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Impact Assessment of the COVID-19 Pandemic and the Nigerian Judicial System

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Abstract

Nigerian Judiciary faced difficulty in dispensing justice during the COVID-19 pandemic that ravaged all sectors of the globe. In efforts to curb the speed spread of the virus Nigerian judiciary followed suit of the adoption of the non-medical safety protocols, which negatively affected the operations of the courts/judiciary to Nigerians and Nigerian state. The study is ex-post facto research design which relied on secondary data and the study theoretical framework was underpinned by system theory. The judiciary adjudicates upon issues of conflict between individuals, groups, government and individual or organs of government, which was impossible during the COVID-19 pandemic due to lockdown and strict adherence to non-medical safety protocol imposed by the government. The paper demonstrated and established the stance of judiciary as watchdog in state governance in Nigeria. The paper unfolded that COVID-19 nonmedical safety protocols negatively affected timely justice delivery as a result of physical presence of the litigant/lawyers required in the processes of filing case, which lockdown badly affected in Nigeria. The paper also revealed that COVID-19 pandemic tapered social and economic status of legal practitioners and litigants in Nigeria. So, electronic court hearings, training of courts staff on the act of electronic court hearing and electrification of courts across levels among others were recommended by the paper.

Keywords: COVID-19, Non-medical safety protocol, justice, judiciary, impact assessment



1. Introduction

In every political system (state) justice is the bond that connects the weak and the strong together as members of a state. This is because justice is a fair treatment that eliminates the fear of injustice of the strong from the weak. Thus, government of Nigeria constitutionally instituted judicial system (courts) to ensure that justice prevails by punishing those who have committed injustice/crime against the state or their fellow citizens in the state.

However, accessibility of justice through courts by litigants was almost impossible in Nigeria in the period of COVID-19 pandemic. All over the world, many countries have fallen into economic recession (Munro, Maxim & Whiton, 2020), emanating from the negative impacts of the virus on socio-economic activities, which Nigeria state was inclusive. President Muhammadu Buhari on March 29th, 2020 announced lockdown in the country with effect from March 30th, 2020 (Olarewaju, 2020, p.1; Libby, 2020). In addition to the announced restriction of movement was the applications and enforcement of COVID-19 safety protocols to curtail the spread of the virus in Nigeria.

The COVID-19 pandemic safety protocol could be broadly divided into two; medical and non-medical safety protocols. The non-medical COVID-19 safety protocol is concerned of this study as its affected justice delivery in Nigeria by the courts. Lockdown movements, no public gatherings, implementation of judiciary's suspension of court sitting among others were the nonmedical COVID-19 pandemic safety protocols. The wide speed spread of the virus and adherence to the non-medical safety protocols of the pandemic incapacitated the Nigerian judiciary in fast justice delivery. Hence, litigants, legal practitioners and legal firms were grappling with how to render legal services to clients. Consequently, the paper attempts to examine how the COVID-19



pandemic non-medical safety protocols affect the course of seeking justice in Nigeria. The paper is ex-post facto research design in nature, thus, sourced data from secondary sources.

2. Statement of the Problem

In every part of world, a function judicial system is crucial to both the people and the government particularly, the non-military government. Nigeria is a democratic state where effective judicial system is crucial importance to democracy that based its operations on rule of law. Resulting from this the above assertion, the court is a system where justice allows a fair judgment in a situation that needs just and equity by interpretation of the existing laws of the country or place.

Painfully, Nigerian judicial system faced challenges in dispensing justice in the period of the COVID-19 pandemic that ravaged all the sectors of the globe. In efforts to prevent the speedily spread of virus in Nigeria, Nigerian judicial system followed suit of the adoption of the non-medical safety protocols/ which negatively affected the operations of the courts to both Nigerians and Nigerian state. So, the paper attempts to examine how the COVID-19 pandemic non-medical safety protocols affected the course of seeking justice in Nigerian judiciary.

3.1 Conceptual Literature Review

3.2 Judiciary

Judiciary is the third in the hierarchy of arms of government charged with the responsibility to adjudicates justice and interprets the constitution, and other operational laws in the country. Judiciary represents the court system, which symbolizes Justice, Judges, Magistrate, adjudicators and their supportive personnel who run the system. (Edosa & Azelama, 2005; Everyone's



Parliament, 2015). The judiciary which is the court determines and interprets the sections or subsections of a constitution of which it stands for, if there is any confusion/misunderstanding concerning section or sections of the constitution.

Hence, Judiciary is the court and it can declare an act of parliament null and void, and unconstitutional in Nigeria. That is why Egbule (2018) asserted that the Judiciary is established to dispense justice and interprets the laws as granted by the constitution. He further noted that the basic functions of the said arm, exception of interpretation of laws; it also settles disputes, punishes law breakers and protects the rights and liberties of the citizens, which positioned the court as the last hope of the commoners in the society. The court is a key to democratic culture because it helps to uphold the culture. The Nigeria Courts include: i) The Supreme Court; ii) The Court of Appeal; iii) The Federal High Court; iv) The State High Court; v) The Magistrate Court; vi) The Sharia Court (special court); vi) The Customary Court

3.3 Justice

The concept of justice has been given various meanings by different people at different times and different places (Mba, 2009, pp.13-15). He lamented about the meaning of justice because of the dynamic nature of the concept rising from passage of time, for example what was justice in the past may be injustice in the present and vice versa. However, here, justice is seen as asserted by Onyekosor cited in Nwaze (2012) that justice is "the maintenance of administration of what is right in a fair and impartial way, and according to standard; just conduct, the quality of being right and fair". Onyekosor's view on justice depicts what judiciary (courts) stands for. This is why is commonly said that the court (Judiciary) is the last hope of the common man. Justice is

very imperative to the success of any political system. In a political system, judiciary is a major means of seeking justice because it is constitutionally established to settle disputes between a citizen and another, and between a citizens and government. So, in the modern time, the court which is the tool of judiciary as an organ of government is being manned by professionals in order to dispense justice professionally. Hence, political system is incomplete without a system of justice.

3.4 Impact Assessment

The word impact has several meanings. Impact can be seen as action of object on the other(s) by way of hitting with force. It can also be seen as to press or fix something firmly, that is fixing something strongly. More importantly, impact can be defined as phenomenon having effect on something or somebody. The phenomenon can be living thing(s), event(s) or the things that bring effect on something or somebody, which can be visible like two cars collision or invisible like an idea or event that has impact on human beings but they cannot be held or seen physically. For example, the impact of COVID-19 on Nigerian Judiciary, was an event, so, it was invisible but felt by the people. The question one may ask is what is effect? Effect is a change produced by an action or a cause. By this definition, effect can be visible/seen or tangible. Effect can also be defined as an impression created in the mind of person or people. Therefore, impact is a phenomenon that capable of producing change on something/somebody or creating an idea, a feeling or an opinion about something or somebody.

3.5 Empirical Literature Review

The Pre-COVID-19 Pandemic Condition of Filing Court Cases in Nigeria.

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The pre-COVID-19 pandemic filing processes of court cases were manually done at the courts registry office. In Nigeria, before the pandemic a litigant or his/her has to physically present at the Registry of a court to; present to the Registrar filing and service fees assessment, presentation of paid assessed fees bank receipt to the Registrar and the completion of the filing process at the registry office (Ugonna and Kehinde, n.d). This manual filing of court cases encourage interpersonal physical relations, a situation non-medical COVID-19 safety protocols targeted to avoid. For example, the official stoppage of court cases hearing till the lift of lockdown apart from time-bound cases as prescribed by law (Olufade and Muftau, 2020). Consequently, the enforcement of the pandemic non-medical safety protocols caused difficulty in access justice and slows in administration of justice by the courts. Denton (n.d) also asserted that personal interviews with new clients and to review matters with old clients by lawyers were not feasible under the strict control of the COVID-19 lockdown. Similarly, Wandoo (2020) unfolded that shutdown of all courts by Muhommad Tanko Chief Justice of Nigeria, incapacitated litigants to continue or complete ongoing court cases, abandon many litigants in a legal difficult situation, while accused persons were held indefinitely in police custody until the courts open again. He concluded that COVID-19 negatively impacted on the legal profession within the period existed in Nigeria. Therefore, the study sets to investigate the effect of COVID-19 non-medical safety protocols on justice delivery in Nigerian Judiciary.

3.6 Theoretical Framework.

System theory is adopted as the framework of this study. The theory as associated with political science traced to David Easton in his work titled "The Political system" in 1953 (Iain &



Alistair,2003; Obi, Nwachukwu & Obiora,2008). A political system is a system of interactions of a society via which authoritative allocation of values are made and executed in the form of policies, decisions and programmes. The theory highlights importance of environment, inputs, conversion box, outputs and feedback device of political system working independently, deliberately and committed to accomplish common goals (Ogbe, 2016).

A system consists of parts which interrelated and three elements guide the understanding of system theory as noted by Obagbinoko and Egbaju(2011, p.30), which are: the parts, which must be relating to the whole and each part makes certain contributions toward the survival of the whole. Dahl (1991) asserted that any connection of elements that interact in some way with one another could be considered as a system. Therefore, organs of government responsible for governance in a state are a system because they interact governmentally. The organs are; the legislature, the executive and the judiciary. The legislature makes laws which the executive arm implements and the judiciary interprets the laws for the citizens and the government in case of misunderstanding of the law due to ambiguity. Interactions of the organs as a system could be seen from Okereke (1998) assertion that "the power of judicial review which the courts (judiciary) have, authorized them to determine the constitutionality of executive and legislative actions and to nullify such actions if found to be unconstitutional".

By application, the organs of government do not operate in vacuum but in an environment which consist of citizens of the state and the government which meant to serve the citizens. The legislature makes laws that would satisfy the citizens' needs and demands, which the executive arm ought to implement and it is the constitutional duty of the Judiciary to clarify the laws made

by the legislature in case of ambiguity. For example, the court with its power of Judicial review in

Nigeria spurred the Supreme Court to declared that the Independent National Electoral

Commission (INEC) led by Professor Maurice Iwu lacked the constitutional power to

disqualified candidates, especially Vice – President Atiku Abulbakar, the presidential candidate

of Action Congress(AC) from contesting for the April 21, 2007 presidential poll in the country

(Obi, Nwachuku & Obiora, 2008).

The Judiciary likes other institutions that were operating in Nigerian environment in which

COVID-19 pandemic was having high speed of spread with its infectious virus. In attempt to

prevent such speedily spread to safeguard the people health, the World's COVID-19 safety

protocols were adopted by the Nigeria government which impact negatively on all sectors in

Nigeria, include seeking justice in Nigerian courts (judiciary) due to the imposition of lockdown

(restriction of people's movement) as one of the COVID-19 safety protocols declared by the

President Buhari. Therefore, the lockdown declared and imposed as mechanism to safeguard

Nigerians health has serious effects on Judiciary operations which occasioned difficulty in seeking

justice in courts by Nigerians in Nigerian state. The analysis of system theory above depicts the

understanding while COVID-19 pandemic affect the operations of the judiciary. System theory

tends to show that public policies /laws /programmes emanate from people demands, which is the

environment. So, system theory places importance on environmental factors in policy process.

Thrust of this paper is to examine the impact of COVID-19 on the course of seeking justice in

Nigerian judiciary.

The Court and State Governance: An Appraisal of Judiciary as Watchdog

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Judiciary as the third organ of government is popularly known for as the interpreter of constitution and law of a country. Judiciary as the third arm among the three arms is vested with the power to interpret and applies the laws of state, and composes of lawyers and Judges. It is the duty of Nigeria state to provide among others welfare services and maintain order in the land. Ojo (2007) opined that it is the function of the state to provide basic services which her citizens cannot provide on their own such as maintain law and by the police and the court, thus, the state is kept intact and at peace. It is the full responsibility of the Judiciary to adjudicate justice through the courts as established by the constitution (Igbe, 2002). Igbe further noted maintained that every issues of conflict between the legislature and executive arms (emphasis, by extension between individuals and groups or between individual and government) are adjudicated upon by the judiciary. The judiciary ensures that the constitution is not in any way violated. Hence, the judiciary is the watchdog of the constitution and laws of the land, which is impossible if courts are not in operations due to preventive circumstances, such as COVID-19 pandemic that dysfunctions many sectors include the judicial system globally.

An example in line with the aforesaid submission that the judiciary is watchdog over state's constitution and laws is; Federal High Court sitting in Nigeria Federal capital Territory Abuja declared null and void of the Regulation 1(1) (q) and (u) of mandatory use of the National Identification Number (NIN) regulations 2017, that restricts the right of access to court and freedom of association as enshrined in the 1999 constitution and African charter (Team ESQ, 2021). National Identification Management Commission (NIMC) by its provision of section 27 Act and Regulation 1 (1) (u) mandated the use of National Identification Number (NIN) as a



condition in filing and regulation of criminal and civil actions or other arbitration process in court(s). Also, NIMC by its regulation 1 (1) (q) mandated the use of NIN before a person can become a member of professional body, which was challenged by Eustace Nwaozuzu as plaintiff that NIMC had by its aforementioned Act and Regulation violated provision of the 1999 constitution. In reaching a decision, Hon. Justice Ijeoma .L. Ojukwu stated that the aforementioned provisions of NIMC run contrary to chapter 4 of the 1999 constitution, placing NIN as a condition precedent to access courts or join a professional bodies truncate a person's right.

An example of watchdog of the judiciary was the Supreme Court nullification of the Executive Order 10 initiated by President Muhammadu Buhari in Nigeria. The Executive Order 10 was to grant financial autonomy to states' judiciary and legislature in accordance with section 12(13) of the Nigeria amended 1999 constitution. The Apex court held that the Executive Order 10 was inconsistent with the aforesaid constitution. Therefore, the Executive Order 10 is unconstitutional, illegal, null and void, and of no effect whatsoever. Nigeria as a federated country, with three levels of government the functions and powers of each arm of government are spells out by the constitution. Consequently, Mr President has constitutionally overstepped the limits of his power by issuing the presidential Executive Order 10 (Ejike, 2022; Nnochiri, 2022, p.4).

The importance of judiciary to state governance has led to the institutionalization of independence of judiciary in the modern society. An independent judiciary means without interference or external control from the other two (the executive and legislature) arms of government to create an atmospheric condition devoid of personal bias that brings honest with high level of integrity in the administration of justice. It has been argued that for the judiciary to

be independent and effective in its functions the following steps should be taken: the autonomy of

the judiciary at times should be preserved, the devoid of politicians' interference or influence

judicial decisions and observance of rule of law (Obi, 2022).

The judiciary traditionally acts as watchdog to the constitution and laws in course of state

governance by ensuring that they are not trampled upon, such as aforementioned case of NIMC vs

Eustace Nwaozuzu and the nullification of Executive Order 10 by the Supreme Court. One issue

that is very important in the role/function of the judiciary is that of judicial review (Obi, 2022). By

the principle of judicial review due to the existence of a system of codified constitution, the court

can strike down unconstitutional actions that are deemed to be incompatible with a state

constitution (Heywood cited in Obi, 2022). However, the function of judiciary as watchdog was

incapacitated due to the COVID-19 and adherence to its safety protocols among others, social

distancing during the second wave of the virus occasioned difficulty in seeking justice in the

Nigerian Judiciary.

Effects of COVID-19 Non-medicals Safety Protocols on Justice Delivery in Nigerian

Judiciary

Below are the COVID-19 prescribed non-medical protocols to be observed by people

(Allison, 2020) are;

1. Clean your hands often

2. Cough or sneeze in your bent elbow

3. Avoid touching one's eyes, nose and mouth

4. Avoid close contact with someone who is sick

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5. Clean and disinfect touched objects and surfaces frequently

Adherence to the above non-medical COVID-19 protocols has negative impact on fast justice delivery process in Nigerian judiciary. This is because the process of filing cases requires their physical presence of litigants/lawyers, touches of files, among others. In pre-COVID-19 pandemic in Nigeria, litigants or their lawyers have to be personally present at the court registry to embarked on registration process, which included the submission of the payment made receipt to the Registrar (Ugonna and Kehinde, n.d)

The adherence to the non-medical COVID-19 protocols became necessary because of the physical presence of whoever wishes to litigate and the nature of the virus that is air borne that could be contacted if the protocols were not observed. Observance of the pandemic protocols in Nigerian judiciary were equally necessary due to the nature and processes of filing cases by litigants and lawyers in Nigerian courts prior to the COVID-19 period. Strict adhere to the rule of the pandemic protocols demand consciousness and extra-ordinary carefulness of the legal practitioners in handling case files that have been handled by others, which by implication caused delay in justice delivery. Moreso, not to clustered court room and the yard in order to avoid close contact that led to social distancing increased and accelerated delay in justice delivery during the pandemic in Nigerian judiciary. This is because the legal practitioners like other Nigerians were scared of be contacted by the deadly virus that has the capability to speedily spread.

Hence, from the above discussion the effects of COVID-19 non-medical safety protocols on justice delivery in Nigeria could be grouped into two. First, high rate of adjournment of cases - Although adjournment of cases is not uncommon with the judicial system, cases can be adjourned

due to absence of witness, defendant or plaintiff. However, during the second wave of the COVID-19 there were many adjournments of cases by the courts in Nigeria as a result of the virus safety protocols particularly social distancing which succeeded in limit access to courtrooms. Secondly, the slow pace of verdict/justice delivery by the courts. The impact of the non-medical safety protocols of the virus have made many legal cases to suffered delays because either the courts did not sit or long adjournment were given to cases, a situation which anybody seeking justice would dislike.

4.1 The Effects of COVID-19 Safety Protocols on Legal Practitioners and Litigants

The compliance with COVID-19 safety/preventive protocols negatively affected the psychological and economic status of the legal practitioners and litigants in course of seek and dispense justice in the following dimensions; restriction of the number of lawyers in courtrooms, created difficulty in legal practice, raised cost of justice, tapered litigants and lawyers economic status, caused mixed feelings of both litigants and defendants as the situation became worrisome. The aforementioned effects are discussed with illustrations from complaints reported by Oyadongha et al (2021), as follow:

Restriction of Lawyers in courtrooms - In order to prevent the speedily spread of the said virus, time was allocated to lawyers cases, which meant to restrains the number of people that will be allowed to stay inside the courtroom at any given time. Lawyers were also restricted. Thus, instead of a Lawyer to come with maybe two, or more of his/her fellow lawyers, limited range is given that only one lawyer per party and with face mask on.

system.

Created difficulty to legal practice - The virus under discussion and its preventive protocols threaten the professionalism of lawyers in discharging their duties. As observed by litigant over said virus safety protocols in court expressed his concerned that a legal practitioner was not allowed to sit in the court due to the COVID-19 protocols, just as his legal practitioner remained standing throughout the court proceeding. Thus, COVID-19 virus as well as the preventive nonmedical protocols created usual situations which threatened legal practice in Nigerian judicial

Raised cost of justice – In judicial system, Litigants pay for appearance fees of their lawyers as tradition demands but they paid more this time of COVID-19 due to several adjournments of the same case(s) of litigants, who bear the more appearance fees burden because of several adjournment of a case. An Activist noted that the delayed course of justice also brings an increased cost of justice for the litigants because the more adjournments, the more appearance fees the litigants have to pay, plus the cost of transporting themselves to the court(s).

Tapered litigants and lawyers economic status – The imposition of ban on movement as one of the measures to control the spread of the virus consequently affected socio-economic activities from which Nigerians earn their living. Thus, there was economic hardship in the land. Hence, most litigants complain that their source(s) of incomes have been severely affected by the COVID-19 pandemic. Some of the litigants who seek for lawyer's legal services are unable to pay their counsel legal fees, which have affected the economic status of the lawyers, because most of them depend on court practice as a sole source/means of livelihood. A lawyer noted that at times if one appears

for clients and after the appearance, they would not able to pay for appearance fees. Hence, it

created economic hardship for lawyers.

Caused different feelings of the litigants and the defendants due to adjournment of cases - The

effect of the COVID-19 on Nigerian Judiciary has caused different feelings of the litigants as well

as the defendants. This is because the accused person(s) in most cases suffered adjournment of

their cases with attendant effect of increased cost of lawyers appearance fees to be paid, while the

defendant(s) may be happy with the situation because the cases are not going on or unhappy where

they were remanded in custody. The above were the socio-economic negative impacts on

Nigerians in course of seeking justice in the Nigeria courts during the COVID-19 pandemic.

5. Conclusion

COVID-19 pandemic and its safety protocols have negative impacts on all facets of the

globe. In Nigeria, in its effort to join the fight against speed spread of the virus, Nigerian

government introduced and enforced the COVID-19 safety protocols. The Nigerian judiciary

system equally domesticated the safety protocols to safeguard both plaintiffs, litigants, lawyers

and the courts environments which negatively impacts were huge as both plaintiffs, litigants and

lawyers were affected arranging from high rate of adjourned cases, slow pace of verdict/justice

delivery and tapered both psychological and economic status of lawyers/litigants. Consequently,

the said pandemic has brought about new way(s) of doing things in Nigeria and the world in

general through the initiation of non-medical protocols introduced by the World Health

Organization to prevent speedily transmission/spread of the virus.

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6. Recommendations

COVID-19 pandemic has introduced a new order in doing things globally due to preventive and safety measures recommended for adoption by World Health Organization. So, this study recommends the following;

- i) All courts across levels in Nigeria should be electrified with regular power supply
- Both the lawyers and other courts staff should be trained on the act of electronic court hearings to increase the speed of justice delivery by courts, either due to the pandemic or otherwise. The electronic court hearing knowledge acquired would enable lawyers practice their profession during any pandemics even if there is lockdown, which will make their status not affected economically.

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