its roles as specified by the ACJA.

	Response	**Percent**
Valid Yes	88	29.9
Valid No	206	70.1
Total		**100%**

Table 6: Valid respondents' response if the courts have been efficient in executing its functions

Figure 7 and Table 6 represent respondents' response in identifying if the courts in Nigeria effectively enforced its roles or functions as specified by the ACJA.

Research Question Eight: Which of the following roles of the courts has not been effectively implemented as specified by the ACJA?

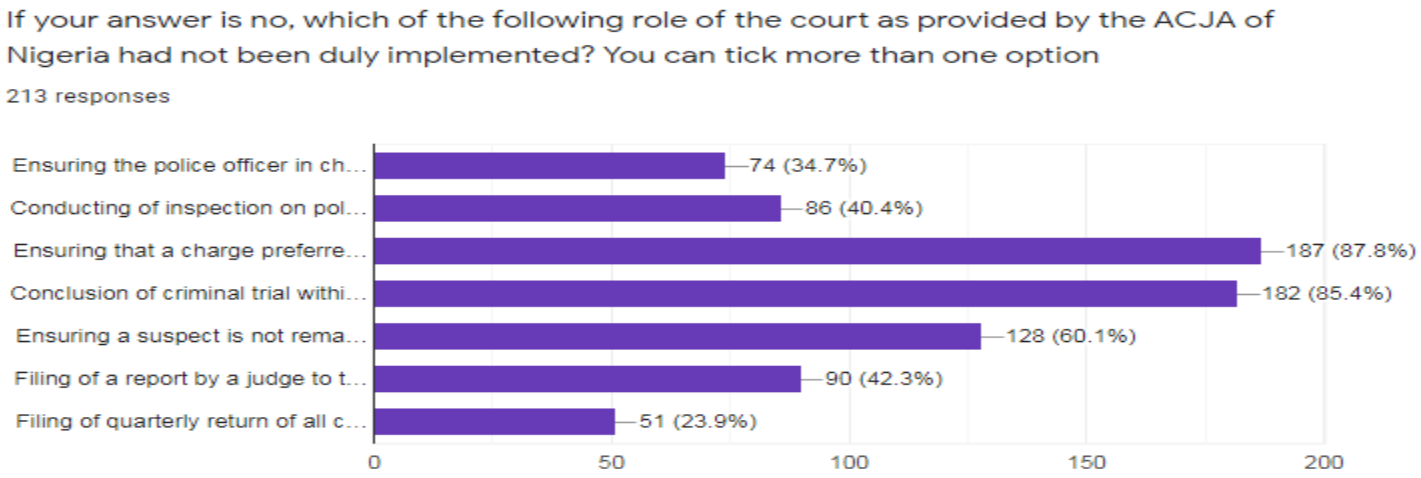


Figure 8: Cluster of respondents' response identifying various roles of the courts that have not been left unimplemented as against the ACJA

S/N	Cluster of response	Response	Percentage
1	Ensuring the police officer in charge of a police station nearest to the jurisdiction of any court submission of a record of all arrested suspect and bail granted on the last working day of every month	74	34.7
2	Conducting of inspection on police stations or other places of detention	86	40.4
3	Ensuring a suspect is not remanded beyond the time limit as specified by the ACJA	187	87.8
	Conclusion of criminal trial within a reasonable time by ensuring a day-to-day trial of a defendant	182	85.4
4	Ensuring that a charge preferred against a suspect commence not later than thirty days from the date of filing	128	84.8
5	Filing of a report by a judge to the chief judge stating the reason for failing to commence or complete a criminal trial within a period of one hundred and eighty days of arraignment of a defendant	90	42.3
6	Filing of quarterly return of all criminal cases by a judge to the chief judge	51	23.9

Table 7: Valid Cluster of respondents' response identifying various roles of the courts not been implemented

Figure 8 and Table 7 represent a cluster response of respondents identifying the various roles of the court that have not been effectively implemented as provided for by the ACJA.

7. Discussion of Findings

From the data obtained with regard to the response of the respondent, figure 1 and table 1 above, which is a representation of respondents' response to research question one, shows that 88.4% (267 Respondents) of the respondents that resides in the various state of the Federal Republic of Nigeria, are not only conversant with the fact that the ACJA enacted to replace the Criminal Procedure Code and Criminal Procedure Act, but also it introduces innovative provisions to ensure prevention of crime in the society, that justice is attained for the benefit of the victim and the defendant. Furthermore, the ACJA of Nigeria was also enacted to ensure efficient management of the criminal justice system in Nigeria. However, as earlier stated, the ACJA of Nigeria will remain a legislative piece without due implementation by the relevant institutions such as the police, the Office of the Attorney-General (Ministry of Justice), the prison courts. In this regard, figure 2 and table 2 represent respondents' responses to research question two. The essence of research question two is to ascertain whether the police have effectively ensured due implementation and effective management of the Administration of Criminal Justice Act and system in Nigeria, given their roles or functions as specified by the ACJA. An overwhelming 79.8% (237 respondents) of respondents' response was "No." Given this, figure 3 and table 3, which represents a cluster respondents' response to research question three was aimed at ascertaining the roles or functions of the police that has not been effectively

implemented. 64.3% (153 of the respondents) of the respondents responded that the police do not always record a suspect's statement in the presence of his legal practitioner or the required personnel as required by section 17 of the ACJA[41] of Nigeria. 88.2% (210 respondents) of the respondents stated that in most criminal cases where a defendant wants to give a confessional statement, the police does not record confessional statement via electronically retrievable video CompLaw disc or such other audiovisual means, which is against the intendment of section 15(4) of ACJA. Also, 53.4% (127 respondents) of respondents further identified that police are often involved in arresting an individual for civil wrong or breach of contract, which is against the intendment of section 8(2) of the ACJA. The court, in the case of *Fawehimi V. Inspector General of Police,* had aptly criticized this unholy practice by the police by stating that the area of the duties of the police is purely the prevention of crime and also to investigate and detect crime. The court further stated that they have no business in interfering with civil relations because their duty is essentially crime-related. Furthermore, 60.5% (144 respondents) of the respondents also identified that if arrested for a bailable offence, the police do not grant bail to deserving suspects in accordance with the ACJA without extra monetary charge. However, this is against the intendment of sections 35(4) and 51 of the Nigerian constitution (as amended), which is to the effect that any person who is arrested or detained in accordance with subsection (1) (c) of this section shall be brought before a court of law within a reasonable time and if he is not tried within the limited period.

However, the ACJA also recognizes the office of the Attorney-General as one of the institutional bodies saddled with the responsibilities of ensuring justice is served in implementing the ACJA. Given this, figure 4 and table 4 are to ascertaining how effective has the office of the Attorney-General been implementing its roles as specified by ACJA. 67.9% (201 respondents) of the respondents' response was that the office of the Attorney-General has been ineffective in enforcing some of its functions. Furthermore, figure 5 and table 5 represent the respondents identifying some of the roles of the office of Attorney-General that have not been duly implemented. The response is as follows; 69.8% (143 respondents) of the respondents identify the fact that lawyers within the Edo State Ministry of Justice are always not ready for the day-to-day trial of a defendant as prescribe by section 396(3) ACJA. 89.3% (183 respondents) of the respondents identify that the concept of a plea bargain, which is aimed at decongesting prison and concluding criminal cases awaiting trial concerning minor offences cases, has not been duly utilised. This is against the intendment of section 270 of the ACJA. Several legal scholars have aptly condemned this unholy; according to Massajuwa and Aidonojie, they stated that using a plea bargain in resolving high profile cases and neglecting its primary essence is against the intendment of the law. Furthermore, 56.6% (116 respondents) of the respondent also identify that most of the lawyers in the ministry of justice do not diligently prosecute a criminal case to a logical conclusion within the time limit specified by the ACJA. However, given the data as presented in figure 6, which is to ascertain if the prison officers in Nigeria have been efficient enough in duly implementing its functions as specified by the ACJA. An overwhelming 68.7% of respondents were of the view that the prison officers are enforcing its functions. Although, the role and functions of the prison officers as provided for by ACJA are very minimal.

Furthermore, the court, which is regarded as the last hope of the commoner, is also part of the institutional bodies recognised by the ACJA. In this regard, given the data generated as represented by figure 7 and table 6, which aimed to ascertain if the courts in Nigeria had been very effective in enforcing its functions as provided for by the ACJA. 70.1% (206 respondents) of the respondents' response was "No," which, in effect, the courts in Nigeria to some extent, had not duly enforced some of its roles. However, figure 8 and table 7 further avail the respondents a cluster of options to identify those functions of the court as specified by the ACJA, which the courts had not effectively enforced in Nigeria. Concerning the data generated, 87.8% (187 respondents) of the respondents identify that the function of ensuring a suspect is not remanded beyond the time limit as specified by the ACJA had not been effectively implemented by the courts in Nigeria. This unholy practice has always been the practice of the Nigeria criminal justice system, although this had been frowned at by courts in Nigeria. In *Ewere V. COP,* the Court of Appeal frown at this procedure (holding charge) by condemning it, that it is unknown to Nigeria law and that an accused person detained under it is entitled to be released on bail within a reasonable time before trial, more so, in non-capital offences. However, despite this whole criticism from the court against this unholy practice by the police officer and the very fact that ACJA had put to rest this unholy practice, most case is still prosecuted by using the same procedure of holding charge which is an offence against the personal liberty of the accused as guaranteed by the constitution. In this regard, holding a charge, therefore, has no legal basis; it is an unlawful device utilized by the police to deprive suspects of that constitutional right of presumption of innocence. Also, 85.4% (182 respondents) of the respondents identify that the conclusion of criminal trial

within a reasonable time, by ensuring a day-to-day trial of a defendant by the courts in Nigeria had not been duly implemented. This, in essence, is against the intendment of section 110(3) and section 396(3) of the ACJA. Furthermore, 84.8% (128 respondents) of the respondents also identified the fact that the charge preferred against a suspect does not always commence not later than thirty days from the date of filing. This, to an extent, is why criminal cases are not always concluded within the time permitted by law.

From the above analysis, it very evident that irrespective of innovation brought in by the ACJA, however, it been observed from the above analysis that the police, the office of the Attorney-General, and the courts in Nigeria need to step-up in enforcing their roles as specified by ACJA in order to ensure that justice is served.

8. Conclusion / Recommendation

The study has been able to visualise the various bodies responsible for the effective enforcement of criminal law and prosecution of criminal cases in Nigeria. Furthermore, it was also stated that to ensure justice is echoed via a practical criminal legal framework, the Administration of Criminal Justice Act of Nigeria was enacted in 2015. The Administration of Criminal Justice Act provides for innovative roles to be implemented by the police, the prison, the office of the Attorney-General, and the courts in ensuring an effective criminal administrative system. However, given the data analysis, it shows that the police, the office of the Attorney-General, and the court have a missing link in enforcing some of their roles.

Given the above, if there must be a smooth, effective, and better enforcement procedure of criminal justice system in combating crime, regard had to be given to the effective implementation of the functions or roles of the police force, the office of the Attorney-General and the courts, which is mainly involved in the prosecution of criminal cases. In this regard, the following recommendation is as a result of this suggested as follows:

The Administration of Criminal Justice Monitoring Committee created by section 110(7) of the ACJA should endeavour to play it roles in ensuring all the police, the office of the Attorney-General, and the courts should effectively enforce their roles as provided for by the ACJA.

Civil society and human right organization that is regarded as the watchdog of human right should endeavour to always at all times demand strict and fair implementation of the ACJA by the police, the office of Attorney-General, and the courts, given their function as provided for by the ACJA.

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Does the Nigerian Federal Legislature Have Constitutional Powers to Summon the President of the Republic Over Matters of National Importance?

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Abstract. Following worsening insecurity in Nigeria, the lower arm of Nigeria`s Parliament, the House of Representatives, had on December 01, 2020, issued a summons to the President of the Republic, to appear before the House on December 10, 2020, to address it on the true state of the (in)security in the country. The summons and Mr. President`s refusal to honour it, had sparked off a national debate/controversy, especially bothering on the propriety and constitutionality of such summons against the President and the extent of obligation (if any) of Mr. President to answer to it. This forms the main focus of the present paper which begins with a prognostic determination of extent of constitutional powers (if any) of the Nigerian Federal Legislature or any arm of it, to issue a summons on Mr. President, the extent of Mr. President`s duty or right to honour or dishonour such invitation, and possible implications of compliance or non-compliance thereof. The paper examines relevant case law and provisions of the Nigerian Constitution, and then proceeds to consider options open to the President in the circumstances, especially in view of the constitutional provisions relating to Presidential immunity. Then, drawing an analogy from extant law and practice in jurisdictions, such as the USA, with a somewhat similar constitutional or legal framework, the authors in their conclusion proffer recommendations believed to accord with the demands of rule of law and constitutionalism, and geared especially towards advancement of constitutional democratic ideals, governance transparency and accountability. The authors believe that legal scholars and researchers owe it as a duty to society, to constantly offer legal opinions to serve as additional guides to leaders, institutions, policy makers and their advisors in the discharge of their responsibilities and towards promotion and sustenance of responsible and responsive governance.

Keywords: Constitution, Democracy, President, National Assembly, Legislature, Summons, Senate, House of Representatives, Law.

1. Background

Nigeria`s Federal Legislature is bicameral and the two houses of parliament are jointly known as the National Assembly. The National Assembly as established by the Nigerian Constitution,[1] is made up of the Senate which is the upper legislative arm[2] and the House of Representatives which is the lower arm.[3] Apart from the constitutional power to make law for

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[1]Constitution of the Federal Republic of Nigeria (CFRN), 1999, s. 47

[2]*Op Cit*, s. 48.
[3]*Op Cit, s. 49.*

the order and good governance of Nigeria or any part thereof[4] with respect to matters contained in the Exclusive[5] and Concurrent[6] Legislative lists, the National Assembly possesses oversight powers for the purpose and in exercise of which the National Assembly or any arm of it may institute or cause to be instituted an investigation into any matter or thing[7] or into the conduct of the affairs of any person, authority, Ministry, department,[8] or to invite or summon any person in Nigeria to appear before it in pursuance of the any of the purposes aforesaid,[9] and in the event of any such summons being dishonoured, to be entitled to issue a warrant against any person so defaulting.[10] It was perhaps in pursuance of these constitutional powers, and while adopting a motion under matters of urgent national importance sponsored by Hon. Satomi Ahmed[11] at the plenary, Nigeria`s House of representatives had on December 01, 2020 resolved to invite the Nigerian president, Mr. Muhammadu Buhari, to appear before the House on December 10, 2020, to brief the legislators on the true state of the security of the Nation,[12] an invitation which the President immediately indicated his readiness to honour[13] but later failed (to honour).[14] However, in a statement[15] personally signed by himself, to explain the President`s backtrack-decision to not honour the House summons, the Attorney-General and Minister of Justice of the Federal Republic of Nigeria, Mr. Abubakar Malami, SAN, stated that the right of the President to engage the National Assembly and appear before it *"is inherently discretionary."* The Honourable Attorney-General further argued that the National Assembly *"has no constitutional powers"* to envisage or contemplate a situation where the President would be summoned to explain operational use of the Armed Forces. The authors of this research paper consider the present analysis necessary because the authors, being themselves legal scholars and learned researchers, believe they owe society some duty to constantly offer legal opinions on issues of law to guide leaders and institutions in the discharge of leadership responsibilities".[16]

2. National Assembly's Power of Investigation and Summons

2.1 Relevant Provisions of the Constitution

Section 88 (1) & (2) of the Constitution of the Federal Republic of Nigeria (CFRN), 1999 provides:

(1) Subject to the provisions of this Constitution, each House of the National Assembly shall have power by resolution published in its journal or in the Official Gazette of the Government of the Federation to direct or cause to be directed investigation into - (a) any matter or thing with respect to which it has power to make laws, and (b) the conduct of affairs of any person, authority, ministry or government department charged, or intended to be charged, with the duty of or responsibility for - (i) executing or administering laws enacted by National Assembly, and (ii) disbursing or administering moneys appropriated or to be appropriated by the National Assembly. (2) The

[4] *Op Cit, s. 4(1) and (2).*
[5] Op Cit, s. 4(1) and (3); see also Part 1, Second Schedule, Constitution of the Federal Republic of Nigeria (CFRN), 1999.
[6] *Op Cit, s. 4(4)(a); see also Part 2, Second Schedule, CFRN, 1999.*
[7] *Op Cit, s. 88(1)(a).*
[8] *Op Cit, s. 88(1)(b)*
[9] *Op Cit, s. 89(1)(c).*
[10] *Op Cit, s. 89(1)(d)*
[11] Member, Federal House of Representatives, representing the Jere Federal Constituency in Borno State, Nigeria, 2019 --2023.
[12] The Guardian, "Insecurity: Reps Summon Buhari over Borno Massacre" (The Guardian Nigeria News - Nigeria and World NewsDecember 1, 2020) <https://guardian.ng/news/insecurity-reps-summon-buhari-over-borno-massacre/> accessed May 6, 2021
[13] The Guardian,"Buhari to Address National Assembly on Thursday" (The Guardian Nigeria News - Nigeria and World NewsDecember 7, 2020) <https://guardian.ng/news/buhari-to-address-national-assembly-on-thursday/> accessed May 6, 2021
[14] The Nation, "Insecurity: President Buhari Fails to Honour Reps Invitation" (Latest Nigeria News, Nigerian Newspapers, PoliticsDecember 10, 2020) <https://thenationonlineng.net/insecurity-president-buhari-fails-to-honour-reps-invitation/> accessed May 7, 2021
[15] Vanguard Newspapers, "Why Buhari Can't Honour Reps' Summons - AGF, Malami" (Vanguard News, December 10, 2020) <https://www.vanguardngr.com/2020/12/why-buhari-cant-honour-reps-summons-agf-malami/> accessed May 7, 2021
[16] Udemezue, Sylvester, 'The Place For "Kick-Backs" & "Bribes" In Our Efforts To Kick Back Corruption & Kick-Start Responsible Governance In Nigeria (A Legal Opinion)' (The Nigeria Lawyer, 23 October 2018) <https://thenigerialawyer.com/the-place-for-kick-backs-bribes-in-our-efforts-to-kick-back-corruption-kick-start-responsible-governance-in-nigeria-a-legal-opinion-by-sylvester-udemezue/> accessed May 6, 2021.

powers conferred on the National Assembly under the provisions of this section are exercisable only for the purpose of enabling it to – (a) make laws with respect to any matter within its legislative competence and correct any defects in existing laws; and (b) expose corruption, inefficiency or waste in the execution or administration of laws within its legislative competence and in the disbursement or administration of funds appropriated by it.

Section 89 (1) and (2) provide:

For the purposes of any investigation under Section 88 of this Constitution and subject to the provisions thereof, the Senate or the House of Representatives or a committee appointed in accordance with Section 62 of this Constitution shall have power to - (a) procure all such evidence, written or oral, direct or circumstantial, as it may think necessary or desirable, and examine all persons as witnesses whose evidence may be material or relevant to the subject matter; (b) require such evidence to be given on oath; (c) summon any person in Nigeria to give evidence at any place or produce any document or other thing in his possession or under his control, and examine him as a witness and require him to produce any document or other thing in his possession or under his control, subject to all just exceptions; and (d) issue a warrant to compel the attendance of any person who, after having been summoned to attend, fails, refuses or neglects to do so and does not excuse such failure, refusal or neglect to the satisfaction of the House or the committee in question, and order him to pay all costs which may have been occasioned in compelling his attendance or by reason of his failure, refusal or neglect to obey the summons, and also to impose such fine as may be prescribed for any such failure, refused or neglect; and any fine so imposed shall be recoverable in the same manner as a fine imposed by a court of law. (2) A summons or warrant issued under this section may be served or executed by any member of the Nigeria Police Force or by any person authorised in that behalf by the President of the Senate or the Speaker of the House of Representatives, as the case may require.

Section 308:

(1) Notwithstanding anything to the contrary in this Constitution, but subject to subsection (2) of this section - (a) no civil or criminal proceedings shall be instituted or continued against a person to whom this section applies during his period of office; (b) a person to whom this section applies shall not be arrested or imprisoned during that period either in pursuance of the process of any court or otherwise; and (c) no process of any court requiring or compelling the appearance of a person to whom this section applies, shall be applied for or issued: Provided that in ascertaining whether any period of limitation has expired for the purposes of any proceedings against a person to whom this section applies, no account shall be taken of his period of office. (2) The provisions of subsection (1) of this section shall not apply to civil proceedings against a person to whom this section applies in his official capacity or to civil or criminal proceedings in which such a person is only a nominal party. (3) This section applies to a person holding the office of President or Vice-President, Governor or Deputy Governor; and the reference in this section to "period of office" is a reference to the period during which the person holding such office is required to perform the functions of the office.

2.2 The Discussion

As seen above, section 88 empowers the National Assembly or any arm of it,[17] to conduct investigations into any matter or thing with respect to which it has power to make laws, and or into the conduct of affairs of any person, authority, ministry or government department in Nigeria. It is submitted that "any person"[18] includes all persons and authorities in Government and all members of the executive arm, including the President of the Federal Republic of Nigeria. This is because the President is the leader among the persons or authorities in Nigeria, "charged, with the duty of or responsibility for executing or administering laws enacted by National Assembly, and of disbursing or administering moneys appropriated or to be appropriated by the National Assembly", as envisaged by the Constitution.[19] Section 89(1)(c) empowers the National Assembly to issue "a summons" to any person in Nigeria for purposes of appearing before the National Assembly to give evidence or to produce any document for purposes of such investigations. However, some lawyers have argued that it is an abuse of constitutional powers for the National Assembly to summon the President. According to this school of thought, "the provisions of sections 88 and 89

[17] as part of its oversight functions.
[18] as used in section 88(1)(b) (supra)
[19] section 88 (1)(b)(i)&(ii) of the Constitution

of the Constitution do not apply to the President"[20] of the Federal Republic of Nigeria because the immunity granted to Mr. President under the Constitution[21] forbids the National Assembly from issuing any form of summons against Mr. President. They argue that a *"summons is a legal process of compulsion and compellability, disobedience to which can be enforced by the Police and can lead to detention and imprisonment"*,[22] from which the President is exempt as a result of the immunity provisions in section 308 of the Constitution. The position of this school of thought may be summed as follows:

The summons issued against the President by the House of Representatives is in the nature of a court process, from which the President of the Federal Republic is exempt by virtue of section 308; and

A summons is a legal process disobedience to which may lead to arrest and possible detention of the person so summoned and so disobeying, and since, by virtue of section 308 of the Constitution, it is legally forbidden to arrest or detain Mr. President, while he is still in office, it follows that the National Assembly is legally incapable of summoning the President, especially as there is no means of enforcing Mr. President's compliance with any summons so issued.

The Authors agree that Mr. President cannot be arrested or detained while in office and is not liable to answer to any court summons during the subsistence of the tenure of his office; more so in the present instance, and especially because section 89 of the Constitution applies *"subject to the provisions of the Constitution"* while Section 308 applies *"notwithstanding anything to the contrary in this constitution"*.[23] However, with due respect, the proponents of this idea appear to not have adverted their minds to the fact that there are other ways of killing a rat beside setting a trap for it, and that the present situation may not be as clear-cut or as simple as they have made it to appear, especially because the oversight powers of the National Assembly[24] are awesomely enormous and that in a proper democratic setting, disobedience to summons issued in exercise of the powers of the National Assembly under such circumstances is a serious constitutional breach. In the present instance, as an example, the summons by the House of Reps is said to be specifically to get the President to appear before the House "to brief them on the true state of the security of the Nation".[25] Is it not a serious matter if the President decides to shun such a summons by the Federal Legislature at such a critical time over such a major national issue, especially in view of the constitutional injunction that "the security and welfare of the people shall be the primary purpose of government"?[26]

2.3 Are Summons Issued Pursuant to Section 89 In the nature of Court Summons?

For the following reasons, in addition to the aforesaid, the Authors respectfully disagree with the view that the summons issued by the House of Representatives pursuant to Section 88 and 89 of the CFRN, 1999, is in the nature of a court/judicial summons.

The National Assembly is not a Court of law. The Constitution creates courts of law which fall within the judicial arm of the government; the National Assembly represents the legislature, not the judiciary and their powers are not judicial powers.

The makers of the Constitution had deliberately inserted section 89(1)(c) CFRN to empower the National Assembly to summon any person; "any person" excludes no one and includes everyone.
Section 308(1)(c) CFRN which exempts Mr. President from "processes" specifically and strictly covers only processes of *"any court requiring or compelling the appearance of"* Mr. President; it doesn't extend to a process (say, a summons) issued by the National Assembly.

Further, in A.G Federation V. Abubakar,[27] the Court of Appeal took time to explain the scope and limits of the immunity afforded to the President of the Federal Republic under the Constitution. It is obvious from the court`s pronouncement that summons issued by the National Assembly pursuant to its investigative powers and oversight functions under sections 88 and 89 of the Constitution are excluded. The words of sections 308(1)(c) leave no one in

[20] See for example, Ojukwu, Ernest Prof., 'House of Reps has no powers to summon President Buhari under sections 88 and 89 of the Constitution- Prof. Ojukwu' (BarristerNG, 10 December 2020) <https://www.barristerng.com/house-of-reps-has-no-powers-to-summon-president-buhari-under-sections-88-and-89-of-the-constitution-prof-ojukwu/> accessed May 6, 2021
[21] S.308
[22] Ojukwu, *Op. Cit.*
[23] See section 308(1) and section 88(1)
[24] as a watchdog of the executive arm, headed by Mr. President
[25] The Guardian, *Op Cit (n ii)*
[26] Section 14(2)(b) CFRN, 1999.
[27] (2007) LPELR-8995(CA)

doubt that Section 308 does not extend beyond summons from courts and other judicial bodies. The court said, in that case:[28]

The immunity under Section 308 of the Constitution prohibits every civil and criminal proceeding against the President, Vice-President, Governor and Deputy Governor notwithstanding and/or regardless of the Court where the prosecution takes place, whether it is before a Court of Law established by Section 6(5) of the Constitution or a Tribunal established by Paragraph 15(1) of the Fifth Schedule to the Constitution, with the features of a Court and performing the duties of a Court.

Moreover, it appears, the *"Expressio unius est exclusio alterius"* Rule of Statutory Interpretation is relevant here; the rule states that the express mention of one thing in a statute excludes all other things not mentioned therein. This is illustrated in the case of R v Inhabitants of Sedgely.[29] The "Noscitur a sociis" Rule appears also relevant; it postulates that "words (used in a statute) have no meaning except in the context they are used".[30] The meaning of an enactment must be ascertained from its text, in light of its purpose and in its context. The legislature must be taken in a statute to have said exactly what it means, and also to mean exactly what it has said therein. It therefore goes without saying that interpretation of a word or expression must depend on the text and the context. In People v. Jefferson,[31] the California Court of Appeals, 4th District, USA, observed that the role of the courts in construing a statute is to ascertain the intent of the Legislature so as to effectuate the purpose of the law. Also, according to the Court of Appeal of the US state of Indiana,[32] "the first and often last step in interpreting a statute is to examine the language of the statute". Indeed, the statutory test should be both the ending point as well as the starting point of statutory interpretation.[33] This is because words are the skin of the language, while language is the medium of expressing the object that a particular provision or the Act seeks to achieve. Accordingly, to find the real intentions of the drafters of a statute, regard must be had to the context, subject-matter and object of the statutory provision in question. Courts and jurists achieve this by carefully analyzing the whole scope and provisions of the statute or section relating to the word or phrase under consideration.[34] All in all, all approaches to statutory interpretation start (if not necessarily end) with the language and structure of the statute itself.[35] This is because the language and provisions of a statute are the most reliable indicator of the intent of the makers of the statute.[36] This is why **Thomas Jefferson** gave the following counsel:

On every question of construction [of the Constitution] let us carry ourselves back to the time when the Constitution was adopted, recollect the spirit manifested in the debates, and instead of trying what meaning may be squeezed out of the text, or intended against it, conform to the probable one in which it was passed."[37]

2.4 The President is not above the laws of the land

In Military Governor of Lagos State v. Odumegwu-Ojukwu, Oputa, JSC declared that,[38] *"here in Nigeria, even under a Military Government, the law is no respecter of person, principalities, government or powers…"* The rule of law requires that every person is subject to the ordinary law within the jurisdiction.[39] Rule of law is the predominance that is absolute of an ordinary law over every citizen and institution regardless of status, position, power; the people (including the President of the Federal Republic) are subject to, ruled by, and must obey and be accountable to, the ordinary laws of the land.[40] Explaining the nature and application of the rule of law in an article,[41] Sylvester Udemezue wrote thus:

[28] *Ibid*, Per ABOKI, J.C.A (pp. 22-44, paras. B-D)
[29] (1831) 2 B & Ad 65 (UK)
[30] See Inland Revenue v Frere [1964] 3 All ER 796
[31] (1999) 21 Cal.4th 86, 94 [86 Cal.Rptr.2d 893, 980 P.2d 44
[32] In Ashley v. State, 757 N.E.2d 1037, 1039 , 1040 (2001)
[33] See <see:https://www.everycrsreport.com/reports/97-589.html> accessed May 6, 2021.
[34] Rao, S., "External Aids to Interpretation of Statutes: A Critical Appraisal," published on ww.ssrn.com, accessed May 6, 2021.
[35] everycrsreport, Op Cit
[36] see: People v. Lawrence (2000) (US) 24 Cal.4th 219, 230 [99 Cal.Rptr.2d 570, 6 P.3d 228]; See also Barnhart v. Sigmon Coal Co., 534 U.S. 438, 450 (2002)). See also: Udemezue, Sylvester, 'Role of Internal & External Aids In Statutory Interpretation: A Disquisition On Legitimateness Of "Jurisdictive Discretion"'
[37] Finkelman, Paul, 'Encyclopedia of American Civil Liberties' (Routledge, 2006) https://books.google.com.ng/books?id accessed May 6, 2021.
[38] (1986) LPELR-3186(SC)
[39] Garner, B, In: Black's Law Dictionary (9th ed., Thomson Reuters, 2009) 1148
[40] Geoffrey de Q. Walker, The rule of law: foundation of constitutional democracy, (1st Ed., 1988
[41] Udemezue S.C., "Conventionalism or Constitutionalism: Gombe State Governor Is

The Black`s Law Dictionary defines rule of law as the doctrine that every person is subject to the ordinary law within the jurisdiction. Rule of law is the predominance that is absolute of an ordinary law over every citizen and institution regardless of status, position, power. Much of the content of the rule of law can be summed up in two points, one of which is "that the people (including, one should add, the government) should be ruled by the law and obey it. Rule of law requires that all persons and organizations including governments and government officials (such as Governors and the most senior judges) are subject, and accountable to, ordinary laws of the land. On its part, the Supreme Court of Nigeria has repeatedly emphasized that "the Nigerian Constitution is founded on the rule of law, the primary meaning of which is that everything must be done according to law. Nigeria, being one of the countries in the world which profess loudly to follow the rule of law, there is no room for the rule of self-help by force to operate." Also, as has been said, "the rule of law bakes no bread, it is unable to distribute loaves or fishes (it has none), and it cannot protect itself against external assault, but it remains the most civilized and least burdensome conception of a state yet to be devised."

2.5 Power of National Assembly to Penalize Disobedience of its Summons to the President

During the subsistence of the tenure of his office, the President is not liable to be arrested, detained, prosecuted or proceeded against in any court of law, under any circumstances whatsoever.[42] This notwithstanding, the President ignoring or shunning a summons issued by the National Assembly under the present circumstances[43] may have some alternative serious lawful consequences, some of which are:

Impeachment (removal from office):[44]

The process of impeachment is one major (alternative) weapon the National Assembly could deploy towards punishing a President who disobeys such summons. The Constitution has set out how the process of removing the President from office (impeachment) is commenced:[45]

Whenever a notice of any allegation in writing signed by not less than one-third of the members of the National Assembly: (a) is presented to the President of the Senate; (b) stating that the holder of the office of President... is guilty of gross misconduct in the performance of the functions of his office, detailed particulars of which shall be specified.

The exact scope of the nature of the *"gross misconduct"*[46] for which Mr. President may be removed from office, has not been precisely delineated by the Constitution or by the courts. Such has been left entirely to be determined by the "opinion" of the National Assembly. Hence, *"gross misconduct"* means *"a grave violation or breach of the provisions of this Constitution or a misconduct of such nature as amounts in the opinion of the National Assembly to gross misconduct".*[47] This definition was affirmed by the Supreme Court of Nigeria in the celebrated case of Inakoju v. Adeleke.[48]

Withholding Proposals for Approval of Funds Submitted by the President

Beside commencing a process of impeachment against Mr. President, the National Assembly may, in reaction to any disobedience by the President to its summons, withhold its approval to any subsequent fiscal proposals presented to the National Assembly by Mr. President. This is similar to what obtains in the United States of America. In answer to the question, *"How strong is Congress' power to oversee the executive branch",* Barrington Wolff of the University of Pennsylvania Law School observed as follows:[49]:

Right; Office of the Chief Judge of a State Is Not the Exclusive Birthright of the Most Senior Judge" (LawAndJustice, November 23, 2020) <https://www.lawandjustice.ng/2020/11/conventionalism-or-constitutionalism.html> accessed May 9, 2021

[42] CFRN, 1999, s. 308.

[43] *Ibid* (n 8).

[44]The word "impeachment" is assigned its meaning under Nigerian Law. See: Udemezue S.C., "Role of Internal and External Aids in Statutory Interpretation: A Disquisition on Legitimateness of Jurisdictive Discretion" (2021) Vol. 16 COMPARATIVE & NON-U.S. CONSTITUTIONAL LAW eJOURNAL <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3744740&dgcid=ejournal_htmlemail_comparative:nonu.s.:constitutional:law:ejournal_abstractlink. > accessed May 6, 2021

[45]Section 143(1) (a)&(b) of the CFRN, 1999

[46] CFRN, 1999, s.143(2)(b).

[47] *Op Cit,* s. 143(11)

[48](2007) LPELR-1510(SC), per Musdapher, J.S.C (p. 176, paras. C-E

[49]"U.S. president vs. congressional investigators: How the battle of the branches could play out' (University of Pennsylvania) <https://link.springer.com/article/10.1057/s41284-020-00234-6 > accessed May 7, 2021,

Congress can issue subpoenas to demand information from executive branch officials about their actions and seek the assistance of the federal courts in enforcing those subpoenas. Congress can, in extraordinary cases, withhold funding from an office of the executive branch that it believes is abusing the public trust. The appropriations power—the power to raise and allocate money—lies with Congress, and that is a powerful tool if Congress chooses to use it. And, in the most extraordinary cases, Congress can open impeachment inquiries. Even when impeachment does not result in removal of an executive or judicial officer—and, of course, a sitting president has never been removed by conviction following impeachment—the impeachment process raises the question of abuse of the public trust in a way that focuses the attention of the nation.

3. Questions of Accountability and Transparency

So much resources and funds have been approved[50] by the National Assembly for Mr. President over the past six years[51] or thereabouts for purposes of fighting and containing rising/worsening insecurity in the country. Security sector budget rose from about US$1.44 billion in 2009 to US$2.81 billion in 2018.[52] Is the National Assembly not morally and legally entitled, in exercise of its oversight functions, to decide to conduct an inquiry/investigation into how these funds, appropriated by it, have been disbursed or utilized, especially as there appears to be no sign that insecurity is abating in the country, despite the huge funds appropriated for or deployed to fighting same? Besides, it is not a secret that the military-led counter-insurgency operation in Nigeria faces some notable challenges, in respect of which the National Assembly may need some explanation from Mr. President during the interface; hence the summons. Further, Nigerian people[53] want to know why their country is no longer safe and why citizens and resident are no longer able to sleep with their two eyes closed. What other matters matter could be more pressing or urgently deserving of Mr President`s attention than a summons from the National Assembly on issues of security?

3.1 Effect of Section 308 on Powers of the National Assembly Under Sections 88 and 89

Section 88(1) of the Constitution does not mince words; it provides:

...each House of the National Assembly shall have power by resolution published in its journal or in the Official Gazette of the Government of the Federation to direct or cause to be directed investigation into -any matter or thing with respect to which it has power to make laws, and (b) the conduct of affairs of any person, authority, ministry or government department charged, or intended to be charged, with the duty of or responsibility for - (i) executing or administering laws enacted by National Assembly, and (ii) disbursing or administering moneys appropriated or to be appropriated by the National Assembly.

Section 88(2) CFRN specifies the purposes for which the National Assembly may embark upon such investigations thus:

...for the purpose of enabling it to (a) make laws with respect to any matter within its legislative competence and correct any defects in existing laws; and (b) expose corruption, inefficiency or waste in the execution or administration of laws within its legislative competence and in the disbursement or administration of funds appropriated by it.

For the purpose of exercising its powers under Section 88 CFRN, each house of the National Assembly has powers to summon “any person” in Nigeria to give evidence at any place or produce any document or other thing in his possession or under his control, and examine him as a witness and require him to produce any document or other thing in his possession or under his control.[54] It is respectfully submitted that *"any person"* as used in section 89, includes Mr. President. Although, one may be right to suggest that the President is generally not compellable, and may thus be shielded by section 308 from the powers of the National

[50] See for example Buhari ‘Withdraws $462 Million From Excess Crude Account Without National Assembly Approval’ (https://www.premiumtimesng.com/news/top-news/265969-buhari-withdraws-462-million-from-excess-crude-account-without-national-assembly-approval.html accessed May 7, 2021)

[51] Since 2015. The administration of President Muhammadu Buhari came into power on May 29, 2015.

[52] Onuoha, F.C. *et al.*, ' Counterinsurgency operations of the Nigerian military and Boko Haram insurgency: expounding the viscid manacle' (Springer Nature Switzerland, 17 February 2020) < https://link.springer.com/article/10.1057/s41284-020-00234-6> accessed May 7, 2021

[53] Through their elected representatives in the national Assembly

[54] CFRN, 1999, s 89(1)(c)

Assembly under sections 89(1)(d) & 89(2) CFRN relating to warrant of arrest, fine, etc., yet the awareness that section 308 cannot and does not protect Mr. President against invocation or exercise of the powers of the National Assembly under section 143 CFRN, should be sufficient warning to Mr. President that he cannot toy with any invitation or summons of the National Assembly given pursuant to sections 88 and 89 of the Constitution. It is respectfully submitted that the provisions of section 308(1)(c) of the Constitution exempting Mr. President from any "process" (including summons) requiring or compelling Mr. President's appearance, does not apply to a summons issued by the National Assembly or an arm of it, pursuant to sections 88 and 89. Section 308(1)(c) relates to only a *"process of any court requiring or compelling"* Mr. President's appearance.

4. The National Assembly is not a court of law

The National Assembly is not a court of law. And the conduct of an investigation[55] by the National Assembly could hardly be said to be synonymous with exercise of the judicial powers of a Court of Law under section 6,[56] etc., of the Constitution. By virtue of Section 6(6)(b) of the Constitution of the Federal Republic of Nigeria, the Judicial Powers vested in Courts shall extend to all matters between persons in Nigeria, and to all actions and proceedings between government or authority and to any person in Nigeria for the determination of any question as to the civil rights and obligations of that person.[57] By virtue of section 129 of the Constitution, a legislative house may sometimes exercise judicial powers, this is not the case herein.[58] Accordingly, in Attorney-General of the Federation v. the Guardian Newspapers Ltd, Karibi-Whyte JSC stated as follows:[59]

the Legislature had no business to veer into the sphere of influence exclusive to the Court as Constitutionally guaranteed without breaching the concept of separation of powers as equally guaranteed by the Constitution.[60]

Beyond the aforesaid, the authority of the National Assembly is limited to law-making and to exercising oversight functions of investigating or inquiring into any matter within the legislative powers of the National Assembly, which powers may only be exercised for purposes of making or amending a law or of correcting some mistakes in an existing law or of exposing corruption, inefficiency or waste in the execution or administration of laws enacted within its legislative competence and in the disbursement of funds appropriated or to be appropriated.[61] In the case of House of Representatives v. SPDC (Nigeria),[62] the Nigerian Court of Appeal observed as follows:

In McGvain v. Daugherty 273 U.S. (1927) the United State Supreme Court settled the question of the right of the U.S. Congress to conduct investigations when it said that: "The power of Congressional inquiry with the process to enforce it is an essential and appropriate ancillary to the legislative function." Also in Walkins v. United States, (1957) U.S. 17, the United States Supreme Court said that: "The power of the Congress to conduct investigations is inherent in the legislative process." See also Anderson v. Dunn 19 U.S. 204 (1821). Under the 1999 Constitution of the Federal Republic of Nigeria, Section 88(1)(a) & (b) confer on the National Assembly the power to conduct investigation into any matter or thing with respect to which it has power to make laws as well as into the conduct or affairs of any person, authority, ministry or government department charged or intended to be charged with the execution or administering such laws made by the National Assembly as well as disbursement

[55]pursuant to section 88 CFRN

[56] Section 6 (1) and (2) provides that *"The judicial powers of the Federation shall be vested in the courts to which this section relates, being courts established for the Federation. (2) The judicial powers of a State shall be vested in the courts to which this section relates, being courts established, subject as provided by this Constitution, for a State".*

[57] Ogunmokun v. Mil. Admin Ogun State (1999) 5 NWLR (594) 251 and P.P.M.C. Ltd V. Delphi Pet (2005) 8 NWLR (Pt 928) at 458.

[58]*Ibid*

[59] (1999) 9 NWLR (Pt.618) at 187 particularly at 237 para. H

[60] See also Chevron (Nig) Ltd V. Imo State House of Assembly (2016) LPELR-41563(CA)

[61]*Ibid.* See also Olafisoye V. Federal Republic of Nigeria (2004) 4 NWLR (Pt. 864) 580 at 597; Ogunmokun V. Mil. Admin Osun State (supra), P.P.M.C. Ltd V. Delphi Pet. (supra); SPDC V. Isaiah (2001) 11 NWLR (Pt.723) 179 paras, E- H and 180 - 181 paras, A- E Per Mohammed, Belgore and Wali, JSC (as they were); who held on the authorities of Barry & 2 Ors. v. Obi A. Eric & 3 Ors. (1998) 8 NWLR (Pt. 562) 404 at 416; The SPDCN Ltd. V. Otelemaba Maxon & Ors. (2001) 9 NWLR (Pt. 719) 541, Uwaifo v. A-G. Bendel State (1982) 7 S.C. 124; (1983) NCLR 1; Din V. A-G. Federation (1986) 4 NWLR (pt. 87) 147 and A-G. Lagos State V. Dosunmu (1989) ALL NLR 504 (1989) 3 NWLR (Pt. 111) 352

[62](2010) LPELR-5016(CA)

or administering moneys appropriated or to be appropriated by the National Assembly.

Finally, on this, it appears the makers of the Constitution had, in drafting the provisions of section 308, wisely refrained from extending the coverage of such processes to summons issued by the National Assembly so as to not frustrate the oversight functions of the National Assembly[63] aimed partly at checking the conduct by Mr. President, of the affairs of the nation.

5. Precautions and Options Open to Mr President

5.1 Maintaining Reciprocal Respect Among the Various Arms of Government

There must be some mutual respect among the various arms of Government. Although the present authors hold the respectful view that the President is obliged to honour a summons properly issued by the National Assembly pursuant to Sections 88 and 89, nevertheless, where the President or his advisers think that the National Assembly has acted *ultra vires* in issuing any such summons, the proper course of action open to the President is not to shun the National Assembly or to disregard the invitation/summons. The proper course under such circumstances is to approach a court of law with a request that such actions of the National Assembly or an arm of it, be struck down for being an abuse of the powers of the National Assembly under the Constitution. This would show that Mr. President treats the National Assembly with the respect the latter deserves, as well as portrays the President as law-abiding. In INEC v. Musa,[64] the Supreme Court counseled thus:

The supremacy of the National Assembly is subject to the overall supremacy of the Constitution. Accordingly, the National Assembly which the Constitution vests powers cannot go outside or beyond the Constitution. Where such a situation arises, the courts will, in an action by an aggrieved party, pronounce the Act unconstitutional, null and void. See A.-G., Abia State v. A.-G Federation (2002) 6 NWLR (Pt. 763) 264.

5.2 Precautions Relating to Fear of Public Exposure of Classified National Security Information

While justifying Mr. President`s refusal to honour the summons by the House of Representatives, the Hon Attorney-General had argued further as follows:

The confidentiality of strategies employed by the President as Commander-in-Chief of the Armed Forces of the Federal Republic of Nigeria is not open for public exposure, in view of security implications and not to undermine the war against terror.[65]

In the present authors` respectful view, there appears to be no reasons for anyone to preemptively conclude that the President`s honouring a summons issued by the House of Representatives, might involve Mr. President in exposing any classified information relating to public security, public defense, public safety or of any matter in respect of which it would not be in the interest of the public to publicly disclose.

From publicly available information since December 01, 2020,[66] it appears that the sole purpose of the House Summons was to get Mr. President to address the House of Representatives on the worsening security situation in Nigeria. The present authors are unable to see how such a situation would involve Mr. President in publicly disclosing any classified public information. Besides, the House of Representatives had only asked Mr. President to come and address it, and not to come and take questions from it. Accordingly, and with due respect, it may be interpreted as speculative, preemptive or premature for anyone to conclude that the purpose of the summons was to get the President to publicly disclose classified security/public information. And, from the President`s response on December 07, 2020,[67] it appears that Mr. President perfectly understood why he was being summoned, and also that it had little or nothing to do with public disclosure of classified security matters; hence, in his said acceptance speech, he had gladly offered to address a joint session of the two Houses of the National Assembly, instead of only the House of Representative.[68] Besides, if the President had honoured the summons/invitation, and after

[63] under to Sections 88 and 89 of the Constitution
[64] (2003) LPELR-24927(SC), per Tobi, J.S.C (p. 100, paras. A-C)
[65] *Ibid (n 15)*
[66] *Ibid* (nos. 12 and 13)
[67] *Ibid (n 13)*
[68] See endnote iii (supra)

delivering his address to the National Assembly, it is doubtful whether Mr. President would have been under any obligation to answer any questions from any Senator or Honourable Member of the House of Representatives, especially where the President thought that answering or responding to such question(s) might lead to disclosure of any classified security information.

Further, assuming, but not conceding, that honouring the summons would lead to public disclosure of classified security information, one may choose to borrow a leaf from the provisions of section 36 (4) (b) of the Constitution relating to how to deal with such a scenario in a court proceeding:

… if in any proceedings before a court or such a tribunal, a Minister of the Government of the Federation or a commissioner of the government of a State satisfies the court or tribunal that it would not be in the public interest for any matter to be publicly disclosed, the court or tribunal shall make arrangements for evidence relating to that matter to be heard in private and shall take such other action as may be necessary or expedient to prevent the disclosure of the matter.

The Nigerian National Assembly is not, and does not have the status of, a court of law. Nevertheless, there is hardly any harm in borrowing a leaf under such circumstances to exclude members of the public from its proceeding if there is need to take any document or information from Mr. President that may involve public disclosure of such sensitive matters. And just as a court of law reserves powers to exclude members of the public from its own proceeding in deserving circumstances,[69] the National Assembly, at the request of the President of the Federal Republic, may just borrow a leaf and do the needful to secure, protect and preserve any such sensitive material or information.

6. Conclusion and Recommendations

It is respectfully submitted that the National Assembly comprising elected representatives of the Nigerian people from the 360 Federal Constituencies that make up the Federal House of Representatives and the 109 Senatorial Districts that make up the Senate of the National Assembly, are entitled, at their request, to be addressed by Mr. President, and to have detailed/comprehensive updates from the horse`s mouth on any deserving national issue in the country. Such a briefing/an address helps to place the National Assembly in a better stead to offer explanations to the constituencies and senatorial districts they represent, and, in deserving circumstances, to make better-informed and better-considered decisions on issues of national importance, especially in view of the constitutional roles and responsibilities of the National Assembly, ranging from granting relevant approvals and confirmations; amending extant laws or making new ones to take care of prevailing circumstances; appropriating revenue or more revenue to ensure adequate funding of relevant institutions; creating more institutions or increasing the powers of existing ones; to covering up perceived loopholes (if any). It is further submitted that neither the provisions of section 308 of the Constitution nor the fear that classified security information may be publicly disclosed, nor anything else in the Constitution or extant law in Nigeria, authorizes or entitles Mr. President to ignore or otherwise disobey a summons validly issued by the National Assembly under sections 88 and 89, CFRN. Where such summons is issued, the Constitution has armed the National Assembly with sufficient coercive mechanism to secure compliance or to punish noncompliance thereof. It is instructive to draw from the explanation given in the United States` case of McGrain v. Daugherty by Justice Van Devanter to justify the essential and inherent nature of the legislature`s coercive power of summons. Justice Van Devanter said:[70]

…the power of inquiry—with process to enforce it—is an essential and appropriate auxiliary to the legislative function… A legislative body cannot legislate wisely or effectively in the absence of information respecting the conditions which the legislation is intended to affect or change; and where the legislative body does not itself possess the requisite information—which not infrequently is true—recourse must be had to others who possess it. Experience has taught that mere requests for such information often are unavailing, and also that information which is volunteered is not always accurate or complete; so some means of compulsion are essential to obtain what is needed. All this was true before and when the Constitution was framed and adopted. In that period the power of inquiry—with enforcing process—was regarded and employed as a necessary and appropriate attribute of the power to legislate—indeed, was

[69] See the CFRN, 1999, s. 36(4)(a).

[70] *per* , 273 U.S. 135, 174–175 (1927), cited in

treated as inhering in it. Thus, there is ample warrant for thinking, as we do, that the constitutional provisions which commit the legislative function to the two houses are intended to include this attribute to the end that the function may be effectively exercised.

Is there any need to amend the Constitution to introduce legislative power to summon the President and Governors?

Apparently following the refusal of the President of the Federal Republic of Nigeria to honour the summons issued by the House of Representatives on December 01, 2020, a bill for an Act to alter the Constitution of the Federal Republic of Nigeria, 1999, to grant power to the National Assembly and the Houses of Assembly of the various States, to respectively summon the President and the Governors, was reportedly introduced in Nigeria`s National Assembly and said to have scaled second reading at the House of Representatives.[71] Justifying the move, the sponsor of the Bill, Hon. Sergius Ogun,[72] stated thus:
the doctrine of separation of power must be upheld….the basic doctrine closely related to the exercise of legislative powers in a democracy was the doctrine of separation of powers…the Bill if passed would help to invite the president and governors to answer questions…on any matter whatsoever, over which the National Assembly and States Houses of Assembly have powers to make laws. You will recall what happened [recently] … when the House [of Representatives] summoned President Muhammadu Buhari but he failed to honour the invitation. Part of the reasons [then] adduced for the President's non-appearance was that the House had no constitutional powers to invite him. Such invitations to the President were not expressly stated in Nigerian laws…the lawmakers must give it constitutional backing to be able to summon the President and State Governors.[73]

With the greatest respect, the present authors disagree with the statement made by the sponsor of the Bill to the effect that *"Such invitations to the president were not expressly stated in Nigerian laws".* From the explanations made, argument adduced and authorities cited in this paper by the present authors, the authors respectfully reiterate their suggestion that the National Assembly of the Federal Republic of Nigeria is already sufficiently, constitutionally empowered to invite or summon the President who in turn is obliged to honour such an invitation or summons. This suggestion is both reasonable and constitutional, for purposes of maintaining orderliness and of promoting transparency and good governance in a modern-day society. Accordingly, the planned amendment of the Constitution to introduce such powers afresh, is a mere superfluity, because the amendment would amount to introducing into the *grund norm,* powers that already exist in the Constitution. It is further submitted that what is required in this respect is obedience to the Constitution, and not an amendment to it. The Constitution provides:[74]This Constitution is supreme and its provisions shall have binding force on the authorities and persons throughout the Federal Republic of Nigeria.[75] The Federal Republic of Nigeria shall not be governed… except in accordance with the provisions of this Constitution.[76] Besides, as one author has explained,[77] "civilized existence is one which respects the extant law, both the wise, the good and the bad laws, and one whose constitutional basis is the will of the people….Rights given by fad and fashion are just as easily taken away. Let no one mess with the Constitution. The Constitution matters". Everything boils down to this famous wise saying, "a place for everyt*hing and everything in its place."*[78] In the meantime, speaking generally, and borrowing from **Alan Watts,** *"By replacing fear of the unknown with curiosity we open ourselves up to an infinite stream of possibility. We can let fear of the unknown rule over our lives or we can become childlike with curiosity, pushing our boundaries, leaping out of our comfort zones, and accepting what life puts before us".* Following the counsel that we should learn to do the very thing we are afraid of,[79] **Lilian Russel** once declared that what one does with

[71] PremiumTimes, "Bill Seeking Powers to Summon President, Governors Scales Second Reading" (Premium Times NigeriaMarch 16, 2021) <https://www.premiumtimesng.com/news/more-news/449212-bill-seeking-powers-to-summon-president-governors-scales-second-reading.html> accessed May 9, 2021

[72] A member of the House of Representatives, representing Esan North East/Esan South East constituency in the 9th National Assembly, Nigeria, 2019-2023.

[73] Premium Times, *Op Cit*

[74] S. 1(1) and (2).

[75] CFRN, 1999, s. 1(1).

[76] Op Cit., s (1(2).

[77] Udemezue (n 41)

[78] Per Benjamin Franklin

[79] Raph Waldo Emerson

that fear is what will make all the difference in the world.

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Exploring Mechanisms for Enforcing Human Rights within the Context of International Law: Issues and Challenges

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Abstract. There is no doubt that the World Wars I & II fought between 1914 to 1918 and 1939 to 1945 prompted the establishment of international institutions such as the League of Nations created after World War I and the subsequent United Nations formed in 1945 which laid the groundwork for global cooperation to address violations of human rights. Despite the efforts made to maintain global peace over the past years, there have been gross violations of human rights as the world continues to witness a series of wars. The recent conflicts in Syria, the war between Russia and Ukraine, and the Gaza war between Hamas and the Israeli Forces have led to widespread human rights violations, which highlights the urgency or need to address human rights violations beyond state sovereignty. This research explores the conflict between state sovereignty and enforcing human rights globally. It examines legal frameworks of international organizations, and alternative tools like sanctions, alongside the role of civil society against human rights violations. While International law offers mechanisms such as the United Nations human rights system, their effectiveness is limited by politics. The study acknowledges the growing influence of "soft law" through public pressure from NGOs and the media. Beyond legal avenues, the research explores the Responsibility to Protect (R2P) framework, allowing intervention in extreme human rights violations despite sovereignty concerns. It emphasizes the need for cultural sensitivity to avoid neo-colonial approaches. The research also proposes several approach that prioritizes human rights while acknowledging the complexities of the international landscape which includes economic pressure through targeted sanctions and diplomatic actions. As a recommendation, it highlights the power of civil society and grassroots movements in challenging state impunity even as it advocates for a shift towards a more holistic approach involving diverse actors to bridge the gap between theory and practice in global human rights enforcement.

Keywords: State Sovereignty, Human Rights Enforcement, Responsibility to Protect (R2p), International Law, Civil Society

1. Introduction

The relationship between states sovereignty and international humanitarian law or human rights law is a complex and multifaceted concept. While international law recognises states right to control their borders and decide who becomes a citizen within the framework of their sovereignty, this sovereignty is often tempered by obligations or responsibilities under international law as a result of different treaties, covenants (Mutawlli et al., 2024; Aidonojie et al., 2024, Imoisi and Aidonojie, 2023), and conventions, including those related to human rights as the concept of state sovereignty is not cast on stone or absolute (EMM2, 2014). Also, states have obligations under international law, established through treaties which have been ratified or negotiated (Majekudumi et al., 2022; Oladele et al., 2022; Aidonojie et al., 2021). This means sovereign states have a three-pronged duty: “to respect human rights by not interfering with their enjoyment, to protect individuals and groups from human rights abuses and violations, and to fulfil human rights by taking steps to ensure people can exercise

their basic rights as well the need to also be prepared to address situations where non-state actors, like businesses, infringe on these rights" (EMM2, 2014).

Despite state sovereignty, limitations on certain rights, particularly related to nationality or migration status, may be permissible under international law if they are necessary, proportionate, non-discriminatory, and consistent with other treaty rights. States may derogate from their human rights obligations under international law, such as during times of war or public emergency, but such derogations must be proportionate, temporary, and consistent with other international obligations.

The contemporary international legal framework on state sovereignty places significant emphasis on human rights, which serve as essential safeguards against state excesses and uphold the dignity of all individuals (Masajuwa and Aidonojie, 2020; Aidonojie et al., 2021; Egielewa and Aidonojie; 2021). Despite the tension between state sovereignty and human rights enforcement, certain core rights remain absolute even in times of war, unrest, or crisis which are often referred as non-derogable.

The principle of non-derogability asserts that specific rights are fundamental, such as the right to life and the prohibition of torture, are absolute and cannot be suspended under any circumstances. This principle is enshrined in instruments like the International Covenant on Civil and Political Rights (I.C.C.P.R.), which explicitly prohibits derogation from these core rights (Caparas, 2005). These rights are considered universal and inherent to human dignity, forming peremptory norms of international law. Other sovereign may argue for temporary limitations on rights during emergencies, citing national security concerns. However, such measures must adhere to the principle of proportionality and remain strictly necessary and limited in scope. Non-derogable rights ensure the preservation of human dignity and prevent state impunity, even in challenging circumstances (Jochnick, 1999). Upholding these rights remains crucial for maintaining a just and rights-respecting international order.

Sovereignty, in international political theory, refers to the highest authority in decision-making within a state and in upholding order. It is a complex concept closely tied to ideas like statehood, government, independence, and democracy (Encyclopedia Britannica, 2024). The concept of sovereignty has greatly impacted both internal affairs within states and relations between them. While some scholars interpret sovereignty as absolute power, Timberg (1947) argued sovereigns are bound by higher laws and internal constitutions. For Hobbes (1651), sovereignty as limitless power leading to a constant state of war between nations (Mukhis et al., 2023; Aidonojie, 2023). The 20th century saw limitations on this with The Hague Conventions, League of Nations, and the 1948 United Nations (UN) Universal Declaration of Human Rights (U.D.H.R) which all encouraged peaceful resolutions and limited use of force. This shows a shift from absolute sovereignty to a system with limitations accepted by states, creating a balance between international cooperation and state autonomy (Roland, 2016). Articles 2(3)(4) of the U.N Charter expressly provide thus:
"All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered. ...Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations." (United Nations Charter (1945).

As provided above, Article 2 of the Charter expressly establishes a foundation for peaceful relations between member states. It compels states to prioritize settling disagreements through diplomatic channels, negotiation, or other non-violent means. This ensures that international peace, security, and justice aren't jeopardized by conflicts (Majeludumi et al., 2022; Aidonojie and Francis, 2022; Aidonojie et al., 2022). Furthermore, Article 2 forbids or prohibits member states from the use of force or threats of force against each other's territory or independence. This applies to any action that contradicts the core principles of the UN, which focus on fostering global peace and cooperation.

Under international law, the violations of human rights encompass actions that disregard certain fundamental, which include discrimination, torture, arbitrary detention, censorship, and forced displacement. These violations inflict profound suffering on individuals, including physical and psychological trauma, loss of freedom, and dignity even as such violations create an atmosphere of fear and insecurity within communities. It also undermines global principles of justice, equality, and dignity, eroding trust in governments and institutions

which can lead to instability and conflict, with spillover effects across borders. Regarding this, The Geneva Academy of International Humanitarian Law and Human Rights (2024), stated that addressing human rights violations is imperative for promoting peace, stability, and sustainable development worldwide as efforts to combat such violations include advocacy, legal action, diplomatic pressure, sanctions, and international cooperation.

Worthy of note is the fact that some countries in parts of the Middle East and some part of the Northern Africa region over the have been experiencing over 45 armed conflicts, with notable involvement in countries like Cyprus, Egypt, Iraq, Israel, Libya, Morocco, Palestine, Syria, Turkey, Yemen, and Western Sahara (Brahimi, 2021). These conflicts predominantly involve non - state actors and foreign interventions by Western powers, Russia, and neighbouring countries, with exceptions in Egypt and Turkey. Noteworthy is the fact that Syria stands out as the most impacted country in the region with gross human rights violations, facing multiple and overlapping non-international armed conflicts involving various armed groups, gun men, or armed militias fighting against the government and each other, along with military occupations and international armed conflicts globally.

Globally, state's sovereignty has been threatened resulting from incidence of violence, war, banditry, armed militia and recent unknown-gun men threatening regions such as Northern and Eastern Nigeria in recent times. Africa is left out in the armed conflicts threatening state sovereignty (Antai, 2024) in the continent with activities of Boko Haram currently ravaging most activities in North - East Nigeria and armed Bandits in the region. As provided by the Geneva Academy of International Humanitarian Law and Human Rights (2024), there are over 35 armed conflicts within the African region, primarily non-international, occurring in countries like Burkina Faso, Cameroon, the Central African Republic (C.A.R.), the Democratic Republic of the Congo (D.R.C.), Ethiopia, Mali, Mozambique, Nigeria, Senegal, Somalia, South Sudan, and Sudan. These conflicts or crisis usually involve numerous armed groups fighting against government forces and each other, with interventions from Western powers and neighbouring countries in certain cases. The Central African Republic (C.A.R.) faces significant internal strife with multiple non-international armed conflicts involving various rebel groups, including the anti-Balaka and ex-Séléka, alongside infighting among armed groups (Niyo, 2013).

According to the Geneva Academy of International Humanitarian Law and Human Rights, in Asia, there are about 21 armed conflicts, primarily non-international, occurring in countries such as Afghanistan, India, Myanmar, Pakistan, and the Philippines. Additionally, while there are two international armed conflicts between India and Pakistan, and between India and China, Pakistan and the Philippines are particularly affected, with governmental forces combating various armed groups across their territories. Also, the Armed Conflict Survey (2022), as provided in the Geneva Academy of International Humanitarian Law and Human Rights Report, shows that Europe has seen seven armed conflicts, including military occupations by Russia (Livinska, 2022) in Crimea (Ukraine), Transdniestria (Moldova), South Ossetia, and Abkhazia (Georgia), as well as Armenia's occupation of parts of Nagorno Karabakh (Azerbaijan). The region also experiences an international armed conflict between Ukraine and Russia, along with two non-international armed conflicts in Ukraine involving governmental forces and the self-proclaimed 'People's Republics' of Donetsk and Luhansk (Tymoshenko, et al., 2023). Latin America witnesses six armed conflicts, split evenly between Mexico and Colombia. Colombia faces prolonged non-international armed conflicts, while Mexico experiences conflicts involving gangs and drug cartels, which are now classified as non – international armed conflicts due to the level of organization and intensity of violence.

2. The Tension Between Sovereignty and Human Rights

The concept of state sovereignty, once revered as a cornerstone of international relations, faces increasing scrutiny in light of persistent human rights violations across the globe (Vedovato & Naspolini, 2015). Historically, sovereignty shifted from divine authority (God) to the state. Dalgarno, (1974) reasoned that thinkers like Jean Bodin and Thomas Hobbes justified monarchs' independence from churches and feudal estates, establishing the autonomy of political states. The Peace of Westphalia in 1648 further solidified sovereignty (Croxton, 1999) in European absolute states, granting monarchs sacral, sovereign rights which later spread globally, becoming a fundamental aspect of both international and domestic law.

Worth noting is the assertion that the development of human rights or the international human rights movement challenged traditional notions of sovereignty accrued to states. The movement sought to protect individuals globally, transcending national boundaries as International human rights instruments, such as the 1948 U.D.H.R. of the United Nations, emphasized individual rights over state sovereignty.

The conflict involving or between state sovereignty and human rights transcend beyond this, in the sense that then states violate human rights, they may invoke sovereignty as a defence against criticism or scrutiny which has made critics argue that universal human rights protection necessitates rejecting state sovereignty (Walling, 2015). In essence, full human rights protection may require encroaching upon or even breaking down state sovereignty. While contemporary debates on sovereignty of states and human rights persists, some argue that sovereignty remains essential for maintaining order and stability, while others advocate for stronger international mechanisms to enforce human rights as balancing these interests is crucial to maintaining global peace and stability.

The tension between sovereignty and human rights often manifests in instances where governments prioritize their perceived security interests over individual rights. For instance, governments may justify restrictive measures like censorship and surveillance under the pretext of safeguarding national security or preserving political stability (Schofer, 2015). However, such actions often infringe upon certain rights such as freedom of expression, privacy, and due process, creating a conflict between state authority and human rights protection. This tension is evident in the use of mass surveillance by authoritarian regimes to suppress dissent, violating privacy and freedom of expression rights (Aidonojie and Edetalehn, 2023; Aidonojie et al., 2023; Idahosa et al., 2023). Similarly, the imposition of censorship laws and internet regulations by governments curtails freedom of speech or expression and access to information, hindering public discourse.

In response to these violations, human rights advocates and C.S.Os challenge government actions through legal avenues, international advocacy, and grassroots mobilization. They argue that respect for human rights is crucial for upholding the rule of law and ensuring accountable governance. However, governments often perceive external pressure to respect human rights as an infringement on their sovereignty, exacerbating tensions between state authority and human rights protection (Hirschmann, 2021). Despite international condemnation, governments like North Korea, China, Russia, and countries in the Middle East assert their sovereignty to justify repressive measures, framing them as necessary for maintaining stability and security.

African countries such as Ethiopia and Nigeria have also grappled with this tension (Antai, 2024). For instance, Ethiopia faced criticism for its crackdown on political dissent following the 2020 general elections, invoking sovereignty to justify internet shutdowns and arrests of opposition leaders. In Nigeria, protests under the #EndSARS movement in October 2020 against police brutality resulted in a government crackdown, citing national security concerns (Chiluwa, 2023). Similarly, Uganda's government used excessive force and internet shutdowns during the January 2021 elections, defending these actions as necessary for stability and sovereignty. These illustrate the complexities of balancing state authority with respect for fundamental freedoms and international norms (Aidonojie and Agbale, 2020; Masajuwa and Aidonojie, 2020). While governments have a legitimate interest in safeguarding national security and sovereignty, they must do so while upholding human rights principles. Achieving this balance requires robust legal frameworks, independent oversight mechanisms, and meaningful dialogue between states, civil society, and international actors.

3. Existing Mechanisms for Enforcing Human Rights

It is pertinent to state that mechanisms exist for enforcing human rights which span across various institutions, treaties, courts, and monitoring bodies at both international (Edet et al., 2023) and regional levels are crucial for promoting accountability, ensuring compliance with human rights standards, and providing remedies for violations (Salainti, 2023). International institutional bodies, such as the United Nations (U.N.), the International Criminal Court (I.C.C.) which is a permanent international court created to prosecute individuals for the most serious crimes of international concern, including genocide, war crimes, crimes against humanity, and the crime of aggression (Oguno, & Okafor, 2019). Established in 2002, the ICC prosecutes individuals for genocide, war crimes, crimes against humanity, and the crime of aggression.

Notable cases include the conviction of Thomas Lubanga, a Congolese warlord, in 2012 for conscripting children's soldiers (Mujuzi, 2016) in the Democratic Republic of the Congo (D.R.C.). As of 2021, the ICC has opened investigations into situations in most Middle East and other countries such as Afghanistan, Myanmar, and Palestine (Oaihimire and Aidonojie, 2023; Aidonojie and Egielewa; 2020; Imoisi et al., 2023). Also, other institutional mechanisms include the International Court of Justice (I.C.J.), European Court of Human Rights (E.C.H.R), and African Commission on Human and Peoples' Rights (A.C.H.P.R.), play vital roles in monitoring, reporting, and addressing human rights violations (Sarkin, 2011). They promote accountability, uphold human rights standards, and provide viable platforms for redress for victims of human rights abuse.

In the intricate tapestry of the modern world, the protection of human rights remains elusive despite the efforts of international organizations against certain rights abuse. Human rights violations, spanning from physical abuse to the denial of essential freedoms, not only inflict deep wounds upon individuals but also reverberate throughout the international community, shaping global dynamics in profound ways.

The United Nations (U.N) has established several bodies dedicated to monitoring and enforcing human rights globally. The UN Human Rights Council (U.N.H.R.C.), founded in 2006, conducts periodic reviews of member states' human rights records through mechanisms like the Universal Periodic Review (U.P.R), providing recommendations for improvement. Additionally, Special Procedures, such as Special Rapporteurs and Working Groups, investigate human rights violations and recommend corrective measures. Special Procedures, such as Special Rapporteurs and Working Groups, are independent human rights experts appointed by the U.N.H.R.C to investigate human rights violations, raise awareness, and recommend corrective measures. Treaty bodies, including committees overseeing the implementation of core human rights treaties such as the International Covenant on Civil and Political Rights (I.C.C.P.R) and the Convention against Torture (C.A.T), review state parties' compliance with treaty obligations through regular reporting and dialogue. They issue concluding observations and recommendations to states to address shortcomings (Aidonojie et al., 2022; Aidonojie, 2022). The U.N also carry out the Universal Periodic Review (U.P.R) which is a peer review of the human rights (Kim, 2024) records of all 193 U.N Member States. For instance, during the UPR in 2019, Nigeria faced scrutiny over human rights violations, including extrajudicial killings, arbitrary arrests, and restrictions on freedom of expression. Furthermore, treaty bodies, such as the Committee against Torture (C.A.T), have reviewed numerous countries' compliance (Von Staden, 2022) with human rights treaties. For example, in 2020, C.A.T expressed concern over reports of torture and ill-treatment in Egypt, urging the government to address these issues.

Regional organizations have also established their own human rights mechanisms to address violations within their jurisdictions (Edetalehn and Aidonojie, 2023; Gunawan et al., 2023; Aidonojie et al., 2023). The European Court of Human Rights (E.C.H.R), established in 1959, has adjudicated cases against member states of the Council of Europe. For example, in 2018, the E.C.H.R ruled against Russia in the case of Navalnyy v. Russia (2018 ECHR 1062), finding violations of the right to a fair trial and freedom of expression. Also, the Inter-American Commission on Human Rights (I.A.C.H.R), established in 1959, investigates human rights violations in the Americas. In 2019, the I.A.C.H.R issued a report on human rights abuses during protests in Nicaragua, documenting excessive use of force and arbitrary arrests.

These mechanisms, among others, form a comprehensive framework for enforcing human rights at the international, regional, and national levels. While challenges and limitations exist, including the need for greater cooperation among states and the issue of enforcement gaps, these mechanisms are essential for promoting accountability, protecting human dignity, and advancing the global human rights agenda.

4. Beyond Formal Mechanisms: The Power of Soft Law and Public Pressure

Beyond the formal mechanisms for state sovereignty the power of soft law and public pressure plays a vital role and wield significant influence in enforcing violations of human rights within the context of international human rights law (Antai, 2024). Soft law is the non-binding norms, principles, and guidelines that lack the enforceability of treaties or domestic laws as despite their non-binding nature, soft law instruments shape behaviour and

expectations. Under this context, it is trite to note that instances or examples exist. Soft law principles have driven Corporate Social Responsibility (C.S.R) initiatives globally. As of 2021, over 90% of Fortune 500 companies publish sustainability reports, reflecting growing awareness of human rights and environmental concerns (Zeng, & Nurunnabi, 2022). Although not legally binding, the 1948 U.D.H.R has profoundly influenced human rights discourse or debates globally as it sets forth fundamental rights and freedoms, serving as a moral compass for sovereign states.

Part of the soft law and power of public pressure beyond the formal mechanisms for state sovereignty is the guiding principles on business and human rights, commonly known as the Ruggie Principles. This principle stands as a pivotal framework delineating the obligations of both states and corporations concerning human rights. Crafted by John Ruggie, a Harvard University professor, these principles gained UN Human Rights Council endorsement in 2011, marking a significant milestone in the realm of business ethics and corporate social responsibility (Ruggie, 2017). At the core of the Ruggie Principles lies the notion of state duty to protect (Barnes, 2018). This foundational pillar underscores the fundamental responsibility of governments to safeguard human rights within their jurisdictions, even in the context of business activities. Complementing the state duty to protect is the corporate responsibility to respect human rights even as the principle places the onus on businesses to uphold human rights across all facets of their operations (Aidonojie et al., 2024; Safi' et. al., 2024).

Also, the Paris Agreement, adopted in 2015 under the United Nations Framework Convention on Climate Change (U.N.F.C.C.C), serves as another notable soft law instrument that exemplifies a flexible and collaborative approach to tackling global challenges like climate change and human rights issues globally (Abi, 2018). The Paris Agreement intersects with human rights enforcement by highlighting the potential violations of rights (Stoner, 2018) due to environmental degradation and the disproportionate impact of climate change on vulnerable populations and local communities. These violations may prompt legal action through domestic or international courts, supported by human rights enforcement mechanisms. Moreover, the Agreement's emphasis on public participation and transparency fosters accountability, enabling civil society and affected communities to advocate for their rights (Muhammad et al., 2024; Aidonojie et. al., 2024). Also, the recognition of indigenous rights promotes cultural diversity and strengthens human rights enforcement efforts. While the Agreement lacks explicit human rights enforcement mechanisms, its alignment with human rights principles (Soltani, 2024) offers opportunities for monitoring compliance, advocating for vulnerable populations, and promoting accountability in climate action.

Public Pressure also serve as a catalyst in this regard. Civil Society Organisations (CSOs) often carryout advocacy in advocating for human rights in territories where it is perceived lacking. NGOs, activists, and grassroots movements raise awareness, mobilize public opinion, and hold governments accountable such as Amnesty International's campaigns and Fridays for Future climate strikes among others.

5. Challenges and Limitations of Enforcement Mechanisms

Amidst the notion and stance by different states on state sovereignty challenges and limitations persist with much debates on territorial sovereignty. These challenges and conflicts exemplifying human rights violations include, the mass detention of Uyghur Muslims in China, torture in Syria's conflict, forced displacement in Yemen, extrajudicial killings in the Philippines, censorship in Belarus, and discrimination against Rohingya Muslims (Alia, et al., 2020) in Myanmar. It is therefore pertinent to say that the mechanisms which exist for enforcing human rights face a myriad of challenges and limitations that hinder their effectiveness in promoting accountability and protecting human dignity. One of such significant obstacles is the limited enforcement power inherent in many of these mechanisms. For instance, the European Court of Human Rights (E.C.H.R) issues judgments, but only about 20% of them are effectively enforced by member states, as reported by the International Bar Association. Russia, for example, has been criticized for its failure to implement numerous ECHR judgments, particularly concerning freedom of expression and fair trial rights (Antoci, & Lîsîi, 2024).

Selective compliance with human rights recommendations poses another challenge. In Myanmar, the government has faced international condemnation for its selective adherence to recommendations from the U.N Human Rights Council regarding the Rohingya crisis. Despite calls for accountability and an

end to human rights violations, Myanmar continues its persecution of the Rohingya minority, disregarding international pressure and recommendations.

Resource constraints also hamper the effectiveness of human rights mechanisms. The African Commission on Human and Peoples' Rights (A.C.H.P.R) struggles with limited funding and staffing shortages, affecting its capacity to address human rights abuses effectively (Bekker, 2013). In countries like the Democratic Republic of the Congo and Zimbabwe, resource constraints impede the Commission's ability to conduct investigations and provide remedies for victims of human rights violations.

Access and participation in human rights mechanisms are often restricted, particularly for marginalized groups. In Saudi Arabia, for example, access to such mechanisms is severely limited, especially for women and religious minorities. Restrictive laws and policies, coupled with harassment of human rights defenders, hinder victims' ability to seek justice through international mechanisms (Otteburn, 2023).

Political interference and influence further undermine the effectiveness of human rights enforcement. Powerful states like China wield significant influence within international bodies, obstructing efforts to address human rights abuses in countries like Syria and Myanmar. China's political influence within the UN Security Council has impeded efforts to hold perpetrators of human rights violations accountable (Solanke, 2012), weakening international mechanisms' ability to promote justice. The limited scope and coverage of human rights mechanisms leave gaps in protection, particularly for economic, social, and cultural rights. In countries like Brazil and India, marginalized communities face systemic discrimination and violations of their rights, yet these issues receive inadequate attention from existing mechanisms.

Despite international condemnation and recommendations, some countries fail to implement necessary reforms (Antai, 2024). Egypt, for example, has ignored calls for accountability and justice, disregarding recommendations from the UN Human Rights Council regarding arbitrary detention, torture, and freedom of expression. These ongoing human rights abuses highlight the challenges in enforcing human rights and underscore the need for concerted efforts to strengthen accountability and uphold human rights standards worldwide. To address these challenges, public authorities must regain control of organized violence, re-establish the rule of law, and rebuild trust in institutions. Promoting inclusive, democratic values can defuse exclusivist ideals and contribute to the protection of human rights. However, intervention may be necessary when those in power are responsible for human rights violations, requiring external support to halt the abuse (Antai, 2024).

6. Conclusion and Recommendation

The consequences of human rights violations are far-reaching and devastating, particularly for those directly affected.

Victims often endure enduring physical and psychological trauma, loss of livelihoods, displacement from their homes, and a profound erosion of trust within their communities. The pervasive climate of fear and insecurity generated by these violations can fracture the social fabric, exacerbating existing divisions and hindering efforts at reconciliation and peacebuilding. Also, violations human rights have significant implications for the international community at large. They can serve as catalysts for further conflict by stoking resentment and perpetuating cycles of violence. Mass atrocities and persecution frequently precipitate refugee crises of unprecedented scale, destabilizing entire regions and straining global resources even as the failure to address violations of human rights undermines the integrity of the international legal framework, eroding trust in institutions and impeding efforts to hold perpetrators accountable.

In all these, in the face of the complexities inherent in the current world order, collaborative action and steadfast commitment are imperative to realizing the vision of a world where human rights are universally respected and upheld. Only through collective endeavour can the international community strive towards a future where every individual is afforded the dignity and rights they inherently deserve. Also, to truly address human rights violations, it is proper to truly emphasize the importance of understanding and addressing their underlying causes, which stem from complex political, social, and economic problems. Strengthening civil society and addressing root causes can be seen as essential for the long-term protection of human rights.

Moving forward, the fight for human rights demands a multifaceted approach that addresses both systemic challenges and immediate needs. Strengthening international law with robust enforcement mechanisms and clear accountability measures is essential for ensuring compliance and deterring future violations. Supporting human rights organizations through adequate resources and political backing can enhance their capacity to document abuses and advocate for justice. Additionally, raising public awareness and mobilizing global pressure can amplify the voices of victims and galvanize action from the international community.

In all, while existing mechanisms for enforcing human rights face numerous challenges and limitations, concerted efforts can be made to overcome these obstacles and strengthen accountability globally. By addressing issues such as enforcement power, selective compliance, resource constraints, access barriers, political interference, and scope limitations, states can enhance the effectiveness of human rights mechanisms and promote justice and dignity for all their citizens. It is therefore imperative that to state that states, civil society organizations, and the international community work collaboratively to uphold human rights standards and ensure that perpetrators of human rights violations are held accountable for their actions against humanity.

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