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Editorial

This issue of *NIU Journal of Legal Studies* touches on the Issues and Challenges concerning access to Justice in Nigeria, Concept of Automated Income Tax in Edo State Nigeria, as well as Compensation for Oil Pollution Damage in Nigeria.

One of the papers, in this edition, suggests the development of a legal system of compensation for oil pollution damage that is based on the enactment of comprehensive law for compensation for oil pollution damage and the establishment of an independent regulatory institution with powers of arbitration, and its own rules of procedure, that will facilitate prompt, adequate and fair resolution of matters of compensation for oil pollution damage.

Another paper reveals that there are incidences of tax evasion in Edo state, that though the adoption of an automated income tax system could aid in curtailing the incidence of tax evasion in the State, there are legal and socio-economic shortcomings that could hamper the Edo State automated income tax system. It is therefore, recommended and concluded with proposals for enhancing the effectiveness of the computerized individual income tax system in Edo State. The study further emphasizes the need for a strong legal framework to support technology-driven tax systems and the importance of adopting best practices from countries like the United States to mitigate tax evasion.

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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Compensation for Oil Pollution Damage in Nigeria: Establishment of an Administrative Institution with Arbitrative Power to the Rescue?

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Abstract. The incessant restiveness in Nigeria's oil-producing communities over the lack of fair, adequate and prompt compensation for oil pollution damage puts a big question mark on the effectiveness of the country's current legal arrangement for compensation for oil pollution damage. Nigeria has no legal system for compensation for oil pollution damage, as there is no single law that is specifically enacted for it. No policy is formulated for its implementation, and no regulatory institution is established to enforce it. This study adopts a multi-method research design, incorporating both traditional legal analysis (doctrinal method) and socio-legal research techniques (non-doctrinal method) to investigate the effectiveness of compensation for oil pollution damage in Nigeria. For the doctrinal aspect, the study relies on relevant international laws, conventions and treaties, local legislation, past and extant Nigeria's Constitution, case law, textbooks, academic publications, law reports, encyclopedias, law dictionaries, and newspaper publications. For the non-doctrinal method of legal research, the study uses questionnaire survey as a versatile tool to gather useful and appropriate data/information on the effectiveness of energy industry compensation in some selected oil-producing communities of Bayelsa and Rivers States. The paper, therefore, suggests the development of a legal system of compensation for oil pollution damage that is based on the enactment of comprehensive law for compensation for oil pollution damage and the establishment of an independent regulatory institution with powers of arbitration, and its own rules of procedure, that will facilitate prompt, adequate and fair resolution of matters of compensation for oil pollution damage.

1. Introduction

Human activities are beginning to push the earth's systems beyond their limits (Baker, 2016). This is giving rise to some environmental concerns like climate change, biodiversity loss, ozone layer depletion and acid rain (Aidonojie et al., 2024; Adedoyin et al., 2024). These environmental concerns have constituted real threat to the very foundations of life on the planet, and the worry about them have assumed international prominence due to global awareness campaign spearheaded by the United Nations (UN), premising on the fact that adverse effects these environmental concerns produce have no respect for geographical delimitations or physical boundaries. The UN has, therefore, sought collective actions of all members of the global family to salvage and protect the earth from these environmental threats for the sustenance on earth of the present and future generations.

Active international efforts in this regard, spearheaded by the UN, really began with 1972 conference which was convened in Stockholm to discuss concern about the environment, and which was tagged "UN Conference on the Human Environment (UNCHE)". In 1992, another UN masterminded summit took place, this time, in Rio, Brazil. It was branded "The UN Conference on Environment and Development (UNCED)" (Umzurike, 1993). These two conferences were organized in response to the mounting alarm and anxiety over planetary health and the importance of collaborative efforts and actions against the growing environmental threats. The conferences produced two declarations (The

Stockholm Declaration and the Rio Declaration) that serve as the foundation for modern international environmental law; defining the rights and responsibilities of countries; and setting out a global action plan for all countries as regard sustainable exploitation of the environment. The declarations also produced some principles of international law which were established to underpin legal action in international jurisdiction in relation to liability of States for damage done to the natural world and its assets (Brisman, 2022).

These declarations tasked global community, including Nigeria, to exploit their resources with the obligation of protecting their domestic environment for both domestic and international environmental benefits (Dunoff, 1995). This is because the adverse environmental effects that planetary degradation will produce are of collective or universal concern of all mankind.

Nigeria, being a member of the UN and the global family, therefore, has the responsibility, like other members, to exploit her mineral resources, including oil and gas, in the manner that will guarantee the protection of her environment, not only for her benefit, but also for the benefit of the entire universe, in line with her obligations under the United Nations Declarations of 1972 and 1992. However, the country runs a monolithic economy with heavy reliance on energy extraction and processing (Ukhurebor et. al., 2024; Aidonjio et. Al., 2024). Oil and gas exploration is the country's major source of revenue. It accounts for 40% of her gross domestic product (GDP), 95% of her total exports and 80% of budgetary revenues (Okorodudu-Fubara, 2011). The country is currently ranked 11th in terms of having the largest proven oil reserves in the world with an estimated 37 billion barrels of proven oil reserves.

Toxic releases from hydrocarbon extraction are huge sources of deadly pollutants like Sulphur dioxide (SO₂), Nitrous oxide (NO_x), Chlorine, Fluorine, Carbons and others that birth the dreaded environmental concerns like climate change, biodiversity loss, ozone layer depletion and acid rain. Nigeria is, obviously, foot-dragging in ensuring elimination or prevention of pollution in her oil companies' operations. Spillage of petrochemical has, therefore, continued steadily since the country commenced energy mining business through direct spillage of oil in the process of oil production, human error during extraction process, failure of equipment, crude carrying vessels spills, spills from installations, facilities or storage vessels of the oil companies, oil ships and tankers accidents within the Nigeria's

waters, tanks failure in any of the seven oil terminals in Nigeria, oil products leakages through rupture of major oil-bearing pipelines of the oil companies, intentional and illegal oil dumping by oil companies, oil let-out in the process of oil drilling and refining (PEC, 2018), failure of oil drilling equipment, disposal of used oil by oil companies and other oil using companies in the country, routine cleanups of oil storage facilities, vandalism of oil companies' facilities, and natural disasters such as hurricanes, storm surge or high winds (Ikoni, 2010), and oil-well blow-outs such as the one that occurred at the off-shore station of Texaco in the Gulf of Guinea in 1980, and the blow-out at the Shell's Forcados oil terminal in Rivers State in 1981 (Eboe, 1985), resulting to a spill of an estimated four hundred thousand (400,000) barrels of crude oil.

When any of the above stated occurrences takes place, the Nigeria's environment becomes unfortunate and worse off. For instance, large track of communities' lands used for farming are frequently polluted by oil, thereby, rendering such lands unproductive and unsuitable for agriculture (Kadafa, Zakaria, & Othman, 2012). Flowing springs, surface and ground waters are also frequently compromised by oil, thereby becoming not good enough for drinking. Frequent disruption of daily life and economic pursuits are also triggered by incidents of petroleum spill into human environment. It also, raises great threat to the Nigeria's sustainable physical surroundings and ecological stability.

Nigeria has a long, persistent, traumatic and devastating oil pollution history, and it is still on-going at different times and places; varying forms and scales. There is hardly one month passing that information will not be disseminated on the web site of the National Oil Spill Detection and Response Agency (NOSDRA) (which is an agency of the Federal Government) in respect of incidents of oil pollution in Nigeria.

Nigeria's system of compensation for oil pollution damage is grossly ineffective, as it rarely resolves matters of compensation to anyone's satisfaction, if at all it offers anything. The frequent restiveness in the oil-producing communities over failure to compensated for oil pollution damage attests to the ineffectiveness of the system. A system can only be deemed effective when it is succeeding in respect of the purpose for which it was created.

There is no formulation of policy in Nigeria for compensation for oil pollution damage; there is no establishment of any regulatory institution or administrative authority to either implement policy or enforce any law on compensation; and, although, there

are laws that are usually adapted for that purpose; unlike the United States of America's Oil Pollution Act, which was specifically enacted for compensation for oil pollution damage; there is not any statute that is specifically enacted for compensation for oil pollution damage in Nigeria.

Some of the statutes that are adopted for such compensation include the Oil Pipelines Act (OPA). Sections 11, 19 and 20 of the Act are, usually, adapted for oil spill losses' indemnification. There is the Minerals and Mining Act (MMA), 2007. Its section 125 (a) is, usually adapted to make a case for relief to oil spill victims. There is, also, the adaptation of the provisions of Land Use Act (LUA) for the same purpose. None of these Acts was originally or primarily enacted to deal with compensation for oil pollution damage. They are merely, adapted to suit that purpose. Compensation is just a matter incidental to their respective original and primary purposes or objectives.

Nigeria's compensation system is hinged on the provisions of OPA's sections 11 (5) (c), 19, 20; MMA's section 125 (a); LUA 's sections 29 and 30. Court, due to its constitutionally endowed powers of adjudication under section 6 and chapter VII of the Constitution, also plays a very important role as regards compensation for oil contamination injury. To this extent, when there is an incident of oil spill, the affected victim(s) or villager(s) usually raise an alarm. Such alarm may be reported or escalated to the officials of NOSDRA who will, then, conduct a Joint Investigation Visit (JIV), involving the victims of the oil spill, representatives of the oil company involved, and some NOSDRA officials (Amokaye, 2004). This Joint Investigation Visit is in line with Regulation 5 of NOSDRA's Oil Spill Recovery, Clean-up, Remediation and Damage Assessment Regulation.

It is essential to clarify that the JIV is not intended to serve as a compensation payment mechanism. Rather, the objective is to identify the source of the spill, the company responsible for the spill, and the severity of the spill's impact, for the purpose of making appropriate response activities/arrangements in the form of clean-up or remediation in line with the agency's implementation of the National Oil Spill Contingency Plan, and in line with section 5 of NOSDRA Act. Its statutory mandate includes not subject of compensation or the undertaking of any activity for the purpose of compensation.

After conducting necessary joint visitation to the spill site led by NOSDRA officials, it is for the spill's

victim(s) to approach the culpable company for compensation. Although, there are some created guidelines used at one time or the other to serve as a guide for the assessment of the payable damages or recompense (Aidonjio et. al., 2024; Anani et. al., 2023), Oil Pipelines Act remains compensation payment's major governance statute. Some of those guidelines include the Oil Producers Trade Section (OPTS) Rates issued by the Lagos Chambers of Commerce; and the Shell Petroleum Development Company's Lands Department Procedure Guide and Administrative Guidelines issued by the Government as contained in the Technical Committee Report on Guidelines for Assessment of Oil Related Pollution, approved by the Executive Council in 1998. However, in Nigeria, court retains the ultimate power as to the determination of the amount appropriate as regards compensation for oil pollution damage, owing to sections 11, 19, 20 of OPA and section 29 of LUA.

Where there exists a disagreement between the victim(s) and the energy corporation in relation to settlement or the appropriate amount payable as compensation, such disagreement will be resolved in court as considered just in the circumstance (Aidonjio et. al., 2023; Aidonjio, 2023). In determining or calculating the appropriate amount payable as compensation, the court is to utilize the aspects of LUA to the extent that they do not run contrary to any provision of OPA, and as though the affected properties were acquired by the President for public use.

English Law also play important role as regards subject of petroleum contamination redress. Anyone who suffers oil pollution caused by an identified oil company (polluter), may commence a court action for compensation under any of these torts which he considers suitable for his action and claims.

2. Compensation for Oil Pollution Damage in Nigeria

There are two circumstances by which compensation applies in Nigeria's oil industry. The first one is where a property is compulsorily acquired from a land owner or anyone having proprietary interest in it for oil exploration or production purpose. That one is governed by a legal system which derives its source and validity from section 44 of the constitution of the federal Republic of Nigeria, 1999 (as amended). The second circumstance is where oil pollution damage is suffered by an occupier of a land as a result of exploratory activities of an oil company. This is not governed by any known legal system in Nigeria. Realization of compensation, in this case is subject to

the conventional system of dispute resolution which is, strictly, dependent on court action or litigation to be instituted by the claimant, or in any specialized court or under any special arrangement but in conventional courts, against the polluter, who is usually, an oil company. The claimant may bring his action under the statutes which are usually an adaptation of the provisions of the Oil Pipelines Act, Nigerian Minerals and Mining Act or the Land Use Act or a combination of all three. He may, also, bring his action under the Common Law tort of negligence, trespass, nuisance or the rule in *Rylands v Fletcher*.

A claimant who intends to rely on the fault-based Common Law tort for compensation has to prove that the defendant is at fault or negligent and that the said fault has resulted to a foreseeable injury or damage to him. Most often, claimants for compensation find it extremely difficult to get the desired remedy because of the inability to establish negligence, carelessness or recklessness against oil companies as courts sometimes insist on top-degree of proof before a claim can succeed. Such a standard of proof is usually difficult, especially with the attitude and tendency of oil companies in being too quick in blaming incident of oil spill on act of vandalism or sabotage of facilities by unknown persons.

For instance, in the case of *Shell Petroleum Development Company Limited v. Prince Ogan Mafimisebi & ors*, (2010) LPELR-4953 (CA) 112 the respondents who were farmers, fishermen and fish ponds owner respectively, claimed destruction of their businesses/properties by oil in the hand of the appellant.

They documented the valuation of the said damage and lodged it with Ondo State Environmental Agency. As a way of response to their complaint which was forwarded to it by the aforesaid agency, the appellant invited the respondents, representatives of the communities, the police and representatives of the Department of Petroleum Resources to do joint investigation of the said complaint of pollution. The result of the joint investigation was that the complaint occurred as a result of vandalism by an unidentified third party.

Based on this, the appellant refused to pay compensation to the respondents. The matter proceeded to court, and the trial court entered judgment for the respondents as entitled to compensation. However, on appeal, the appellate court reversed the decision and entered judgment for the appellant on the basis that the respondents were not able to establish that the pollution damage was as a

result of negligence of the appellant and not vandalism by third party.

2.1. Validity Test Using Coefficient of Concordance Technique

This coefficient is obtained with a view to testing for the validity of the instrument used for this study. The formula is stated as follows:

$$W = \frac{12 \sum_i D_i^2}{m^2 n(n^2 - 1)}, \text{ where:}$$

n is the number of individuals or objects being assessed;

m is the number of judgments on likert scale and

D_i is the difference between individual sum of likert scale and the overall judgments. Thus, we have:

$m = 5, n = 400, D_i = R_i - \bar{R}_i$, where R_i is the rank for the question under consideration. Therefore, $\sum D_i^2 = 125,642,519$ (obtained from R-statistical software).

Thus, we compute the coefficient as follows:

$$W = \frac{12 \sum_i D_i^2}{m^2 n(n^2 - 1)}$$

$$W = \frac{12(125,642,519)}{5^2 (400)(400^2 - 1)}$$

$$W = \frac{1,507,710,228}{1,559,990,000}$$

$$W = 0.9423 \cong 0.94$$

Interpretation: The Coefficient of Concordance value indicates unequivocally that the questionnaire contents are legitimate and that the instrumental technique (questionnaire delivery) is about 94% valid. Based on this, we can move further with the analysis.

2.2 Test of Reliability Using Kuder-Richardson Estimate

One of the most important reliability measures to take into account in the current investigation is internal consistency. Here, the Kuder-Richardson estimate is used to assess the study's internal consistency mainly in order to determine its reliability. The following is the formula:

$$KR_{20} = \frac{n}{n-1} \left[1 - \frac{\sum p_i q_i}{\sigma_x^2} \right],$$

where:

n is the number of items in the test, that is, the number of the respondents;

p_i is the proportion of correct items (responses that fall within the scales/ranks 3-5);

q_i is the proportion of wrong items (responses that fall within the scales/ranks 1-2);

σ_x^2 is the variance of scores in the test when all items are of equal difficulty.

In this case, we obtained the following quantities from the questionnaires using R -statistical software:

$n = 400$, $\sum p_i q_i = 18/23$ and $\sigma_x^2 = 4.676$, hence

the computation is done as follows:

$$KR_{20} = \frac{n}{n-1} \left[1 - \frac{\sum p_i q_i}{\sigma_x^2} \right]$$

$$KR_{20} = \frac{400}{400-1} \left[1 - \frac{18/23}{4.676} \right]$$

$$KR_{20} = \frac{400}{399} \left[1 - \frac{0.7826}{4.676} \right]$$

$$KR_{20} = \frac{400}{399} [1 - 0.1674]$$

$$KR_{20} = 0.8346 \cong 0.83$$

Interpretation: The result obtained as Kuder-Richardson's Estimate of Reliability indicates that, under all conditions, the respondents' responses to the surveys are approximately 83% reliable.

2.3 Empirical Results

Empirical results of the study conducted are presented in Tables 1 - 7.

Table 1: Victims of oil pollution damage are usually compensated immediately.

H_o : Victims of oil pollution damage are usually compensated immediately.								
Comm.	Categories of Responses					Statistical Test		
	SA	A	N	D	SD	df	χ_{cal}^2	P_{-value}
Brass	1	0	2	18	24	28	38.8511	0.0833
Ijaw	0	0	0	19	27			
Nembe	0	0	0	19	31			
Ogoni	0	0	1	24	30			
Ogu	1	3	1	19	30			
Oloibiri	3	1	0	16	29			
Onne	0	0	0	23	29			
Otuasega	0	0	0	23	26			
Total	5 (1.2%)	4 (1.0%)	4 (1.0%)	161 (40.2%)	226 (56.5%)			

Source: Fieldwork Questionnaire Administration and Electronic Computations (2024)

The results in Table 1 show that majority of the respondents (approximately 97%) disagreed and strongly disagreed to support the statement that victims of oil pollution damage are usually compensated immediately. This is also supported by the computation of chi-squared test where the null hypothesis also confirmed the same immediate statement above.

Table 2: Victims of oil pollution damage are usually compensated fairly and adequately.

H_o : Victims of oil pollution damage are usually compensated fairly and adequately.								
Comm.	Categories of Responses					Statistical Test		
	SA	A	N	D	SD	df	χ_{cal}^2	P_{-value}
Brass	1	0	2	18	24	28	38.8511	0.0833
Ijaw	0	0	0	19	27			
Nembe	0	0	0	19	31			
Ogoni	0	0	1	24	30			
Ogu	1	3	1	19	30			
Oloibiri	3	1	0	16	29			
Onne	0	0	0	23	29			

Otuasega	0	0	0	23	26			
Total	5 (1.2%)	4 (1.0%)	4 (1.0%)	161 (40.2%)	226 (56.5%)			

Source: Fieldwork Questionnaire Administration and Electronic Computations (2024)

The results in Table 2 show that majority of the respondents (approximately 97%) disagreed and strongly disagreed to support the statement that victims of oil pollution damage are usually compensated fairly and adequately. This is also supported by the computation of chi-squared test where the null hypothesis also confirmed the same immediate statement above.

Table 3: National Oil Spill Detection and Response Agency (NOSDRA) are involved in the facilitation of compensation to victims of oil pollution damage.

H_o : National Oil Spill Detection and Response Agency (NOSDRA) are involved in the facilitation of compensation to victims of oil pollution damage.											
Comm.	Categories of Responses					Statistical Test					
	SA	A	N	D	SD	df	χ^2_{cal}	P-value			
Brass	0	0	1	17	27	28	37.3701	0.1110			
Ijaw	0	0	0	24	22						
Nembe	1	7	2	16	24						
Ogoni	0	4	1	27	23						
Ogu	1	5	0	18	30						
Oloibiri	2	1	0	23	23						
Onne	0	4	0	24	24						
Otuasega	1	7	0	18	23						
Total	5 (1.2%)	28 (7.0%)	4 (1.0%)	167 (41.8%)	196 (49.0%)						

Source: Fieldwork Questionnaire Administration and Electronic Computations (2024)

The results in Table 3 show that majority of the respondents (approximately 91%) disagreed and strongly disagreed to the statement that National Oil Spill Detection and Response Agency (NOSDRA) are involved in the facilitation of compensation to victims of oil pollution damage. This is also supported by the computation of chi-squared test where the null hypothesis also confirmed the same immediate statement above.

Table 4: Matters of compensation for oil pollution damage end up in court and the court determines whether compensation is payable; the amount payable as compensation, and the appropriate person to receive compensation.

H_o : Matters of compensation for oil pollution damage end up in court and the court determines whether compensation is payable; the amount payable as compensation, and the appropriate person to receive compensation.											
Comm.	Categories of Responses					Statistical Test					
	SA	A	N	D	SD	df	χ^2_{cal}	P-value			
Brass	35	7	1	0	2	28	21.3174	0.8120			
Ijaw	40	5	0	1	0						
Nembe	42	7	0	1	0						
Ogoni	44	4	2	2	3						
Ogu	44	6	1	1	2						
Oloibiri	41	3	1	1	3						
Onne	47	2	1	0	2						
Otuasega	44	4	1	0	0						
Total	337 (84.2%)	38 (9.5%)	7 (1.8%)	6 (1.5%)	12 (3.0%)						

Source: Fieldwork Questionnaire Administration and Electronic Computations (2024)

The results in Table 4 show that majority of the respondents (approximately 94%) agreed and strongly agreed to the statement that Matters of compensation for oil pollution damage end up in court and the court determines whether compensation is payable; the amount payable as compensation, and the appropriate person to receive compensation. This is also supported by the computation of chi-squared test where the null hypothesis also confirmed the same immediate statement above.

Table 5: Victims of oil pollution are usually satisfied with the compensation they receive for oil pollution damage through the court.

H_o : Victims of oil pollution are usually satisfied with the compensation they receive for oil pollution damage through the court.								
Comm.	Categories of Responses					Statistical Test		
	SA	A	N	D	SD	df	χ^2_{cal}	P_{-value}
Brass	0	0	1	0	44	28	31.4776	0.2960
Ijaw	2	1	2	0	41			
Nembe	0	4	2	2	42			
Ogoni	0	2	2	0	51			
Ogu	0	0	0	2	52			
Oloibiri	1	2	2	1	43			
Onne	0	3	0	2	47			
Otuasega	0	2	1	0	46			
Total	3 (0.8%)	14 (3.5%)	10 (2.5%)	7 (1.8%)	366 (91.5%)			

Source: Fieldwork Questionnaire Administration and Electronic Computations (2024)

The results in Table 5 show that majority of the respondents (approximately 93%) disagreed and strongly disagreed to the statement that victims of oil pollution are usually satisfied with the compensation they receive for oil pollution damage through the court. This is also supported by the computation of chi-squared test where the null hypothesis also confirmed the same immediate statement above.

Table 6: Compensation for oil pollution damage through court action is always delayed and take a long time.

H_o : Compensation for oil pollution damage through court action is always delayed and take a long time.								
Comm.	Categories of Responses					Statistical Test		
	SA	A	N	D	SD	df	χ^2_{cal}	P_{-value}
Brass	0	41	3	0	1	28	26.1537	0.5650
Ijaw	3	37	4	0	2			
Nembe	3	43	1	1	2			
Ogoni	5	46	0	1	3			
Ogu	5	44	2	2	1			
Oloibiri	4	42	2	0	1			
Onne	1	45	1	2	3			
Otuasega	2	42	0	1	4			
Total	23 (5.8%)	340 (85.0%)	13 (3.2%)	7 (1.8%)	17 (4.2%)			

Source: Fieldwork Questionnaire Administration and Electronic Computations (2024)

The results in Table 6 show that majority of the respondents (approximately 91%) agreed and strongly agreed to the statement that compensation for oil pollution damage through court action is always delayed and take a long time. This is also supported by the computation of chi-squared test where the null hypothesis also confirmed the same immediate statement above.

Table 7: An administrative body or institution is needed and necessary in order to effectively administer subject of compensation for oil pollution damage.

H_o : An administrative body or institution is needed and necessary in order to effectively administer subject of compensation for oil pollution damage.								
Comm.	Categories of Responses					Statistical Test		
	SA	A	N	D	SD	df	χ^2_{cal}	P_{-value}
Brass	23	19	1	1	1	28	24.9749	0.629
Ijaw	21	22	3	0	0			
Nembe	16	30	2	1	1			
Ogoni	19	35	0	0	1			
Ogu	19	33	1	0	1			
Oloibiri	20	24	1	1	3			
Onne	24	26	0	1	1			
Otuasega	15	32	1	0	1			

Total	157 (39.2%)	221 (55.2%)	9 (2.2%)	4 (1.0%)	9 (2.2%)			
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Source: Fieldwork Questionnaire Administration and Electronic Computations (2024)

The results in Table 7 show that majority of the respondents (approximately 94%) agreed and strongly agreed to the statement that an administrative body or institution is needed and necessary in order to effectively administer subject of compensation for oil pollution damage. This is also supported by the computation of chi-squared test where the null hypothesis also confirmed the same immediate statement above.

3. Compensation for Oil Pollution Damage under International Law

Oil and gas being global commodities have attracted international attention. It is also globally acknowledged that oil production may be accompanied by environmental damage, hence, provisions for compensation for oil pollution damage provided for, even, in international legal instruments.

There are international instruments on pollution due to oil, such as the Convention on Civil Liabilities for Oil Pollution Damage (Civil Liability Convention), 1969 and the Convention on the Establishment of International Fund for Oil Pollution Damage (Fund Convention) 1971 (Ukhurebor and Aidonojie, 2021; Aidonojie et. al., 2022). These Conventions cover compensation for all sea-going vessels carrying oil in bulk as cargo and they apply to pollution damage within the waters of countries that are party to them; they are applicable to oil spillage caused by ships while on the high seas.

The occurrence of oil spillage under the international regime is a strict liability offence and therefore, there is no need for a victim to prove that the ship-owner is negligent. More importantly, the plaintiff has the opportunity of claiming from ship-owners whose ships caused the oil pollution harm. Where the sum from the ship owner is limited or is insufficient to compensate the victims because of the enormity of the damage; the victims can also recover from the International Oil Spill Compensation Fund (IOPC Fund) (Jacobsson, 2007).

IOPC Fund is raised by levies from all persons who have received in the calendar year, more than 150,000 tons of crude oil and heavy fuel oil from a state party to the IOPC Fund and from the contributions received from state contributors. Although there are no uniform compensation schemes under international law, there are few principles they have in common, which are:

- damage to property tends to be calculated by reference to the actual cost of repairing or replacing the property, or the difference between the value before and after the spill;
- compensation for damage to natural resources (where this is provided for) tends to be calculated by reference to the cost of remediating or replacing the lost or damaged natural resources. The compensation schemes do not generally provide for additional, independent compensation for damage to natural resources;
- damages for loss of subsistence use of natural resources can be included compensation for consequential losses and pure economic losses (such as loss of income) are generally provided;
- it can include the cost of bringing a claim, including the use of advisers where appropriate;
- the heads of loss identified in the compensation schemes are generally not exhaustive or exclusive: for example, the French court awarded damages for non-pecuniary losses in addition to those provided for by the International Convention on Civil Liability for Oil Pollution Damage 1992 similarly, the American Oil Pollution Act does not contain damages for personal injury but these can be claimed under state or admiralty law;
- non-pecuniary losses (save to the extent that these might be recoverable as damage to natural resources or loss of subsistence use) and punitive damages are generally not expressly recoverable under the compensation schemes.

4. Comparative Study of Compensation for Oil Pollution Damage in Nigeria with the International Best Practice under the Civil Liability Convention and the Fund Convention

The current legal arrangement in Nigeria for compensation for oil pollution damage presupposes that court is the ultimate determinant of merit or otherwise of any claim or subject of compensation. There is no room for arbitration, conciliation or mediation. There is, also no establishment of any regulatory institution or administrative body to strictly investigate and articulate claims of compensation in

order to establish the veracity of such claim, and to undertake action and responsibility for the purpose of processing compensation. Instead, any matter or claim for compensation has to proceed to court (Aidonojie et. al., 2020; Aidonojie and Anani, 2024). This is contrary to our traditional conflict resolution philosophy and worldview which is premised on the fact that two people cannot engage each other in court action and still remain friends.

Nigeria is not ripe for this cosmopolitan system of compensation. Majority of Nigerians, especially the inhabitants of communities where oil is deposited are uneducated, poor and starving. It is difficult for them to take up an action against a polluter in court. The late sage, Chief Obafemi Awolowo, once reflected that as thus: “though, there are no statistics on the assessment of poverty in Nigeria, anyone who has been to all parts of the country will readily agree that more than seventy percent of Nigerians live in abject poor conditions and not less than sixty percent of them are actually starving (Anani et. Al., 2024; Anani et. Al., 2023). They have for houses shelters unsuitable for poultry or piggery. The vast majority of our poor live in rural areas which are neglected and almost forgotten”. Late C.A. Oputa, also once made an heartfelt and emotional comment that “while some Nigerians are poor at one time or another during their lives, majority, especially, in the Niger Delta, are poor all of their lives (Oputa, 1989).

Court actions are, also, highly technically oriented. Once a claimant commences his action on a legally wrong foot, it will be difficult for him to regularise or perfect his position and continue in the matter. Most times, oil companies undertake production of oil in joint terms with the country’s petroleum corporation, NNPC. In that case, any oil pollution damage that occurs under such joint venture is deemed to be jointly caused by the oil company and the NNPC. To commence an action against, or join NNPC in any court action, a pre-action notice, as and in the format prescribed by law, is required, and it constitutes a condition precedent to commencement of such action. Where a claimant fails to issue one month notice, in writing, of his intention to commence such matter, his suit, as constituted, becomes impossible. Court is robbed of jurisdiction to hear such. This position has long been confirmed by the apex court of the land in *Madukolu v. Nkemdilim (1962) 2SCNLR 341* that:

A court is said to be competent when:

- It is properly constituted as regards members and qualification of members of the bench, and no member is disqualified for one reason or another

- The subject matter of the case is within its jurisdiction and there is no feature in the case, which prevents the court from exercising its jurisdiction
- The case before the court was initiated by due process of law and upon fulfilment of any condition precedent to the exercise of jurisdiction

If after the suit is struck out, the claimant takes a step to regularise his action by, thereafter, giving the required pre-action notice, and then recommences his action after one month of which the notice has been served, it would be already well over statute barred by being caught up by relevant provisions of statute on public officers’ protection which:

prohibits prosecution or proceeding in court against a public officer unless it is commenced within three months next after the act, neglect or default complained of. The implication of this is that such claimant, by mere commencement error of his suit, is deprived justice.

Little wonder that actions for claims hardly succeed against oil companies. Recently, Nigerians who have claims against multinational oil companies for compensation choose to pursue their case against the multinational oil companies in their home countries (headquarters) where the parent or holding companies are situated.

Unlike in Nigeria where compensation is not governed by a specific legal framework and not administered by any authoritative body, the international regime of such compensation is based and governed by two sets of conventions, the International Conventions for Oil Pollution Damage (Civil Liability Convention) and the International Convention on the Establishment of International Fund for compensation for Oil Pollution Damage (Fund Convention) respectively (Barandiaran, 2003); and which are administered by the International Maritime Organization (IMO) (Anani et. al., Aidonojie et. al., 2022).

Civil Liability Convention’s principle towards ship owners is not fault based but that of legal responsibility that is strict. The system of the convention also enforces liability insurance, which limitable to the ship’s tonnage.

Fund Convention, on its own, is to provide support for the civil liability convention in terms of provision of compensation to claimants where the compensation the one available under civil liability convention is not enough to recompense a claimant. An organisation of the international community known as International

Oil Pollution Compensation Funds (IOPCF) was established in 1978 by the Fund convention to provide compensation to those who are injuriously affected by oil pollution from ships or tankers or vessels where compensation available from the ship owners under the Civil Liability Convention is not enough to reasonably recompense for loss or injury suffered (Gennaro, 2004).

One good thing about the IOPCF, which a country like Nigeria needs to learn from is that it encourages out of court settlement of cases of compensation. It does not wait for such cases to be determined by courts. However, there is a predetermined limit as to amount the organisation can pay in settlement of claims of compensation. Where such limit is to be exceeded or where a particular claim brings forth a subject of principle not previously known to or previously been treated or decided, the director of the organisation will require the approval of relevant governing council of the organisation.

In Nigeria, there is not such administrative authorities like IMO which administer international compensation for oil pollution damage through the Civil Liability Convention, Fund Convention and the IOPC Fund.

5. Arbitration Model and Compensation for Oil Pollution Damage in Nigeria

Arbitration is one of the models created by the wide spectrum of legal avenues called Alternative Dispute Resolution (ADR) which use means other than court trial to settle disputes. It is a process in which a panel of arbitrators or just one arbitrator sit to resolve a dispute between parties. Its activities are regulated by the Arbitration and Conciliation Act Cap A18, Laws of the Federation of Nigeria 2004 which mandatorily applies to all domestic arbitrations where parties have not chosen another law to govern their proceedings. Some states of the federation have also enacted their own arbitration laws. For example, in Lagos, the Lagos State Arbitration Law 2009 applies to all arbitrations that have not specified another law.

For arbitration to apply, the parties to a dispute must agree to arbitrate. The desire of one of the parties to a dispute to enter into arbitration does not foreclose another party's right to go to court. It only comes about when two parties agree to it, either before or after a legal dispute comes up.

For the process to commence, it is the complaining party that will send a notice to the opposing party of his intent to arbitrate a dispute, outlining the basis for

the dispute. After that, there is, typically, a period for response from the opposing party. Selection of arbitrators comes after the period of response. This is followed by the hearing of parties by the arbitral panel.

Arbitration process involves many of the same components and characteristics of a courtroom trial such as presentation of argument with evidence; calling on witnesses and subsequent questioning of the witness by the opposing party (cross-examination), and so forth. However, these facets and processes are simplified and hastened up in arbitration so as to make the process quick than the typical courtroom trial.

Following the required hearings, an arbitral ruling/award is delivered within a very short and specific period of time; and, depending on the type of arbitration, the ruling of an arbitration is final. There may be options to appeal only where the arbitration exceeded its jurisdiction, the arbitration panel was guilty of misconduct; or the arbitral award was fraudulently procured.

Since there is not yet a specific legal system for compensation for oil pollution in Nigeria, the country may develop a legal system which will be a combination (blend) of establishment of an administrative body and the use of arbitration to solve the problem of lack of realization of prompt, fair and adequate compensation for oil pollution damage in the Nigeria's oil-producing communities. For the system to effectively work, there may be a statutorily created regulatory institution which will also be statutorily given powers of arbitration.

To this extent, when an incident of oil pollution is reported to the National Oil Spill Detection and Response Agency (NOSDRA), NOSDRA will conduct its usual Joint Investigation Visit (JIV) involving the victims of oil spill, representatives of the oil company involved, and some NOSDRA officials in line with Regulation 5 of NOSDRA's Oil Spill Recovery, Clean-up, Remediation and Damage Assessment Regulation, the results of the JIV will be forwarded to an compensation regulatory authority or institution established by an Act, which, in addition to its administrative powers, will also have the powers of arbitration over subject of compensation for oil pollution damage only; and has to conclude its activities in respect of a given case within a specified time frame.

6. Recommendations

There is the need for Nigeria to take a clue from the international community's establishment of a body

like the International Convention on Civil Liability for Compensation for Oil Pollution Damage (Civil Liability Convention) and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (Fund Convention) which jointly govern subject of compensation for oil pollution damage at the international level without any need for a recourse to court. The two conventions jointly established an International Oil Pollution Compensation Fund (IOPCF) which provides fund to compensate claimants for oil spill damage where the compensation from the shipowner under the Civil Liability convention is inadequate to fully compensate a victim of oil pollution damage.

This interventionist initiative of IOPCF goes a long way to give compensation, in that direction, with administrative ease

Nigeria may borrow a leaf from this international legal system and establish administrative interventionist statutory body (regulatory institution or authority) with power of arbitration and with strict rules of claims procedure for administration of compensation for oil pollution damage. The rules guiding such administrative body may cover areas such as:

1. Compensation and claims management

This context may take after what is obtainable with the United Nations Compensation Commission wherein a governing council will be provided for the commission by the statute establishing it. The said governing council will be its highest decision-making body and will be responsible for formulating the institution's compensation's rules of procedure to be applied to claims. Such rules of procedure will specify how claims are to be processed and managed in an order that is predictable, certain and not prone to manipulation.

a. Claimants

These may be individuals, communities, partnerships, companies, private organisations or public bodies, including states or local authorities.

b. Description types, dimension of injury or pollution suffered

c. Reception and registration of claim

There may be appointed officers who will receive and review claims for the commission's consideration.

d. Different phases of transparent inspection of claim or injury to ascertain credibility of claim.

e. Official communication with the polluting company by the body.

f. Joint assessment of sight of injury for determination of actual cause of pollution and quantum of compensation in a transparent manner.

g. Meeting to officially commence amicable assessment and mediation, where necessary with parties preceding payment of compensation.

2. Claims settlement

a. The authorities of the administrative body should be the point of first resort in event of oil pollution damage. NOSDRA will refer such cases to it, and should have power of arbitration to settle claims and see to payment of compensation between parties.

b. The body is to have a governing council which will be its highest decision making and be responsible for formulation, regulation and modification of principles and rules of claim procedure for the body.

c. The body should be headed by a director-general who sees to the day to day administration of the body.

d. Where the body is faced with question of principle which has not previously been decided or treated by the administrative body, its director-general should require approval of the governing council on the direction to take and in line with the provisions of the statute creating the body.

e. The administrative body should be able to make provisional payment of compensation to the victim before a claim is finally settled if this is necessary to mitigate undue financial hardship to victims of pollution incidents.

f. There should be an obligation on the body to give parties equal treatment.

3. Admissibility of claims for compensation

a. To be entitled to compensation, pollution damage must result in an actual and quantifiable economic loss. The claimant must be able to show the amount of his loss or damage by producing accounting records or other appropriate evidence.

b. An oil pollution incident should generally give rise to claims for the following types of pollution damage or others as may from time to time decided by the governing council and in line with statute establishing the body:

i. Property damage

ii. Costs of clean-up operations at sea and on shore

iii. Economic loss by fishermen or those engaged in mariculture

iv. Economic loss in the tourism sector

v. Costs for reinstatement of the environment

c. Claims are also to be assessed strictly in accordance with relevant laws, especially the country's environmental impact assessment statute and other well-established uniform criteria, principle or rules to be formulated by the governing council and such should be published in the body's claim manual assessable to members of the public.

4. How to submit a claim
 - a. Claims should be made in writing and submitted to the body by hand or electronic media (including e-mail), presented clearly and with sufficient information and supporting documentation to enable ease of assessment of the amount of the damage.

Each item of a claim should be substantiated by invoice or other relevant supporting documentations such as work sheets, explanatory notes, accounts and photographs which need to be complete and accurate. It should be the responsibility of claimants to submit sufficient evidence to support their claims.

Court should be the last resort where there is a clear-cut incident of deviation from the transparently, laid down set of rules guiding the activities of the body or suppression of principles of fairness or rules of natural justice.

7. Conclusion

It is the opinion of this paper that decisions and claims of compensation should not be left only for court determination. There ought to be an administrative body created by statute that will regulate, administer and process oil pollution damage compensation transparently as would have been meticulously provided for by a singular enabling statute. Court, at best, ought only to be the last resort in which an aggrieved party, in settlement of claim for oil pollution damage, who must have already be in compliance, but seeks a reversal or a modification of the decision reached by the administrative body in accordance with dictates of statute, may approach court for a redress or reversal of such decision. Such, however, should not be a conventional court with heavy load of cases before it. Litigation in such respect should be reserved for a specialised court. Manipulation or any form of shoddy practice by any personnel of such administrative body, jointly or individually, should be criminalised and on conviction by a court of law, in criminal trial, punishable by long term of imprisonment with or without option of fine.

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Concept of Automated Income Tax in Edo State Nigeria: Learning from the American System

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Abstract. Nigeria's tax framework, as defined by Section 24(f) of the Constitution, mandates that all citizens fulfill their tax obligations. This legal foundation empowers various government levels to collect taxes, including income taxes from individuals and corporations. However, the persistent issue of tax evasion remains a significant obstacle to revenue generation in Nigeria. This problem isn't confined to a specific region, as Edo State, too, grapples with income tax evasion, detrimentally impacting its revenues. Despite legislative and judicial efforts, tax evasion prevails. In response, the Edo State Government introduced the Edo Revenue Automate System (ERAS), a computerized solution aimed at streamlining individual income tax administration and curbing evasion. Concerning this, the study tends to adopt a doctrinal method of study in ascertaining the legal issues of adopting automated income tax in Edo State, drawing inspiration from the United States, where a well-established computerized income tax system operates under the backing of enacted laws. The study therefore found that there are incidences of tax evasion in Edo state, that though the adoption of an automated income tax system could aid in curtailing the incidence of tax evasion in the State, there are legal and socio-economic shortcomings that could hamper

the Edo State automated income tax system. In this regard, this study recommends and concludes with proposals for enhancing the effectiveness of the computerized individual income tax system in Edo State. The study further emphasizes the need for a strong legal framework to support technology-driven tax systems and the importance of adopting best practices from countries like the United States to mitigate tax evasion.

Keywords: Automated, Legal, Income, Tax, Edo State, America

1. Introduction

Taxation operates within the confines of legal regulations. In this context, section 24(f) of Nigeria's Constitution establishes the clear constitutional provision that requires all Nigerian citizens to fulfill their tax obligations (Adkrishna and Slemrod, 2001). This directive empowers various tiers of the Nigerian government to undertake tax collection responsibilities (Abdulrazaq, 2005). The significance of taxation as a vital revenue source for financing public projects cannot be overstated within the Nigerian context (Auerbach and Slemrod, 2002). Both

the state and federal Governments are legally authorized to collect income taxes from corporations and individuals respectively (Davies and Hoy, 2002). It's important to note that, while businesses and individuals are obligated to fulfill their tax responsibilities, the issue of evading taxes has emerged as a substantial obstacle affecting revenue generation in Nigeria (Ayua, 1996). Tax evasion involves the intentional and unlawful act of avoiding tax payments (Abdulrazaq, 2014). This includes failing to report deducted taxes, engaging in deceptive contracts to reduce tax liabilities (Pablo and Rehm, 2016), falsely inflating expenses unrelated to income generation, and manipulating financial records to evade taxes (Hurana et al., 2024; Aidonojie et al., 2024; Obisesan et. Al., 2024).

This concern isn't limited to any single state, as Edo state has encountered its share of individual income tax evasion (Brockmeyer, et. al., 2019). This behavior adversely impacts revenue generation in Edo State (Adaltig, et. al., 2001), as taxpayers often resort to minimizing or evading their tax obligations (Abappah, 2010). Despite legislative and judicial efforts to condemn tax evasion, its prevalence remains a challenge in Edo State. To address this, the Edo State Government introduced the Edo Revenue Automate System (ERAS), a computerised solution for individual income tax. This innovation is anticipated to streamline the administration of individual income tax and reduce tax evasion (Aidonojie et. al., 2024; Aidonojie et. Al., 2024; Aidonojie et. al., 2024).

Similarly, the adoption of a computerize individual taxing system is not novel to Edo State that is within the Nigeria jurisdiction, there are other developed countries such as the United State of America which has a well enhance package of a computerized individual income system (Aberto and Angeletos, 2005). This is concerning the fact that in America, the development and adoption of a computerize income tax system is not in policy but a function of an enacted law (Slemrod, 1994). In this regard, it suffices to state that the America are very much aware that the tax is a function of law (Abarati and Bakhshayesh, 2015). That no meaningful impact can be achieve in adopting technology in enhancing the taxing system without having it to reflect the legal regime that regulate the imposition and collection of tax.

Against this backdrop, this study adopts a doctrinal approach to examine the causes and actions constituting tax evasion, the implications of implementing a computerised individual income tax system for curbing tax evasion, and the associated challenges in Edo State. Furthermore, the study will also examine the concept and administration of

computerize tax in America and draw a comparative analysis from the jurisdiction in revealing some lapses inherent in the Edo State computerize income taxing system. Additionally, the study proposes potential solutions to enhance the effectiveness of the computerised individual income tax system in Edo State.

2. Conceptual Challenges and Risks Associated with Evading Individual Income Tax in Edo State

The legal obligation to pay taxes applies to all individuals, whether employed by the government or in the private sector, who reside and work within Edo State. Accordingly, the Edo State Government, like other state governments in Nigeria, is entrusted with the responsibility of collecting individual income tax from individuals within its jurisdiction (Abojuwon, 2013). However, a concerning pattern has emerged in Edo State, where taxpayers frequently attempt to reduce their tax liabilities or avoid paying taxes altogether (Adeniyi and Adesunloro, 2017b). These actions are often facilitated through illicit means of tax evasion. It's important to note that this evasion has tangible implications for the Edo State government's ability to generate revenue and adequately address the state's needs (Abarishnan et al., 2013).

This phenomenon of tax evasion is rooted in various socioeconomic and administrative issues that have consequential effects. Among these causes, several are common across the various states of Nigeria, including Edo State:

- **Inefficiency and Ineffectiveness of Tax Management:** The mechanisms in place for administering and collecting taxes are often inadequate.
- **Lack of Comprehensive Taxpayer Information:** There is a lack of comprehensive databases containing accurate information about taxpayers' assets and income.
- **Insufficient Assessment and Collection Mechanisms:** The procedures for assessing and collecting taxes are insufficiently developed.
- **Corruption among Tax Officials and Taxpayers:** Instances of corruption among both tax officials and taxpayers contribute to tax evasion.
- **Nonchalant Attitude of Taxpayers:** Some taxpayers adopt an indifferent or non-serious approach to fulfilling their tax obligations.

However, despite the identification of these causes, it's worth noting that tax revenue in Nigeria has historically played a limited role in the country's development, and taxpayers often express dissatisfaction with infrastructure conditions despite their tax compliance (Adeniyi and Adesunloro, 2017a). According legal scholar, they emphasize that tax revenue should ideally bolster a nation's economy, reduce inflation and unemployment rates, and meet citizens' basic needs. Regrettably, their research indicates that Nigeria's situation contrasts with these expectations, as tax revenue has had minimal impact on the country's economy. They propose restructuring the Nigerian tax system to encourage voluntary tax payment.

With this context in mind, the challenges posed by tax evasion are not unique to Edo State's taxation system alone. Similar issues are faced by both the federal government and other states within the federation (Mascagni et al., 2021). To address these compliance and revenue challenges on a broader scale, a computerised tax system has been implemented in Nigeria, particularly in states like Lagos and Ogun. Given the successes observed with this computerised approach, the Edo State government also ventured into adopting an electronic individual income tax system in 2019. The aim was to combat tax evasion, expand the tax base, and enhance revenue generation.

However, failure to effectively address the root causes of tax evasion in Edo State could lead to the following potential risks:

2.1 Decrease Income Tax Revenue Generation

The core objective of income tax and taxation in general is geared towards raising sufficient revenue to meet or enable the government to finance its expenditure. These expenditures include the provision of good roads, the creation of industries to provide employment opportunities, ensuring adequate security, maintaining law and order, and the provision of adequate health and educational facilities. Furthermore, revenue generated from taxation can also be spent on capital projects in creating a social and economic infrastructure, which will improve the social life of the people and ensure sustainable economic development.

However, tax evasion which involves a willful and deliberate act of taxpayer refusal to disclose their income to reduce their income tax burden or abdicate their duties to pay tax, could cause or pose a danger of reducing the required revenue needed for government

to perform its traditional function. According to Abifarin, he stated thus;

Tax evasion leads to a depletion of tax revenue, undermining the prospects of achieving equitable distribution through taxation. Consequently, when tax evasion proliferates unchecked, it risks eroding the trust of law-abiding taxpayers in the tax system, potentially swaying them towards engaging in tax evasion themselves. The financial consequences of tax evasion are substantial, resulting in significant revenue shortfalls. Ultimately, the cumulative impact of tax evasion translates to reduced income for the governing tax body.

The purport of the above highlights a critical interplay between tax evasion and societal balance. Taxation serves as a crucial mechanism for funding essential public services, welfare programs, and infrastructure projects (Ekpenisi et al, 2024; Aidonjio et. Al., 2024; Aidonjio et. al., 2022). However, when individuals or entities engage in tax evasion by concealing their income or manipulating financial information to pay less tax than owed, the consequences ripple across various facets of society. One of the most significant repercussions of tax evasion is its direct impact on tax revenue. Governments rely on this revenue to finance public goods that benefit society at large, including education, healthcare, and social assistance programs. When tax evasion occurs, a portion of this revenue is siphoned away, disrupting the ability of governments to adequately fund these vital services. This imbalance in revenue allocation has the potential to exacerbate existing inequalities, as resources are insufficiently directed towards those in need. Furthermore, the erosion of tax revenue due to evasion has broader implications for tax fairness and equitable distribution (Aidonjio et al., 2024; Aidonjio 2024; Aidonjio et. Al., 2024). Taxes are a means of redistributing wealth from those with higher incomes to those with lower incomes, aiming to reduce socioeconomic disparities. However, when tax evasion becomes rampant, the ability to achieve this equitable distribution is compromised. The burden of taxation increasingly falls on compliant taxpayers, while evaders escape their fair share of the tax burden. This imbalance threatens the integrity of the tax system and the principles of social and economic justice that underpin it. Furthermore, the statement also delves into the corrosive effects of a culture of tax evasion on compliance and societal norms.

Trust is a foundational element of any well-functioning society, and the tax system is no exception. When taxpayers witness others evading taxes without consequences, it can erode their faith in the fairness and effectiveness of the system. This loss

of trust can foster a sense of resentment among compliant taxpayers, who may begin to question why they should adhere to their tax obligations if others are seemingly evading with impunity. The resultant erosion of trust in the tax system has the potential to create a self-perpetuating cycle of non-compliance, where more individuals are inclined to evade taxes, perpetuating the problem (Aidonojie et. Al., 2024; Aidonojie et al., 2023). The financial consequences of tax evasion are significant, as noted in the statement. Governments rely on tax revenue to fund public services and projects that benefit society as a whole. When evasion occurs on a large scale, it creates revenue shortfalls that can impact the implementation of crucial initiatives. This shortfall can lead to reduced investments in education, healthcare, infrastructure, and other public services, ultimately affecting the quality of life for citizens. In this Vail, tax evasion is a multifaceted issue with far-reaching implications. It disrupts revenue streams, compromises equitable distribution, erodes trust in the tax system, and hinders the execution of vital public programs (Aidonojie et. Al., 2023; Imoisi and Aidonojie, 2023). Addressing tax evasion requires a combination of effective enforcement, public education, and policy measures that incentivize compliance. By doing so, societies can work towards fostering trust, equity, and economic stability.

In this regard, where there is an incessant act of income tax evasion in Edo State, it will result in a decrease in revenue generation.

- Decrease in the Tax base
- Inadequate Provision of Basic Amenities
- Poor Sustainable Development Increase in incidence of Corruption and Fraud
- Increase in Poverty
- Ineffective Regulation of Business, trade, and Redistribution of Wealth

3. Conceptual Framework of Edo State's Electronic Income Tax (PIT) System

The administration of individual income tax operates under the guidelines of the Individual Income Tax Act, which forms the primary legal structure governing the imposition, evaluation, and collection of income tax from individuals and corporate entities across Nigeria. However, the traditional process for overseeing individual income tax regulation has been manually oriented, involving steps like:

- In-Person Taxpayer Return Filing: Taxpayers physically submit their tax returns.
- Manual Tax Assessment Computation: Tax assessment is manually calculated.
- Physical Notice of Tax Assessment: Tax authorities hand-deliver assessment notices.

- Paper-Based Demand Notices: Tax demands are issued manually to taxpayers.
- Physical Tax Payment and Recovery: Tax payment and recovery are conducted manually.

This manual process, as outlined in sections 41-81 of the Individual Income Tax Act, is susceptible to manipulation by taxpayers seeking to evade their tax obligations. The human factor involved can compromise the integrity of the assessment process.

In the contemporary global landscape, rapid technological advancement has transformed the world into a digital realm (Adipofu, 2022). This evolution has paved the way for technological solutions to address challenges across various sectors, including taxation. Digital technology has been adopted by numerous countries to revamp their tax systems, transitioning from manual methods to digital tax management. A digital tax system encompasses functionalities such as:

E-Registration of Eligible Taxpayers: Taxpayers can register electronically.

E-Filing of Tax Returns: Taxpayers can electronically submit their tax returns.

E-Tax Assessment: Computerised tax assessment calculations.

E-Payment and Receipt Generation: Online tax payment and receipt issuance.

Recognizing the challenges posed by tax evasion within Edo State's tax system, the Edo State Government took a significant step in 2019 by introducing the Edo State Revenue Electronic System (ERAS), an electronic income tax system (Aidonojie, 2023). While the primary objective was to combat tax evasion, the digital tax system has also enhanced transparency (Aidonojie et. al., 2021; Aidonojie et. al., 2020; Massajuwa and Aidonojie, 2020), accountability, and revenue collection efforts. The ERAS entails the following components:

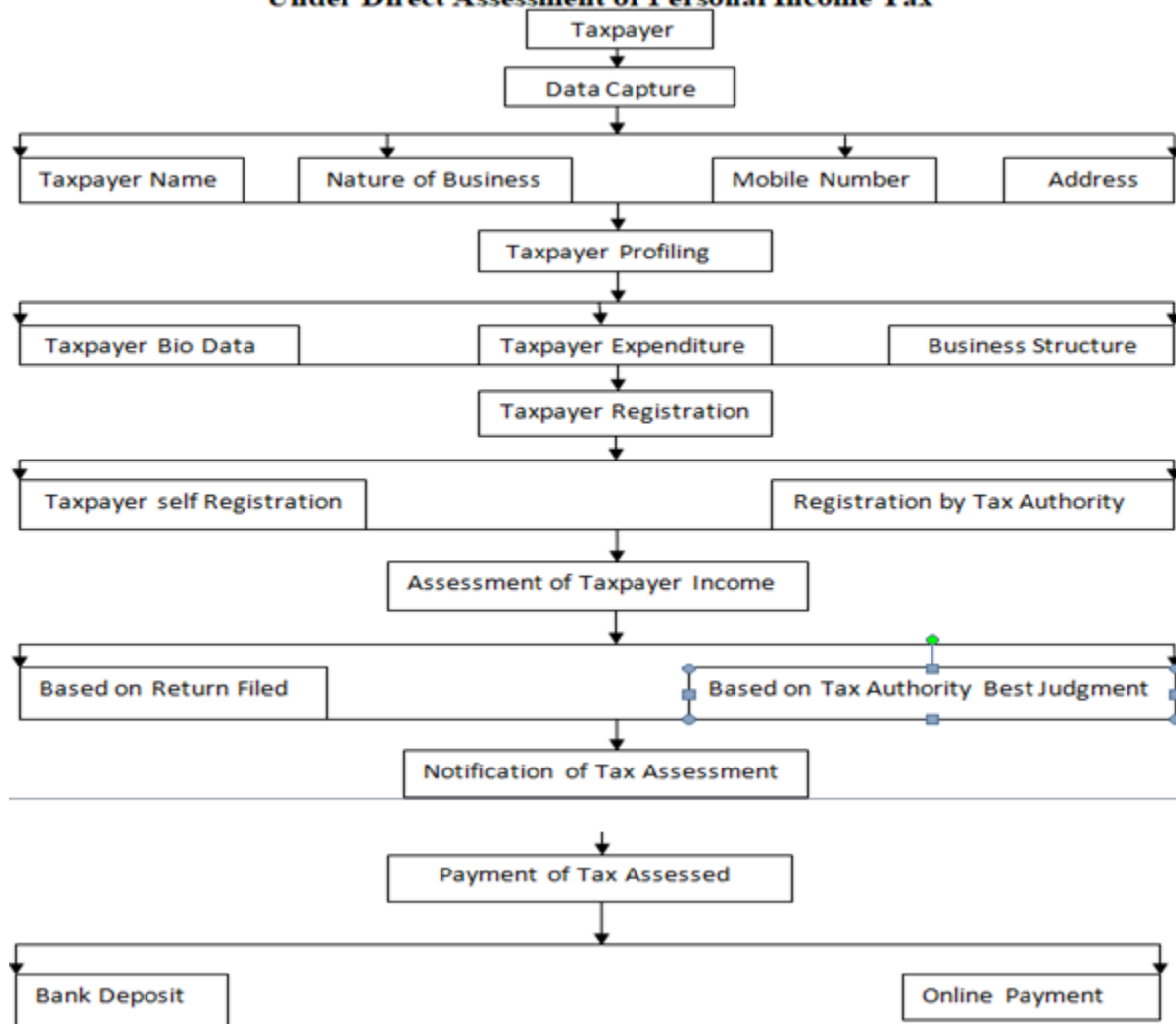
- **Electronic Taxpayer Data Capture:** Information such as taxpayer name, business nature, address, and mobile number is gathered, initially through manual means. This data is crucial for successful integration into the digital system.
- **Profiling and E-Registration of Taxpayers:** Taxpayers are interviewed to gather vital information before being registered into ERAS. This data includes individual information, expenditure details, and business structure. The latter encompasses factors like business nature, size, turnover, and bank statements.

- **E-Computation and Notification of Tax Assessment:** Tax assessment calculations are managed by the tax authority via ERAS, based on formulas outlined in the Individual Income Tax Act. The system notifies taxpayers of their assessed tax through SMS.
- **E-Payment of Tax:** Taxpayers are required to make payments within two months of receiving the assessment notice. Payment can

be done electronically or through bank deposits.

The introduction of ERAS marks a transition from manual to digital tax management in Edo State. This shift is not only anticipated to counteract tax evasion but also to streamline processes, ensure accuracy, and increase revenue collection. The digital system aligns with the evolving technological landscape and offers a more efficient and transparent approach to taxation.

Diagrammatic Process of Edo State Revenue Automated System Under Direct Assessment of Personal Income Tax



In relation to the above, it is important to highlight the outlined procedure involved in the implementation of an computerised individual income tax system in Edo State.

The digital process described in Edo State's computerised individual income tax system is designed to effectively counteract instances of tax evasion (Massajuwa and Aidonojie, 2020; Aidonojie and Agbale, 2020). This is achieved through the

incorporation of features that contribute to tackling tax evasion as follows:

Digital Storage of Taxpayer Information: The system securely stores taxpayer information digitally, preventing manipulation or tampering.

Enhanced Taxpayer Tracking: Tax officials can efficiently monitor and include new taxpayers in the tax framework, expanding the tax base.

Accurate Record-Keeping: The system maintains comprehensive records of taxpayers who agreed to execute their tax obligations.

Efficient Non-Compliance Monitoring: The system facilitates the identification and tracking of taxpayers who fail to pay assessed taxes.

Real-Time Payment Verification: Tax officials can readily verify the current status of tax payments made by taxpayers.

Streamlined Tax Management: The system's automation streamlines both taxpayer and tax official interactions, optimizing the tax management process.

Despite the significant advantages and promising features of Edo State's computerised individual income tax system in combating tax evasion, there are several challenges that could undermine its effectiveness. These challenges include:

Resistance to Change: Transitioning from manual methods to automation might face resistance from individuals accustomed to traditional practices.

Technical Issues: System glitches, downtime, or other technical challenges could disrupt the functionality of the computerised system.

Data Security Concerns: Safeguarding sensitive taxpayer data is critical; any breaches could lead to privacy violations or fraud.

Limited Digital Literacy: Some taxpayers or officials might struggle with the technological aspects of the system due to limited digital literacy.

Initial Implementation Costs: Introducing and maintaining the computerised system could entail initial financial investments.

Considering the aforementioned shortcomings in Edo State's manual PIT system, the adoption of an advanced solution like a computerised system becomes imperative. The introduction of a computerised individual income tax system has substantially alleviated the issues associated with manual filing and self-assessment processes. It also bolsters tax assessment, notice of tax obligations, and tax remittance activities.

Moreover, recognizing the benefits of a computerised PIT system extends to other key prospects.

The Potential of a Computerised Individual Income Tax System:

- A Computerised Income Tax could lead to an increase in the tax base
- Increase in Revenue Generation
- It curbs or curtail the incidence of tax avoidance and evasion

- It aids in checking the incidence of corruption among tax officials and taxpayer
- It has improved and enhance the quality of PIT regulation in Edo State

4. The Legality of Implementing a Computerised Individual Income Tax System in Edo State

According to Section 1 of the Nigerian Constitution of 1999, the Constitution's provisions are binding on both the government and the citizens residing within Nigeria. The Constitution also delineates powers between the Central Government and the various states through exclusive and concurrent legislative lists. Matters in the exclusive list are reserved for the central Government to legislate upon (Aidonjio and Odojo, 2020; Imoisi et. al., 2023). By Item 59 of the Second Schedule to the Constitution, the central government has the sole authority to make laws related to taxation of income, profits, and capital gains, unless otherwise stipulated by the constitution. This position has been reaffirmed by court cases such as *Everest Hotels v. AG Lagos State (2010) 2 TLRN, 1. at 14*, establishing the central government's legislative power or authority in taxation matters. This legislative exclusivity is reinforced by Section 4(3) of the Constitution, granting the legislature the authority to create laws concerning matters in the exclusive legislative list for the peace, order, and good government of the federation.

However, Section 4(2) of the Nigerian Constitution and items 7, 8, and 9 of the Exclusive Legislative List grants both central and state governments the power to legislate on matters related to the imposition and collection of taxes. This power is subject to the doctrine of covering the field, where central government laws take precedence over conflicting state laws in the concurrent list. Inconsistencies render state laws void. It is evident that only the federal government has the exclusive legislative authority on issues regarding the taxation of income and profits. Other levels of government are restricted from legislating on this matter. In *CNOOC Exploration and Production Nigeria Ltd. & anor v. FIRS & anor (2013) 1 NTTLR, 1*, the principle of "exclusive" authority was emphasized, preventing other authorities from attempting to exercise powers exclusively conferred upon a particular entity.

The Taxes and Levies Act outlines the taxes to be collected by both federal and state governments. Part II, First Schedule, paras (a) and (b) of this Act empowers state governments, including Edo State, to collect individual income tax from individuals residing within their jurisdiction. The individual

income tax collected is typically pay-as-you-earn and self-assessed.

It's important to note that the Individual Income Tax Act (PIT Act), enacted by the federal government and listed in the exclusive legislative list, serves as the primary legal framework for the imposition, assessment, and collection of income tax in Nigeria. This Act includes provisions for manual processes of filing returns, tax assessment, notice of tax assessment, collection, and recovery of individual income tax. The adoption of a computerised process for individual income tax not contemplated or provided for by the PIT Act could raise legal concerns and potentially conflict with the existing legal framework. Therefore, implementing a computerised individual income tax system in Edo State that goes beyond the provisions of the PIT Act might not be considered legal and could have legal implications.

In conclusion, while state governments possess authority to collect individual income tax within their jurisdiction, the legal basis for implementing a computerised system must align with the existing legislative framework to ensure compliance and legitimacy.

5. Challenges of Implementing a Computerised Individual Income Tax System in Edo State

While the adoption of a computerised Individual Income Tax (PIT) system offers numerous benefits such as electronic filing, tax assessment, efficient service of tax assessments, and online tax payment, several challenges may impede the seamless implementation of such a system.

5.1 Legal Framework Impediments

A significant challenge arises from concerns regarding the legal implications of non-compliance with the existing laws regulating income tax (Aidonojie et. al., 2022). Taxation is fundamentally rooted in legal principles, and any substantial shift towards new concepts, like computerised tax management, requires careful consideration of the regulatory and legal framework. Technological advancements often outpace adjustments in legal systems, posing a potential mismatch between digital innovations and legal provisions. While tax authorities may leverage digital technology for enhanced enforcement and revenue generation, the ultimate effectiveness hinges on an up-to-date and adaptable legal framework that supports the utilization of digital tools in income tax management.

Several ways exist through which the legal framework can hinder or enhance the potential benefits of technology in tax management. For instance, technology could empower tax authorities in tracking defaulters and identifying tax evaders, but this technological advantage could be ineffective if legal procedures and court adjudication processes are slow and cumbersome (Aidonojie and Francis, 2022; Oladele et. al., 2022). Automating the tax system could lead to extensive registration of taxpayers, yet its success could be compromised if the legal framework does not adequately address the tax obligations of new entrants, especially within a computerised income tax context. Additionally, discrepancies might arise when a tax authority mandates the adoption of a computerised income tax system while national laws remain ambiguous on the matter, raising questions of whether such adoption is obligatory or voluntary.

Moreover, it's important to note that the current procedure defined by sections 41-81 of the Individual Income Tax Act for income tax management in Edo State is manual in nature. Consequently, any alternative approach (such as a computerised system) for income tax management could be considered inconsistent with the existing legal framework. Legal cases such as *Nig. Breweries PLC v. LSIRB (2002) NWLR (PT. 759) 1 at 18-19* and *Azikiwe v. Federal Electoral Comm. (1979) 3 NCLR 276* have emphasized the importance of adhering to specific tax assessment and demand notice procedures outlined in the Individual Income Tax Act. In this regard, it is trite principle of law that where there are issues concerning the default of taxpayer in complying with the digital income tax system, could affect the prosecution case. This is in view of the fact that the concept of digital income tax procedure is not contemplated in any law in Nigeria. Furthermore, the Nigerian court had held in *Governor of Ekiti State v. Chief Akinyemi (2011) NWLR (PT. 1276) 373 at 413* where his lordship Abba Aji JCA stated that it is a trite and a fundamental principles of law specify the modus operandi of executing an act and the law is said to be unambiguous, deviating from such is an aberration of the law.

5.2 Other Challenges

Apart from the legal framework, other challenges that could impact the implementation of a computerised individual income tax system include:

- The Challenges of cyber-crime Incidence in Nigeria
- Poor ICT knowledge concerning a computerised income tax

- Poor or Inadequate internet services
- Irregular or poor power supply
- Increase in Unemployment
- Poor maintenance culture of the computerised system

6. An Overview of Manual and Development of Computerised Income Tax in American

It suffices to state that tax is said to be the fabric upon which every given developed society is built for its advancement and development of such society (Sanchez and Sobel, 1993). It is a major and significant sources of revenue generation that governments across the global environment relied on for providing basic public utilities. In this regard, just like Nigeria which operates a modern system of income taxation, America also operates a similar modern income taxing system, although it is argued that America has a better and more effective system of income tax management (Desai and Goolsbee, 2004). This is concerning the fact that the United States of America's taxing system to date that they have computerised some part of their income tax has always been a function of law.

However, it suffices to state that the central revenue authority in America is the tax authority empowered with the responsibility of tax management. Before this current dispensation what was obtainable in America concerning income tax management was a more manual process (Slemrod and Yitzhaki, 1996). These manual processes involve the physical filing of income tax returns, assessment of income generated by taxpayers, and payment of income tax through bank deposit. However, given the early technological advancement in American, their income taxing system took a new dimension in 1987. There was a gradual shift from the manual system of income tax management to a computerised income tax in American.

Concerning the above, to consolidate and ensure a regulated and computerised income tax system in America, Congress enacted the Restructuring and Reforms Act to properly modernize, restructure, organize, and improved the income tax system. In this regard, the America Restructuring and Reform Act specifically required that there should be 80% of e-filing of income tax returns and all federal tax inclusive (Slemrod and Yitzhaki, 1987). Although the focus of the law was majorly on e-filing, however, in 1999 there was the introduction of payment of income tax through the use of direct debit and credit cards. Also, through central revenue authority policy a digital signature was adopted, wherein taxpayers could

through digital means sign a tax document. These technological innovations further displace the mailing of a taxpayer's signature when processing an e-filing of an income tax return in America.

In 2004, to ensure effective tax compliance by the taxpayer, a modernized electronic filing system known as a tag as the next generation was adopted (Slemrod, 1983). This modernized electronic filing is geared towards prompt response or acknowledgment of electronic filing within a few minutes of receiving and e-filing an income tax return. In this regard, where there is an error in the electronic filing a detailed correction is immediately sent within a few minutes of receiving the electronic filing of an income tax return (Slemrod, 1994). The essence of the modernized electronic filing of income tax returns is to create a convenient, taxpayer-friendly, and conducive enabling atmosphere for optimal tax compliance.

However, it is apt to state that one unique system of the American income tax management is that, though their taxing system is fully computerised and regulated by law (that is to the extent of electronic filing), the computerised filing and payment of income tax is voluntary or optional (Slemrod, 2001). In this regard, it suffices to state that the filing of income tax returns and payment of tax due by taxpayers, can be done in the following ways briefly examined below;

Through Manual or Paper Filing and Payment: This procedure is the regular and general administration of the filing system. In this regard, a manual filing system of income tax returns to the relevant tax authorities to conduct an assessment is optional. Given the fact that in America, the tax authority observation was that, most taxpayers prefer the manual system of income tax filing to a computerised filing system. Although, it is considered not an effective system of income tax filing and tax remittance. However, it can be said that allowing manual income tax filing to coexist in America is a welcome development that creates the room or the enabling environment to gradually synchronize (those taxpayers who are used to a manual system of income tax filing) into adopting a computerised income tax filing and payment system.

Through Tax Preparation Software: this is the trending and most acceptable method of filing income tax returns in America. This method of income tax filing is regulated by law and it empowers the America IRSS to collaborate and consult tax firms knowledgeable in tax software development, which could enable and enhance a computerised income tax system that could aid taxpayers to execute the following:

- Electronically filed their income tax return

- Facilitate payment of tax debt
- Process a refund of an excess tax.

Concerning the above, it is this system of income tax filing returns that is considered a modernized taxing system for the next generation (Feinstein, 1991). As stated above, it has been considered an effective system of tax management and resulting in a high yield of revenue generation. Although, a taxpayer could easily on its access the electronic income tax filing system platform on, however, a taxpayer is allowed to engage a tax professional skilled in the preparation of income tax returns, electronic filing, and payment of income tax returns.

7. Legal Framework Concerning Computerised Income Tax in American

In America income tax is a function of law, this is concerning the fact that the imposition, and assessment of income of taxpayers to charge income tax and demand of payment of income tax due is regulated by the Internal Revenue Code of 1954. It is a primary source of law that regulates the administration of income tax, in this regard, it is apt to state the following procedure of tax management such as:

- Filing of a income tax return by the taxpayer
- Tax assessment by the IRS
- Services of the income tax debt to the taxpayer
- Demand notice of tax debt on taxpayer
- Payment of tax debt by the taxpayer

Are required to be executed through a manual process as provided for by the Internal Revenue Code, in this regard, before the current dispensation, what is obtainable in the America income tax management is a manual process. However, the poor and low turnout of revenue generation through income tax, as a result of income tax evasion and ineffective manual method of income tax management, further lead to the introduction of a computerised income tax system which majorly focuses on electronic filing of income tax return, digital signing of e-tax documents and digital payment of tax debt by the taxpayer. However, the adoption of the America computerised income tax is through a legal framework known as the IRS Restructure and Reform Act of 1998. In this regard, it can be soundly argued that the American adoption of a computerised income tax is a function of law, hence the legality of the use of a computerised system in income tax management.

8. Legal Framework on Procedure of a Computerised Filing and Payment of Income tax return in America

For an effective and successful filing and payment of income tax through computerised or electronic methods in America, the following procedure must be duly complied with:

- Procurement of a Taxpayer's Identification Number (TIN)

To use the America IRSs computerised or electronic system to file and pay income tax or tax in general, it is legally mandatory for a taxpayer to obtain or procure a Taxpayer's Identification Number. Although it is not provided for in the America IRS Restructure and Reform Act, it is specifically provided for by section 6109 (a) of the US Inland Revenue Code which stipulates that any person or individual and corporate bodies who is legally required or mandated to file a return, pay tax or execute any other necessary tax document with the IRSs, must include in such document or file an identification number which a unique number for an accurate identification of such individual. However, it must be noted that there are several Taxpayer Identification Numbers and they are as follows;

The Social Security Number (SSN): This unique identification number is usually issued or allotted by the Social Security Administration in America. In obtaining the unique identification number, a form is required to be downloaded from the site of Social Security Administration and re-uploaded upon filing the required information. Upon completion of the process (Barbara et. al., 2009), a unique number will be electronically transmitted to the concerned individual.

Employer Identification Number (EIN): This unique identification number is majorly aimed at identifying employers operating in business entities. It is issued by the America IRS, this is concerning the fact that employers of business organizations make an application or fill out a form through the Internal Revenue Website. Although, the application can also be facilitated through an email, fax, or telephone with the relevant authority. Furthermore, upon completion of the electronic application for an Employer Identification Number (EIN), a unique EIN is immediately transmitted to the employer.

Individual Taxpayer Identification Number (ITIN): The essence of this unique identification number is aimed at identifying taxpayers within

America whether as citizens or individuals with a foreign status, but earning income that could be subjected to tax. Application of this unique number is done by completing the required form either electronically through the IRS's website or by the manual process of submitting the same in the offices of IRSs. However, unlike other identification numbers, the Individual Taxpayer Identification Number is often issued six (6) weeks after furnishing and submitting the completed form.

Adoption Taxpayer Identification Number (ATIN): This unique number is often issued by IRS to individuals who intend to adopt a child. It is an identification number that is required when filing for an adoption of a child. The application form for ATIN can be accessed on the America Internal Revenue Website and upon application, a unique number will be sent to the applicant. However, it is required that within two years of the applicant being issued the unique number and a child has been finally adopted, the applicant must notify the American IRS. Failure for notifying the America IRSs will lead to the deactivation of the Adoption Taxpayer Identification Number.

Preparer Taxpayer Identification Number (PTIN): In America, the law allows a professional to assist the taxpayer to prepare a income tax return and filing a tax return on behalf of the taxpayer, although for a fee. In this regard, for a professional to effectively act on behalf of taxpayers, it is required that they must apply for Preparer Tax Identification Number through a manual process or America Internal Revenue Website.

File Tax Returns Electronically

In America, it is required by law that every taxpayer must within the period of tax filing, file their tax return with the relevant tax authority for the assessment of tax due. This is concerning the fact that section 2002(b) of the America IRS Restructure and Reform Act provide that tax return which is required to be filed electronically shall be filed on or before the date of March 31st of the year following the calendar to which the income tax related. Although the trend of computerised filing of income tax is greatly generally accepted as the most preferred process of filing a tax return, however, it is the law that taxpayers could either use a manual system of filing their income tax return or adopt the computerised filing system. Section 2001(a)(1)-(3) of the America IRS Restructure and Reform Act specifically provides thus;

It is the policy of Congress that—

The adoption of paperless methods for filing income tax returns should be the favored, endorsed, and

optimal approach for submitting tax returns and other pertinent information. The objective and aspiration of the IRS should be to achieve a minimum of 80 percent electronic filing of all tax returns by the year 2007. To attain this goal, the IRS should collaborate, recalibrate its strategies, and promote a competitive environment in the private sector that encourages increased electronic filing of income tax returns and related tax information.

Concerning the above, it suffices to opine that the purport of section 2001(a)(1)-(3) of the America IRS Restructure and Reform Act is that though there is a new form of filing such as the electronic filing system, however, the law did not prohibit manual system of filing. In this regard, the section further mandated the IRS to encourage and influence taxpayers through competitive means in complying with the electronic filing of income tax returns. Furthermore, to ensure an effective implementation and compliance of the electronic filing of income tax returns section 2001(b)(1) of the America IRS Restructure and Reform Act further mandated the secretary of the IRS to establish a strategic plan to eradicate and eliminate any form of challenge or barriers. The secretary is also mandated to create a competitive and viable market force to intensify the electronic filing of income tax returns within the next 10 years of the enactment of the law. In achieving the great fit of receiving input and contribution from the taxpayer and the private business owner concerning the development and strategic implementation of the plan, section 2001(b)(2) of the IRS Restructure and Reform Act also empowers the Secretary to set up a committee known as the electronic commerce advisory group that will consist of the following group as follows:

- Small business representative
- Practitioner of Tax
- Person who aid in preparing tax information
- Computerized processor of tax
- Other representatives in the computerize filing industry

By section 2001(c) of the America IRS Restructure and Reform Act, the IRS is mandated to through mass communication and any relevant communication means sensitize the general public concerning the benefit of utilizing an electronic filing system of tax returns and other tax issues. In this regard, in addition to the promotion activities, the secretary of the IRS is empowered to adopt a procedure for providing an incentive for taxpayers who consistently file their returns through electronic means.

However, to ensure due diligence in the implementation of the America computerised tax

system, section 2001(d) of the IRS Restructure and Reform Act further require the Chairperson and Secretary of IRS, the Chairperson of the electronic commerce advisory group to submit an annual report not later 30th June of each calendar year to the following committee:

- The Committees on Means and possible ways and Means, Appropriations, Government Oversight and Reform,
- House of Representatives Small Business
- The Committees on Appropriation, Finance, Small Business of the Senate and Government Affairs

The content of the annual report is required to cover the following:

- The progress of the Internal Revenue in meeting the aim and goal or objective of receiving computerized 80 percent of tax and information returns within 2007;
- The status of the plan and strategy required for the due implementation of the electronic filing
- If there is a need for legislative changes that will be necessary to assist the IRS in meeting or achieving the goal of 80% electronic filing
- The effects of electronic filing tax returns and other relevant tax information on small businesses ventures and the self-employed taxpayers

However, where a taxpayer or a professional tax preparer chooses to file a income tax return through electronic means, the tax preparer or taxpayer is required to log in to the website of the IRS with their unique filing PIN. The essence of login into the website of the IRS is to download the relevant income return filing form. Some of these forms include:

Form 1040 also known as the Individual Tax Return Form long form

Form 1040A also known as Individual Income Tax Return short form

Form 1040EZ also known as the Income Tax Return form for joint and single filers

Form 1040NR also known as Non-Resident Alien Tax Return etc.

Concerning the above, where the relevant filing forms are downloaded, it is required that the taxpayer or tax preparer must fill in the required vital information of the taxpayer which may include; The name of the taxpayer, business address of the taxpayer, unique identification number, the status of the person filling

the income tax return, exemptions or deductible allowance, incomes generated, other taxes and payments. Having completed filling the form, the taxpayer or tax preparer is mandated to file the forms using the Internal Revenue filing software or commercial tax software provider for business purposes but authorized by the America IRSs. Where the information so filed is transmitted to the IRS, within 48 hours of receiving the filing, the relevant tax authority is required to process the tax return by calculating the tax due and notify the transmitter of the tax return filed.

Electronic Signature

It must be noted that before the current amendment or enactment of the America IRS Restructure and Reform Act, the signing of tax documents were majorly through a manual system. However, with the introduction of the electronic filing system, section 2003(b) of the IRS Restructure and Reform Act stipulates that the secretary is mandated to develop or invent a procedure for the electronic or digital signature of taxpayers who intend to file their tax return and other relevant tax information that requires a signature of the taxpayers. The section further stipulates until the secretary has developed the procedure for electronic or digital signature, the secretary is mandated to do the following:

- Waive or dispense with the requirement of the taxpayer's signature
- Provide a better alternative to signing tax documents as prescribed by the Internal Revenue Laws and Regulation

Concerning the above, it suffices to opine that the America IRS Restructure and Reform Act is a comprehensive law that also contemplates and provide for the acceptance of electronic signature, given the introduction of a computerised taxing system that focuses more on the electronic or digital filing of a income tax return.

Payment of Tax Due

It must be noted that it is required of a taxpayer to proceed in payment of its tax due upon the receipt of notification of the income tax return being assessed. Although, the America income tax system seems to be computerised, however, a taxpayer has several options to process their tax payment. These options are as follows:

- Through the use of credit and debit cards, this method of payment is done or executed through a company that will charge fees known as payUSAtax, TurboTax, etc.,

- Through Direct Debit of the tax due by IRSS from taxpayer's account residue with his/her financial institution
- Payment through the IRS computerised or Electronic Tax Payment platform
- Through Cheque or cash deposited by the taxpayer

Concerning the above, it required that a taxpayer is expected to pay all tax debt that is due in full. However, there are instances where a taxpayer may not be financially capable of paying his/her tax in full; the law allows such taxpayer to pay the tax due on installment, although with a fee being charged on the installment.

However, for effective implementation and compliance of the manual income tax restructuring reform into an electronic system, section 1001 of the Act further empowers the Commissioner of IRS to develop, initiate and implement a strategic plan by the Act to eliminate or substantially amend or adjusting the existing plan of the IRS. Although the strategic plan to be initiated by the Commissioner of IRSs must be centered on national, regional, and district structure and ideas. It suffices to state that part of the strategic plan required by the Commissioner for IRS to implement includes an employee training program. Section 1205 of the Act further stipulates the content of the employee training program as follows:

- Comprehensive and detailed employee training program to facilitate and ensure effective customer service to taxpayers, most especially on the adopted electronic tax management system
- A schedule for training and the fiscal years in which the employee will be trained will occur
- Funding of the training program and relevant information to reflect and show the priority and commitment of adequate resources in executing the training program

Review the IRS design of customer service

Concerning the above, it is apt to state that, despite the adoption of a computerised income tax was geared towards improving revenue generation and smooth administration of income tax, the law requires the IRS to ensure that public services and meeting the taxpayers need is a major and central focus of their concern. This is evident from the provision of section 1002 of the IRS Restructure and Reform Act which aptly provide thus:

The mission of the IRS will be reassessed and reformulated with a heightened focus on serving the

general public and fulfilling the requirements of taxpayers.

Concerning the above, it can be said that America has a comprehensive legal framework that tends to provide for and regulate income tax. In essence, the unforeseen legal issues that may sprout up concerning the legality of a computerised income tax have been properly and legally addressed.

9. Impact of a computerised Individual Income Tax System in American

The Individual Income Tax has contributed immensely to revenue generation in most developed countries such as America, it is regarded as the greatest redistributive power or circulation of wealth in most developed countries. In this regard, given the desirable features of individual income tax, most countries (developed and developing countries) use this type of tax as part of their revenue or monetary mobilization efforts and as a measure to pursue equity within their taxing system.

However, before the current dispensation of the income tax management system, America operates a manual system of tax management. Given the manual method of income tax management in previous times it was observed that though the America income tax system is progressive, however, only a small percentage of formal high-income earners often paid the revenue generated from income tax. In this regard, it was spotted that more than 80% of income tax was paid by wealthy individuals consisting of 10% of the American population. In this regard, given the poor number of people complying with income tax debt, it further resulted in having a scanting revenue generation and a meager impact on income redistribution.

Although, there are several causes (such as high level of deductible tax allowances, High standard of tax allowances, and low statutory tax rate) of resulting to the drop in revenue, however, tax evasion is said to have decimated the revenue-generating potential of income tax. Furthermore, income tax evasion also affects the tax base, which in turn also affects revenue generation. It is concerning, that to improve revenue generation through income tax in America and also discourage income tax evasion, the American government sort to introduce electronic filing.

In this regard, in America, electronic income tax filing was adopted and introduced to three cities (Raleigh-Durham, Cincinnati, and Phoenix). In these three cities where electronic income tax was introduced about five

(5) tax preparers filed 25,000 income tax returns through electronic mediums. Given the success rate of electronic filing of income tax in the three cities in America, in 1987, income tax filing through electronic medium was extended to include seven (7) more cities in America and there was an increase of 66 income tax preparers which lead to the filing of 78,000 income tax return, through electronic medium. However, given the success rate of adopting an e-filing system in some parts of the cities in America, in 1989, the adoption of electronic filing further spread across 36 states in America raising the figure of e-filing to 1.1 million income tax being filled. By 1990, the concept of electronic filing has extended and implemented in virtually all parts of America and the success rate of electronic income tax filing rose to 4.2 million. Furthermore, according to Pippin and Tosun in assessing the impact of electronic filing of income tax stated thus

The target of achieving an 80% e-filing rate by the year 2007 was not met; however, the rates of e-filing in 2006 and 2007, as well as the growth rates in e-filing, demonstrated notable progress. According to our gathered data, the overall e-filing rates for 2006 and 2007 approached 60%. Statistical data obtained from the IRS website indicates that e-filing for individual tax returns stood at 61% in 2008 and 69% in 2009. Notably, around one-third of these e-filed returns were self-prepared, while the remaining two-thirds were prepared by tax professionals. Subsequent years witnessed a remarkable surge, with recent figures revealing that approximately 119.6 million returns (roughly 80%) were e-filed in 2012, followed by 122.5 million returns (approximately 83%) in 2013. In essence, the e-filing objective set forth in 2012 (for the 2011 tax year) was successfully attained. Consequently, on the surface, the federal e-filing of tax returns stands as a notable example of a highly effective e-government initiative. This paper aims to consolidate the factors that likely contributed to the widespread adoption of e-filing throughout the nation. A comprehensive understanding of these critical

"success factors" holds the potential to enhance other e-government initiatives in the future.

Concerning the above, it suffices to state that the current dispensation in the administration of income tax, has increased the American tax base and therefore increase revenue generation through income tax. The success of the America computerised income tax system is a result of the fact that the IRS was given a legal mandate to ensure an increase in electronic filing to 80% by 2007, programs and incentives were also employed as a means of facilitating the implementation of an electronic filing system. Furthermore, there was a legal requirement for a public-private partnership between the IRS and tax software producers for a collaboration that will ensure a smooth operation of the electronic filing system

10. Comparative Analysis between the Edo State and America computerised Income Tax

The concept of income tax has global recognition, concerning the fact that no government within the global environment can survive without an effective taxing system. Concerning this, it suffices to state that both Nigeria using the Edo State as a case study, and America, in general, operated the manual system of income tax, before transcending to adopt the modernized computerised income tax system. However, it is apt to state that just like Nigeria which operates the modern computerised system of the income tax system, America also operates a similar modern income taxing system. Although it is argued that Americans seem to operate a better, more organized, and more effective system of income tax management. This is concerning the fact that the United States of America's taxing system to date that they have computerised some part of their income tax has always been a function of law. Furthermore, the following presented in tabular form are clear-cut comparative analyses of the Edo State and America's modernized computerised income tax.

Comparative Analysis between the Edo State and America computerised Income Tax		
S/N	AMERICA	EDO STATE
1	In America the initial method of income tax management involves the physical filing of income tax, assessment of income of the taxpayer, services of notice of tax due, and payment of income tax through bank deposit.	Edo State's initial method of manual income tax management is also similar to that of the American system.
2	Furthermore, it suffices to state that America's adoption of a modernized computerised earning tax majorly focuses on electronic filing, electronic services, and payment of income tax due.	Nonetheless, the implementation of an electronic earning tax system by Edo State centers on electronically registering eligible taxpayers, digitally capturing taxpayer information, conducting electronic tax assessments, and delivering comprehensive income tax notifications to taxpayers via SMS. Furthermore, this system facilitates electronic tax payments based on the assessed amount, culminating in the issuance of electronic tax receipts.
3	The American adoption of a computerised income tax is a clear function of law that is regulated by the IRS Restructure Reform Act 1986.	The Edo State's adoption of a computerised earning tax is a mere administrative policy that is against the intendment of Item 59 of the exclusive legislative power of the Nigeria constitution (as amended 2011) that empowers the National Assembly to enact laws concerning income tax and tax in general.
4	In America, the law allows professionals to assist the taxpayer to prepare a income tax return and electronically file the tax return on behalf of the taxpayer.	However, the law (Individual Income Tax Act) that regulate income tax in Edo State provides for only a taxpayer to manually file their tax return within the year of assessment
5	In America, the law (IRS Restructure and Reform Act) regulating the filing of income tax return, stipulate that taxpayer could either use a manual system of filing their income tax return or adopt the computerised filing system. In this regard, filing income tax electronically or through manual means is optional.	In Edo State, the Individual Income Tax Act provides for just a manual system of filing income tax returns, computerised filing of income tax returns on the taxpayer is provided for in law regulating income tax.
6	The law (IRS Restructure and Reform Act) regulating the computerised income tax in America, mandated the secretary to the IRS to initiate a strategic plan in eradicating barriers, and to create a competitive and viable market force to intensify the electronic filing of a income tax returns.	However, no law in Edo State empowers the secretary to initiate such a plan.
7	Furthermore, the America Internal Revenue Restructure and Reform Act made it mandatory that the IRSs should collaborate with the taxpayer and private business owners to contribute their input towards the development and strategic implementation of the adopted computerised income tax system.	No law in Edo State mandated the Edo State IRS to receive input from taxpayers and private individuals toward enhancing their adopted computerised income tax system.
8	In the United States, to ensure the successful creation and execution of a computerised income tax system, the Secretary of Internal Revenue is legally required to establish a committee referred to as the electronic commerce advisory group. This committee will be comprised of members representing various sectors, including the small business community, tax practitioners, tax preparers, computerized tax processing communities, and other stakeholders from the electronic filing industry.	However, in Edo State there is no mandatory legal requirement, furthermore, the development and implementation of the adopted computerised income tax system in Edo State are solely executed by the Edo State IRS solely without any input from the stakeholder of income tax.
9	Why it is a legal requirement for the America IRS to embark on mass communication and any relevant communication means to sensitize the general public concerning the electronic filing system of tax returns and other tax issues?	In Edo State, although it is not a legal requirement, however, it is an administrative policy for the Internal Revenue to embark on sensitizing the general public concerning the use of a computerised income tax system.
10	As part of the America IRS's implementation of a strategy of the computerised income tax system, they are required to provide an incentive to taxpayers who are consistent in utilizing the electronic filing system and training employees for an effective customer relationship.	However, in Edo State, there is no such promotional plan or incentive to encourage the use of the adopted computerised income taxing system.
11	Moreover, in the United States, as a continuation of efforts to guarantee the proficient enactment and operation of the adopted computerised income taxation system, it is a legal requirement for the Chairperson and Secretary of the IRS, along with the chairperson of the electronic commerce advisory group, to provide an annual report to the House of Representatives' Committees on Ways and Means, Appropriations, Government Reform and Oversight, as well as to the Senate's Committees on Finance, Appropriations, Governmental Affairs, and Small Business. This report will detail the advancements and achievements in executing their strategic plan for the electronic taxation system's implementation.	In Edo State, there is no such legal requirement, although evaluation of the success rate of adopting the computerised income tax system is majorly based on the amount of revenue generated annually.

12	With the introduction of an electronic filing system in America, section 2003(b) of the IRS Restructure and Reform Act mandated the secretary to develop procedures or software for electronic or digital signatures of taxpayers who intend to electronically file their tax returns.	However, in Edo State, there is a procedure or software provided for a taxpayer to imprint their signature. This is concerning the fact that taxpayers still manually file a tax return and other tax operation by the taxpayer does not require a signature.
13	In America, the process adopted for payment of tax due by taxpayers is majorly through digital or electronic bank deposits.	The procedure that is obtainable in America in the payment of tax due by a taxpayer is similar to the procedure that is also been used in Nigeria.

11. Conclusion / Recommendation

In the pursuit of addressing the critical issue of tax evasion and enhancing revenue collection in Edo State, this study has delved into the legal implications of automated income tax systems, drawing inspiration from the well-established American model. The importance of taxation in Nigeria, as underscored in Section 24(f) of the Constitution, cannot be overstated, serving as a vital source of revenue for public projects at both state and federal levels. However, tax evasion has persistently hindered revenue generation, creating financial gaps in the government's ability to meet its obligations.

The introduction of the Edo Revenue Automate System (ERAS) represents a significant step towards curbing tax evasion by automating income tax processes, aligning with the experiences of technologically advanced countries like the United States. While ERAS holds promise in enhancing tax administration efficiency and reducing evasion, our study has illuminated legal and socio-economic challenges that must be acknowledged and addressed for its success. It is evident that tax evasion is a pervasive issue that impacts not only Edo State but the nation as a whole. To truly combat tax evasion and optimize the benefits of technology-driven tax systems, there is a need for a robust legal framework that ensures compliance and provides clear regulations governing taxation.

Concerning the above, the study recommends the incorporation of best practices and lessons from countries like the United States where the development and adoption of automated income tax systems are well-established by law. Edo State can learn from these experiences to fortify its own system and bridge the existing gaps in tax collection. By addressing the legal and socio-economic challenges, the Edo State Government can pave the way for more effective tax collection, ultimately contributing to the financing of essential public projects and services.

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Issues and Challenges concerning access to Justice in Nigeria: Clinical Legal Education Aid as a Panacea

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Abstract. The right to remain and be treated as innocent when going through a criminal trial, is, particularly, a hallmark of the dignity of the human person as against the brutish, nasty and naked aggression that characterizes the lifestyle of wildlife in the jungle. However, in Nigeria, these germane rights are usually denied, especially, to the less privileged members of society. It is in this regard, that this study adopts a hybrid method of study in ascertaining the cause of denial of access to justice in Nigeria and if clinical legal education can aid in expanding access to the Nigeria justice system. 321 questionnaires were distributed to various respondents residing in the various geo-political zones in Nigeria. The study found that there is an existence of denial of access to justice in Nigeria and some of the causes of denial of human rights access to justice include; Mal-administration of the criminal justice system, poverty, illiteracy and systemic dysfunction. The study further found that the introduction of clinical legal education could play a vital role, not only in expanding access to justice, but also aid in bridging the gap of human rights abuse in Nigeria. It was, therefore, concluded and recommended that for better access to justice by victims of human rights abuse in Nigeria, there is a need for the government and actors of the justice system in Nigeria to ensure an effective enhancement

and improve more on clinical legal education in Nigeria.

Keywords: Education, Clinical, Justice, Legal, Nigeria

1. Introduction

Many international human rights documents, like the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the African Charter on Human and Peoples Rights, as well as a host of other regional human rights chronicles, provide for the right of an accused person to be presumed innocent of any criminal charge until he is proved guilty in a public court trial at which he is given all the guarantees necessary for his defence (Olanike, 2017). The same provision has also been domesticated into the laws and constitutions of so several countries within the global environment (Aidonojie et al., 2020). The fundamental objective behind this is the preservation of the dignity of the human person at all times even when charged with an allegation of wrongdoing (Obuka & Ukwueze, 2020). It is, also to ensure that no innocent person is, wrongfully, punished or made to be prejudged as a criminal (Oludayo, 2021). For example, in Nigeria,

section 36(5) of the Constitution, recognizes the innocence of any person charged with a criminal offence until he is proven guilty in an independent and impartial court trial that is fair, conducted publicly, and within a reasonable time.

Furthermore, In Angola, by section 67(2) of their constitution, the innocence of a citizen is upheld and sustained until his sentence has become *res judicata*. In Ghana, by section 19(2) of the constitution, a person charged with a criminal offence is presumed to be innocent until he is proved otherwise or has pleaded guilty. Also, in South Africa, section 35(3)(h) of the South African Bill of Rights, every accused person has a right to a fair trial, which includes the right to be presumed innocent, to remain silent, and not to testify during proceedings.

Concerning the above, it suffices to state that the need to dignify the existence and personality of a human person, to distinguish him from wildlife or domestic animals, is the basis for the conception of protection of the fundamental human right (Abamgbose Olomola, 2014; Adlabi and Sani, 2020; Aidonojie et al., 2022). After the right to life, which is the fulcrum of all human rights, the next in the pyramid of importance is the right to the dignity of the human person (Abirimoro, 2019). This is the reason why a person charged with an offence is entitled to a fair hearing in public, and within a reasonable time, must be informed in detail and, in the language he understands, the nature of his offence and must be given adequate time and facilities to prepare his defence (Abamgbose, 2015)

It is, however disheartening that in Nigeria, this important human rights provision is being gradually reduced to a mere myth, a folk tale nor supported by the actual application. This is due to some institutional, administrative, and systemic factors and deficiencies forming a barrier to the enjoyment of the right of a person to be presumed and treated as innocent while facing a criminal charge. In this regard, it suffices to state, how can it be explained in a situation whereby someone, statutorily considered innocent, is plunged into prison custody for the entire duration of a standing trial lasting for up to eight, ten, or fifteen years. Furthermore, at the end of his trial, he is absolved of all the charges preferred against him, adjudged not guilty, discharged, acquitted, set free, and asked to go in peace - without anything to compensate for the long periods he of being kept in the prison custody. These are some of the travail experienced by clinical legal education in Nigeria.

It is concerning the above, that this study tends to embark on a cursory review concerning the concept of clinical legal education in Nigeria, and the challenges concerning the right to access justice in Nigeria. How they have aided in the expansion of the right to access justice in Nigeria.

2. Methodology

Concerning the methodology used in this study, the study adopts a hybrid method (doctrinal and non-doctrinal methodology) of research in this study. The doctrinal methodology is aimed at analyzing and theorizing the concept of legal education, instances where victim rights to justice have been grossly abused in Nigeria given the maladministration of the justice system. In this regard, for an effective doctrinal method of study, the researchers relied on scholarly works of literature, laws, and case law.

However, the non-doctrinal method of study is aimed at examining the general public view and perception concerning the denial of the rights of an accused person and if access to justice in Nigeria is constricted. Furthermore, if legal aid education is a panacea it could aid in curtailing the denial of an individual right to justice and expansion of access to justice in Nigeria. Concerning this, the questionnaire was issued to respondents' residents in the various geo-political zones in Nigeria.

3. Concept of Clinical Legal Education and Expansion of Access to Justice in Nigeria

Access to justice and preservation of the dignity of the human person are very important parts of democracy. The dignity of a human person means and necessitates that an accused person should not be subjected to inhuman or dehumanizing treatment, torture, agony, pain, servitude, or humiliation before or during the trial because he remains innocent until he is pronounced guilty by the court. Lack of access to justice and denial of the dignity of human persons in any form whatsoever make people lose faith in the legal system of getting redress (Aidonojie et al., 2024; Safi et al., 2024; Aido ojie et al., 2024). They may prefer to either result to self-help by taking the law into their hand or become unrepentant or hardened criminal elements due to the hostility received in the hands of the actors in the criminal justice system when alleged with wrongdoing. Poor administration of criminal justice has been fingered as one of the reasons for the cause and uprise of violent criminal activities like banditry which started from the northwest of Nigeria and, is now, spreading to all the nooks and crannies of the country. The Highhandedness of security

operatives as well as denial of justice when cases and the lackluster attitude of law enforcement agents when cases of cattle rustling are reported to them, and how they end up not getting the needed justice in court, were observed as some of the factors contributing to the violent crime, leading to an endemic killing spree and bloodshed. Most times, also, someone who has been alleged of wrongdoing is arrested and kept in the custody, kept among hardened criminals, and subjected to different levels of inhuman treatment. In the end, he comes out to become a monster that he was not before his arrest and detention. One former bandit narrated that his father spent seven years chasing justice for his rustled cattle, detailing how justice was not achieved until the man died. "We became impoverished by judicial cases hence the decision to take up arms," the repentant bandit was quoted to have said.

It is concerning the above, that most faculty of law in Nigerian university has to sort out the need to establish clinical legal education (Law Clinic). Clinical legal education is a clear departure from the Socratic or traditional method of instruction in which the mentality of thinking of a prospective lawyer is with emphasis on legalism, without attention to values and justice, rather, it is an innovative idea of a practical approach to legal education (Adekoya, 2022). The concept of clinical legal education aid was spearheaded by the Network of University Legal Aid Institution (NULAI) which made its incursion into Nigeria in the year 2003 as a non-governmental, non-profit, and non-political organization. Clinical legal education aid is committed to promoting clinical legal education, legal education reform, legal aid, access to justice, and the development of future public interest lawyers (Olugbenga, 2014). It is a learning method focused on enabling students of law to understand how the law works in action rather than the conventional exclusive theoretical approach to the teaching of law.

However, it suffices to opine that, a law clinic is one of the two legs of clinical legal education, and it is a facility run by a law school or faculty to provide free legal services to the public while training their students in clinical legal education (Mukhlis et al., 2024; Aidonojie et al., 2024). The concept of clinical legal education as operated by the most institution, allows law students to practice as student clinicians as part of the training of a prospective lawyer which will make him/her gain experience in handling real legal problems. Furthermore, it suffices to opine that one of the major aims of clinical legal education is equipped students and law lecturers in providing free legal services to disadvantaged persons and groups, who, because of little or no income, social deprivation, or

lack of awareness, cannot afford legal services. The philosophy behind this is that the right to a fair trial and justice should not depend on how much money a person has, or his connections; and that access to justice, especially in criminal proceedings, must be available to all persons for there to be peace, harmony, and happiness in the society.

Concerning the above, it is apt to state that through NULAI's activities, a network of cohesive university-based law clinics providing pro-bono legal services to the less privileged members of the public has been built while at the same time training a new generation of skilled law students committed to public service and justice. In 2018, NULAI sponsored a project titled: expanding access to justice for pre-trial detainees (Mutawalli et al., 2024; Aidonojie et al., 2023). This idea of NULAI is currently being executed by the Olabisi Onabanjo University's law clinic (OOU law clinic), Faculty of Law, Edo State University Uzairue, Faculty of Law, University of Benin, Faculty of Law, University of Ilorin. Furthermore, the project has been retained and sustained by several universities in Nigeria, and, ever since, the project has been a new and veritable avenue for free legal services to the underserved members of the public.

Clinical legal education aid also offers students and presents them with the opportunity to be exposed to simulated, real-live cases and clients, and as such, they are allowed to think, conduct themselves and perform as lawyers. However, clinical legal education as a practice by Olabisi Onabanjo University's law clinic, Edo State University Uzairue's law clinic, and several other institutions in Nigeria, has, as its members as follows:

- A lecturer as coordinator
- A lecturer as a staff manager
- Some few selected lecturers, as staff clinicians
- Students, who are referred to as student clinicians

However, it must be noted that clinical legal education aid (law Clinic) in several institutions in Nigeria is administered by the students. For this reason, it is otherwise referred to as a 'students' law firm', and it is headed by a student who is called the head clinician. Furthermore, clinical legal education aid (Law Clinic) as practiced in Onabanjo University's law clinic and Edo State University Uzairue's law clinic is segmented into departments such as:

- Street Law Department
- Alternative Dispute Resolution (ADR) Department
- Advocacy Department

Each of the above-identified departments of clinical legal education aid (Law Clinic) is overseen by a sub-head. The clinic attends to life cases from members of the university community (staff and students) as well as the general public. Individual whose right has been impaired and abused can have access to the law clinic and seek legal assistance or report matters, mostly civil issues. They are interviewed by the student clinician on duty. Their matter may be taken up where a reasonable cause of action is disclosed and such is within the purview of the clinic's mandate. Furthermore, it also suffices to state that, clinical legal education aid (law clinic) plays a mediatory role most of the time when dealing with civil matters. It also plays a vital role in criminal matters, especially in respect of pre-trial detainees. One of the key functions of the clinic is the facilitation of pre-trial detainees' cases.

4. Human Rights Abuse Cases resolve through the Aid of Clinical Legal Education Aid

Access to justice has been described as the possibility of an individual to bring a claim before a court, have it heard and adjudicated upon by the standards of the principles of fairness and justice, and with the assurance that legal and judicial outcomes are just and equitable. Poverty and lack of awareness have played a major role in militating against access to justice in Africa. As of October 2022, the unemployment rate in Nigeria was at 33.3%, and inflation was at 21.09%. In Nigeria, stakeholders in the criminal justice sector have, technically, designed some antics and attitudes to rub the poor accused persons of their innocent status which ought to be presumed by the constitution (Constitution of the Federal Republic of Nigeria, 1999 (as amended), section 36 (5)). Delay in the prosecution of criminal cases is the most potent instrument of making an accused person be kept in prison custody for as long as eight, ten, or fifteen years. Most often, a court judgment will, eventually, be pronounced and adjudged him innocent of the charges preferred against him; then, discharged (Mukhlis et al., 2023; Imoisi et al., 2023; Aidonjje et al., 2023), acquitted, set free, and asked to go in peace without anything to compensate for his number of years wasted in custody with so much discomfort, agonies, and hardship. In this regard, it is apt to state that the evil that the Constitution will not do to the poor is done by the hostile criminal justice system.

However, there is a plethora of criminal cases which has been undertaken pro bono by clinical legal education aid. These criminal cases give a vivid illustration of how most suspects have been grossly

abused and limited in accessing justice in securing their rights. A good example is the *State V. Segun Adefi Charge No: HCJ/13C/2018*, which was resolved by clinical legal education aid (Olabisi Onabanjo University's Law Clinic). In this case, the defendant was picked up by the officers of the Nigeria Police Force, Ilese Division (Ilese Police Station) on the 24th of September, 2014 at a bank where he had gone to withdraw money for his son's school fee for a new term. He was, then, detained at the station following a complaint laid against him by the complainant who was a student of Ogun State College of Health Technology, Ilese, Ogun State (Health technology, Ilese) that the defendant came to rob her in her room while she was with a female friend in her room at about 8.30 pm. The Defendant was charged, in the High Court of Ijebu-Ode in the Ijebu Ode Judicial Division, for armed robbery contrary to section 1 (2) (a) of the Robbery and Firearms (Special Provisions) Act, Cap R 11, Laws of the Federation of Nigeria, 2004; assault, contrary to section 252 of the Criminal Code Laws of Ogun State, 2006; and negligently causing harm contrary to section 344 of the Criminal Code Law of Ogun State, 2006.

As of 2018 (four years after the defendant's arrest and detention), legal advice had not been issued by the office of the Director of Public Prosecution (DPP) in the Ogun State Ministry of Justice on whether the charge against the defendant should be sustained or not. Throughout his trial, he remained in the prison facility as awaiting trial inmate. Any time he was to be produced in court for his trial, he would be brought to court along with so many other awaiting-trial inmates whose trials were also to be conducted the same day. They would be chained together with a handcuff and stuffed at the back of a small iron-bodied pick-up vehicle with one or two tiny holes simulating the window with a ring of iron rods hanging at its entrance to make contact with the outside world difficult. During one of the regular visits of the Olabisi Onabanjo University's Law Clinic student clinicians to the prison facility at Igbeba, Ijebu-Ode, Ogun State in 2018, the defendant was asked questions, his case file was gone through, prison officials and inmates were asked questions about the observed behavior and lifestyle of the defendant. His matter was found to have merit and fell under such that the clinicians had the mandate to attend to, hence, the taking over of his case for adequate legal representation. The student clinicians had to start by putting up some advocacy for legal advice to be issued without further delay. Shortly after that, and after four years of detention, his trial commenced. On the 13th of December, 2022, the proceedings were finally dispensed with in the case and the judgment of the court was delivered

exonerating the defendant and absolving him of any wrongdoing concerning the charges preferred against him. He was discharged, acquitted, set free from prison custody, and asked to go in peace.

It took the defendant eight years, two months, and nineteen days of pain, suffering, agony, humiliation, maltreatment, and lowering of self-worth to 'prove' his innocence (Edetalehn and Aidonojie, 2023; Gunawan et al., 2023; Aidonojie 2023). In the end, he goes home to a twisted and shattered future without a pronouncement from the court for compensation or, even, a public apology. Furthermore, the defendant did not return to meet his only son whose school fee he had wanted to withdraw money to pay through a bank's automated machine when he was arrested. He lost him while he was still an inmate in prison custody attending his trial. The child, probably, could not wait to be denied fatherly care for as long as his father could endure in custody. He, also, did not come back to meet his wife. She was tired of waiting for him, and she went right into the arms of another available man. His mother, too, has become bedridden, as she suffered a stroke while he was in prison. His shoe-making shop was taken over by another entrepreneur his entire familiar life deserted him, and he became a dot in a wide circle.

Another instance is the *Commissioner of Police v. Tunde Adebayo Suit No. CHARGE NO: MIJ/282C/2019*, the defendant was a commercial motorbike rider (otherwise referred to as 'Okada rider' in Nigeria) before his arrest and detention in the year 2018. He had been given a Motorcycle by one Mr. Rasaan Modiu, who was the complainant in this case, on hire purchase with an agreement that the defendant should make daily payment of One Thousand Five Hundred Naira (N1,500.00). The complainant had bought the Motorcycle for Two Hundred and Thirty Thousand Naira (N230,000) and gave it out, on hire purchase, to the defendant for Three Hundred and Sixty-Five Thousand Naira (365,000). The complainant and the defendant had made an agreement that bound their hire-purchase relationship. The defendant, with the concurrence of the complainant, often kept the Motorcycle in his house and used it daily for commercial riding purposes. He never defaulted in payment until the Motorcycle was stolen from his house, alongside another motorcycle, on the 10th of November 2018. The defendant had locked the neck of the motorcycle a night before the theft, as he always did, but woke up the following morning only to discover that the motorcycle and one other, parked together in the neighborhood, had been stolen.

The defendant, thereafter, informed the complainant about the incident. The complainant, who was suspecting foul play, reported the matter to the Police. At the police station, the defendant and the complainant made a statement wherein both parties narrated the incident. They also, later, agreed, under the watch of the Police, that the defendant would pay by installment, for the stolen Motorcycle. The defendant began the payment for the Motorcycle but failed subsequently and the complainant made an allegation of theft against him. Hence, the defendant was arraigned in the Magistrate's Court II, Ijebu-Ode, and charged with stealing.

Even though the defendant was admitted to bail, he was kept in prison custody for months as he could not perfect the bail granted him by the court with onerous conditions before his case was taken up by Olabisi Onabanjo University's Law Clinic. He, nevertheless, remained in custody throughout his trial as it was difficult to meet his bail conditions. On the 19th of December, 2019, the court judgment was delivered. He was adjudged not guilty of offence of stealing and was discharged and acquitted after a lengthy period in custody.

Furthermore, there is also the case of one *Alexander Michael Suit No. Charge No.: HC/234/2023*, the defendant was arrested and has been in the custody since 23rd of August, 2020 for an allegation of conspiracy to commit armed robbery and armed robbery around the Luba area of Ijebu-Ode, Ogun State. The defendant, who did not write a confessional statement, was arrested when he passed through a scene/place where the robbery of a Motorcycle had taken place one hour earlier. Two men, armed with knives, had, about one hour earlier, attacked a commercial Motorcycle rider, dispossessed him of his Motorcycle, jumped on it, and sped away with it. When the defendant passed through the scene one hour later, someone had fingered him as one of the robbers. He was mobbed, arrested, and handed over to the Police. Ever since he has been in custody and his matter had just come up in court for mention on the 27th of January, 2023, and still currently going through the trial.

The above characterized the injustice often suffered by a suspect in the Nigerian justice system. Hence, facilitating access to justice has been the crux of clinical legal education. Currently, the Olabisi Onabanjo University's Law Clinic and Edo State University are seeking justice for over seventy-five pre-trial inmates, some of them have since been discharged and acquitted by courts after judgment

entered in their favour and their innocence, was eventually, established.

5. Challenges concerning accessing Justice by Victims of Human Right Abuses in Nigeria

It is, however disheartening that in Nigeria, this important human rights provision is being gradually reduced to a mere myth, a folk tale nor supported by the actual application. This is due to some institutional, administrative, and systemic factors and deficiencies forming a barrier to the enjoyment of the right of a person to be presumed and treated as innocent while facing a criminal charge.

However, some of the challenges concerning access to justice by victims of human rights abuses in Nigeria include but are not limited to the following:

Poverty: In a place like Nigeria, as is the case in most African countries, where the vicious cycle of poverty ravages to the extent that the majority of the citizens cannot afford three square meals per day, the fundamental right to personal liberty, including the right to life, rule of law, equality before the law, the equitable criminal justice system as well as the right of access to justice do not mean so much. This is concerning the fact that the vast majority of Nigerian citizens are illiterates, dwelling in rural communities. They are completely unperturbed by the complexity of the state's system and rules they hardly comprehend (Afolabi, 1987). Justice Oputa was concerned that, while some Africans are poor at one time or another during their lives, the majority are poor all of their lives (Oputa, 1989). In this regard, it suffices to state that, what fair hearing can a poor person hope to have when he cannot even boast of a square meal a day? If he is cheated of his right, he would certainly prefer to leave the matter in the hands of God than risk death through starvation as a result of investing all that he and his family can boast of as the total of their worldly possession in trying to assert an illusory right to a fair hearing, including the right to personal liberty (Akinola, 1989). Some may, even prefer to trade their right to liberty for regular meals in government custody.

Bureaucratic and Complex Procedure in Commencement of Criminal Suit in Nigeria: The procedure in the criminal justice system in Nigeria, just as it is the case with most other African countries, starts with a complainant laying a complaint at a police station of a particular person. Sometimes, such a complaint may be in respect of a particular occurrence that constitutes an offence against the State. Where no

particular person is involved as a suspect, the law enforcement agency of the State, before which the complaint has been laid, will ask the complainant if he suspects anyone as responsible for the occurrence or matter complained of after which arrest and investigation will follow; and this signifies the commencement of the ordeal of the suspect. Furthermore, it is apt to state that most times, even the suspect is unable to comprehend, sufficiently, the charges drawn against them. In this regard, the suspect may be thrown into confusion on how to diligently prosecute or defend a claim against them. What is hearing worth to an accused person who does not know the rules of procedure, and who cannot properly present his case?

Also, the following serve as challenges concerning access to justice by victims of human rights abuses in Nigeria:

- Corruption in the judiciary
- Want of seriousness in the investigation of a complaint
- Undue delay in the release of legal advice by the office of the Director of Public Prosecution (DPP)
- Delay in the trial process, given the technicalities, manipulations, and antics of the legal practitioners, and of course, the presiding magistrates or even judges
- Lack of conducive rights protection environment

The above, constitute the betrayers of the human family in the enjoyment of vital rights and quality access to justice, they are, no doubt, the Judas in Nigeria's justice system.

6. Presentation and Analysis of Data

The data gathered and obtained in this study through the use of a survey questionnaire is therefore analysed as follows:

6.1 Sample Size and Techniques

The study utilizes a sample size of 321 legal practitioners (as respondents) who practice law in Nigeria and are residents within the six geopolitical zone in Nigeria.

Furthermore, it suffices to state that concerning the sampling method of identifying the respondent to respond to the questionnaire, the study also adopts the simple random method of sampling. This is concerning the fact that the simple random sampling techniques or method of identifying respondents have

to be considered a better method (Edetalehn and Aidonojie, 2023; Imoisi et al., 2023; Aidonojie et al., 2023; Aidonojie et al., 2023; Majekudumi et al., 2023; Aidonojie and francis; 2022; Aidonojie et al., 2022), most especially where the respondents are from a heterogeneous population (Aidonojie et al., 2024; Obisesan et al., 2024; Ekpenisi et al., 2024). Furthermore, a simple random sampling technique is also said to have the following advantage or relevancies (Aidonojie; 2022; Aidonojie et al., 2022; Aidonojie et al., 2022; Aidonojie, 2023) as follows:

- That the method is more authentic in gathering or collating an unbiased result from a questionnaire issued to respondents
- That it is a hassle-free or easy or simple method of obtaining a result from a large population of different cultural heritage or background
- That such method is more preferable and suitable when embarking on non-doctrinal legal research

6.2 Data Analysis

Concerning the data gathered in this study through the use of a questionnaire, it, therefore, analysed as follows:

6.3 Research Question One

Which of the following Geopolitical Zone in Nigeria do you reside?

321 responses

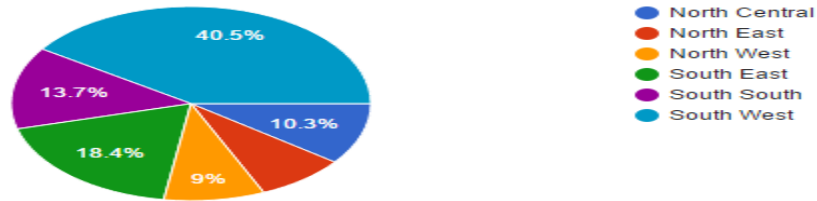


Figure 1: Identification of geopolitical zone or region resided by respondents

S/N	Geopolitical Zones in Nigeria	Responses of Respondents	Percent
1	North Central	33	10.3%
2	North East	28	8.1%
3	North West	29	9%
4	South East	59	18.4%
5	South South	44	13.7%
6	South West	130	40.5%
	TOTAL	321	100%

Table 1: Identification of geopolitical zone or region resided by respondents

Figure 1 and Table 1 represent the valid identification of the various geopolitical zone in Nigeria resided by the respondents.

Research Question Two

Is there denial of right of an accused person and challenges in access to justice in Nigeria?

321 responses

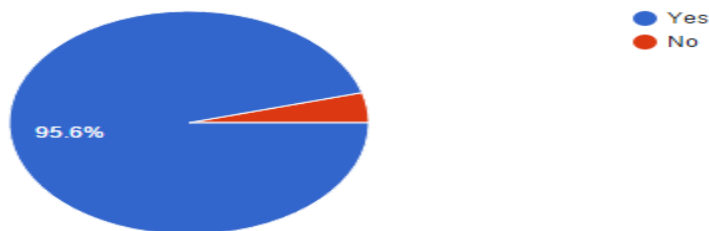


Figure 2: Verification of if there is an abuse of the right of an accused person and challenges to accessing justice in Nigeria

	Response	Percent
Valid Yes	307	95.6%
Valid No	14	4.4%
Total	321	100%

Table 2: A valid Verification of if there is an abuse of the right of an accused person and a challenge to access to justice in Nigeria

Figure 2 and Table 2 above are valid identification or confirmations concerning if there are incidences of abuse of the right of an accused person and challenges in access to justice by an accused person in Nigeria.

Research Question Three

Which of the following constitute challenges of denial of right of an accused person and challenges in access to justice in Nigeria? You can tick more than one option

320 responses

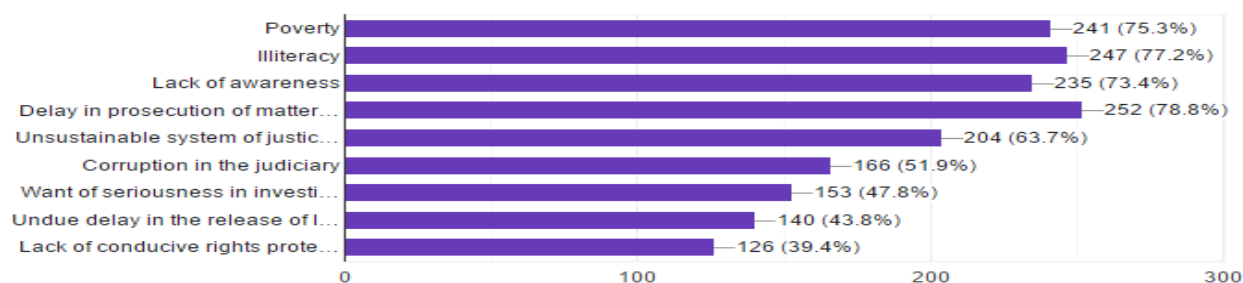


Figure 3: identification of challenges in accessing justice in Nigeria and if there denial of the right of an accused person

Challenges in accessing justice in Nigeria	Cluster of Response	Percentage
Poverty	241	75.3%
Illiteracy	247	77.2%
Lack of awareness	235	73.4%
Delay in the prosecution of matters in court	252	78.8%
Unsustainable system of justice administration	204	63.7%
Corruption in the judiciary	166	51.9%
Want of seriousness in the investigation of the complaint	153	47.8%
Undue delay in the release of legal advice by the office of the Director of Public Prosecution (DPP)	140	43.8%
Lack of conducive rights protection environment	126	39.4%

Table 3: Valid Cluster identification of challenges in accessing justice in Nigeria and denial of the right of an accused person

Figure 3 and Table 3 are a cluster of responses by the respondents in identifying the challenges in accessing justice in Nigeria and if there are denial of rights of an accused person in Nigeria.

Research Question Four

Do you agree that clinical legal education, as it is practiced in Nigeria, is relevant in expanding access to justice in Nigeria?

318 responses

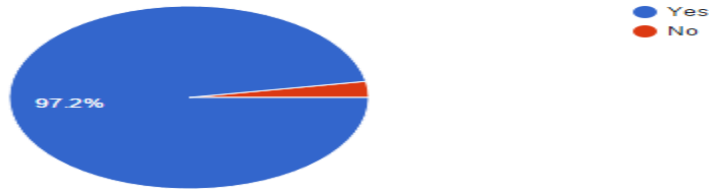


Figure 4: Identifying if clinical legal education is relevant in the justice system in Nigeria

	Response	Percent
Valid Yes	309	97.2%
Valid No	9	2.8%
Total	318	100%

Table 4: Valid confirmation of clinical legal education is relevant in the justice system in Nigeria
 Figure 4 and Table 4 are valid identification of responses by the respondents in confirming if clinical legal education is relevant to the expansion of justice in Nigeria.

Research Question Five

In Nigeria’s administration of justice system, in which of the following areas is clinical legal education relevant?

321 responses

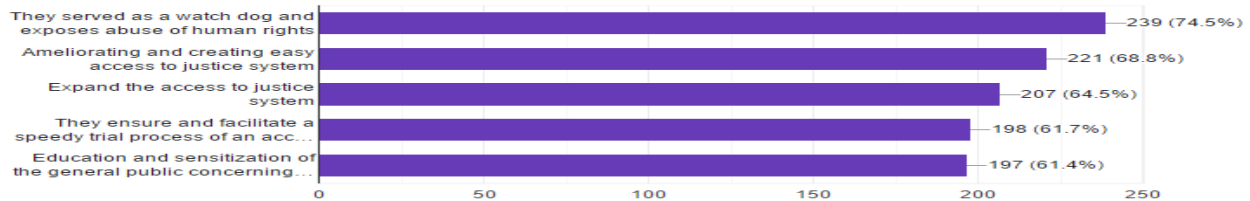


Figure 5: Identification of the relevances of clinical legal education to Nigeria justice system

Relevances of clinical legal education in Nigeria	Cluster of Responses	Percentage
They served as a watchdog and exposes abuse of human rights	239	74.5%
Ameliorating and creating easy access to the justice system	221	68.8%
Expand access to the justice system	207	64.5%
They ensure and facilitate a speedy trial process for an accused person	198	61.7%
Education and sensitization of the general public concerning their rights	197	61.4%

Table 5: Valid cluster of identification of the relevances of clinical legal education to Nigeria's justice system

Figure 5 and Table 5 are valid identification of the relevance of clinical legal education to the Nigerian justice system.

Research Question Six:

Which of the following could aid and enhance clinical legal education in Nigeria as it concern access to justice and protection of human right? You can tick more one option

321 responses

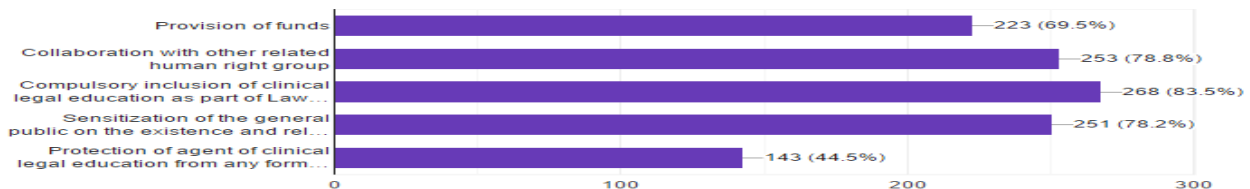


Figure 5: Identification of ways of enhancing clinical legal education in Nigeria

ways of enhancing clinical legal education in Nigeria	Cluster of Responses	Percentage
Provision of funds	223	69.5%
Collaboration with other related human right group	253	78.8%
Compulsory inclusion of clinical legal education as part of Law undergraduate curriculum	268	83.5%
Sensitization of the general public on the existence and relevance of clinical legal education	251	78.2%
Protection of agent of clinical legal education from any form of abuse	143	44.5%

Table 6: Valid cluster of identifying the various ways clinical legal education could be enhanced

Figure 6 and Table 6 are valid confirmations or identification of the various ways clinical legal education can be enhanced in Nigeria for improved and better access to justice.

7. Discussion of Findings

Concerning the data presented above which reveal the findings of this study, figure 1 and table 1 reflect the fact that 321 of the respondents are residents of Nigeria. The essence of figure 1 and table 1 is aimed at ensuring that respondents are residents of Nigeria to enable them to possess the knowledge and are well informed concerning access to and its challenges in Nigeria. In this regard, in figure 2 and table 2, 95.6% of the respondents were able to identify that there exists a denial of rights of an accused person in Nigeria and that there are challenges in accessing justice for an accused person. However, in figure 3 and table 3, the respondent was able to identify some of the acts that constitute challenges in accessing justice for an accused person in Nigeria as follows:

75.3% and 77.2% of the respondents identify poverty and stated that there is a high level of illiteracy respectively

73.4% and 78.8% identified a lack of awareness and delay in the prosecution of matters in court respectively

63.7% and 51.9% stated that an unsustainable system of justice administration and corruption in the judiciary respectively constitute challenges in accessing justice in Nigeria

47.8% of the respondents stated that there is a want of seriousness in the investigation of a complaint

43.8% agreed that there is undue delay in the release of legal advice by the office of the Director of Public Prosecution (DPP)

Furthermore, 39.4% of the respondents identified lack of a conducive rights protection environment could cause a challenge in accessing justice in Nigeria.

However, concerning the above challenge in accessing justice in Nigeria as identified, in figure 4 and table 4, 97.2% of the respondents further identify that clinical legal education could aid in expanding access to justice in Nigeria. In this regard, in figure 5 and table 5, the respondents in a cluster of responses identify the relevance of clinical legal education to Nigeria's justice system as follows:

74.5% of the respondents stated that clinical legal education served as a watchdog and exposes abuse of human rights

68.8% identify that it ameliorates and creates easy access to the justice system

64.5% stated that it expands access to the justice system

61.7% also stated that clinical legal education facilitates a speedy trial process for an accused person

61.4% identify that clinical legal education as practice in Nigeria embarks on educating and sensitization of the general public concerning their rights

In this regard, given the relevance of clinical legal education in securing the rights of an accused person and expanding access to justice, in figure 6 and table 6, the respondents further identify ways of enhancing clinical legal education in Nigeria as follows:

69.5% of the respondents stated that there is a need for government to provide funds for the enhancement and effective clinical legal education in Nigeria

78.8% identify collaboration with other related human right group will aid in enhancing clinical legal education in Nigeria

83.5% stated that there is a need for compulsory inclusion of clinical legal education as part of the Law undergraduate curriculum

78.2% identify that there is a need for sensitization of the general public on the existence and relevance of clinical legal education

Furthermore, 44.5% of the respondent stated that government must guarantee the protection of agents or personnel of clinical legal education from any form of abuse

8. Conclusion

The study has been able to highlight the activities and concept of clinical legal education (Law Clinic) in expanding access to justice. At the same time, have, hugely, exposed the denial of the right of an accused person to be presumed and treated as innocent while standing trial in Nigeria. In this regard, the study was able to identify that, the criminal justice system in Nigeria is running contrary to the spirit of the constitutional provisions, especially, as regards the protection and promotion of the fundamental right to the dignity of the human person. This is concerning the fact that several individuals are serving as an inmate for several years in Nigeria correctional centres without trial.

Furthermore, the study further found that several challenges often result in the denial of a suspect of their rights to access justice in Nigeria. Some of the identified challenges include; poverty, a cumbersome and bureaucratic procedure in instituting criminal suits, corruption in the criminal justice system, and several others identified above in this study.

It is concerning the above that this study, therefore, concludes and recommends that, to curtail the incessant deprivation of the right of a suspect to justice and expand the scope of access to justice, there is a need to intensify and improve on clinical legal education (Law Clinic) in Nigeria. In this regard, all necessary aid that is needed to equip clinical legal education in Nigeria must be provided by the Nigerian government and concerned stakeholders in the Nigerian Justice system. This is concerning the fact that equipping and intensifying clinical legal education (Law Clinic) in Nigeria will enhance and expand access to justice.

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