APPRAISING THE CONCEPT OF JUSTICE AND ADVANCING THE COURSE OF JUSTICE DELIVERY IN NIGERIA*\

Abstract
The quest for justice is as old as human kind. Ever since humans started living in groups, systems have been put in place to help them resolve their differences. This article extensively appraises the concept of justice as well as the state of justice delivery in Nigeria because of its reverberating importance. It utilized the doctrinal research methodology and ultimately found that the justice delivery system in Nigeria is very poor and fraught with debilitating challenges. However, the said challenges are not beyond resolution. Accordingly, this work advances certain recommendations to help address this issue, including the creation of more specialized courts, adopting a federal system of judiciary and radically altering the system of appointment of judges and judicial officers in Nigeria. It is fervently expected that a faithful implementation of the recommendations herein advanced should go a long way towards extirpating the problems encountered in justice delivery and reposition same, a situation which will be of incalculable benefit to all.

Key Words: Justice, Justice Delivery, Judges, Judiciary.

1. Introduction
The world is chaotic and the chaos is frequently exacerbated by the chronic perpetuation of injustice. Consequently, the demand for justice is a key sentiment[1] especially bearing in mind the fact that adherence to the tenets of justice is vital to the socio-economic advancement of a country[2]. It is not surprising therefore that since antiquity and up till the present time, the concept of Justice and issues relating thereto have been focal points of scholarship and extensive discourse. In Classical Greek Antiquity, Plato and Aristotle, among others, enunciated certain theories about Justice while in the modern era, John Rawls' 'A Theory of Justice' has proven to be a monumental piece of scholarship. Beyond rhetoric however, the *raison d'etre* of this article is to examine the concept of justice and ascertain the effectiveness of justice delivery in Nigeria. While the concept of Justice may be subject to disparate interpretations by different scholars, there is no fissiparity of views *vis-à-vis* the importance of effective justice delivery in Nigeria. This article therefore examines the concept of justice as well as the challenges affecting effective justice delivery in Nigeria and proceeds to outline recommendations to address the said challenges.

2. The Concept of Justice

2.1 Justice
Examining the issue of justice today appears to be an impossible task.[3] Enquiries as to the meaning of justice have aroused the interest of scholars since time immemorial[4] but while its importance is apparent and unquestionable, its exact purport remains a fissiparous issue as there is no unanimous definition of same.[5] Justice has been defined as 'the fair treatment of people'[6] as well as 'the fair and proper

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[1] R Waelder, 'The Concept of Justice and the Quest for a Perfectly Just Society', *University of Pennsylvania Law Review*, Vol. 115, November 1966, No.1, 1.
[2] JA Ayodele, 'The Concept of the Rule of Law and the Notion of Justice in the Survival of the Nigerian State', *Global Journal of Social Sciences*, Vol. 20, 2021, 25.
[3] S Banakas, 'A Global Concept of Justice-Dream or Nightmare? Looking at Different Concepts of Justice or Righteousness Competing in Today's World', *Louisiana Law Review*, Volume 67, No. 4, 1021.
[4] EE Edor, 'John Rawls's Concept of Justice as Fairness', *Pinisi Discretion Review*, Volume 4, Issue 1, September, 2020, 180.
[5] NT Nwikpasi and NA Duson, 'The Concept of Justice and its Application in a Developing Country Such as Nigeria', *International Journal of Innovative Legal & Political Studies*, 9(1), Jan-March, 2021, 53.
[6] AS Hornby, *Oxford Advanced Learner's Dictionary of Current English* (9thed, Oxford: Oxford University Press, 2015), 851.

administration of laws'[7].Furthermore, it has been said to be 'the principle that people get what they deserve.'[8] Justice has also been stated to be the 'constant and perpetual disposition to render to every man his due.'[9] In the view of Aristotle, one of the greatest philosophers in antiquity, 'It is thought that justice is equality, and so it is, though not for everybody but only for those who are equals; and it is thought that inequality is just, for so indeed it is, though not for everybody, but for those who are unequal.'[10]

2.2 Theories of Justice

Everyone has intuitive beliefs regarding justice even if it is only a few people who have developed a theory of justice.[11] Nevertheless, different scholars and philosophers from antiquity up till the present era have advanced disparate theories or concepts of justice. It is proposed here to consider some of the more important ones.[12]

2.2.1 Gautama Buddha

To Buddha, justice entails fair reward and proper sanctions for one's actions.[13] Essentially, in his concept of justice, every good thought, word and action deserves a fair reward while every evil thought, word and action warrants its proper sanctions.[14] His conception of justice goes further to espouse a revolutionary concept of disobedience to evil law so that in his view, a person should only obey just laws.[15] Accordingly, this concept of justice has been stated to be 'primarily a normative and not a positive in its epistemology.'[16] The merit of Buddha's concept of justice lies in the fact that it seeks to entrench a moral basis for the law which should drive its legitimacy and acceptance. However, in the modern era, it may have limited followership because it fails to take cognizance of the fact that there are areas of divergence between law and morality. Furthermore, while it espouses the Natural School of jurisprudence, it completely disregards the Positive School because not all laws have a moral basis.

2.2.2 Confucius

The Chinese sage, Confucius also perceived the concept of justice from the lens of virtue and ethics which he saw as the standards of justice, capable of transforming the lives of people and the society into peace and harmony.[17] He linked the concept of justice to reason and maintained that 'He who entertains thoughts contrary to justice will act contrary to reason.'[18] He perceived justice as the standard of governance by which a ruler should honour five fair values and disdain four evil vices: a ruler should be kind but not wasteful; should burden but not embitter; may be covetous but not greedy; should be high-minded but not proud and should be stern but not fierce.[19] A ruler, in his view, should avoid cruelty,

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[7] BA Garner, *Black's Law Dictionary* (10thed, St. Paul: Thomson Reuters, 2014), 995.
[8] NN Pandey and M Jaiswal, 'A Comparative Study of Theory of Justice: in Reference to Rawls and Nozick', *Journal of Positive School Psychology,* 2022, Vol. 6, No.8, 2363.
[9] Justinian, *Institutes 5* (3rded, Cooper Transalation, 1852), quoted in R Waelder, 2.
[10] Aristotle, *Politics* (Rackman Translation, 1959), quoted in R Waelder, 2.
[11] H Oberdiek, 'Review of "A Theory of Justice" by J. Rawls', *New York University Law Review*, Volume 47, Issue 5, 1013.
[12] For an extensive treatment of this, see S Bhandari, 'The Ancient and Modern Thinking about Justice: an Appraisal of the Positive Paradigm and the Influence of International Law', *Ritsumeikan Annual Review of International Studies*, 2014, Vol. 13, particularly at 5-31.
[13]Ibid, 5.
[14] HS Olcott, *The Life of Buddha and its Lessons* 19, kindle 86 (India: The Osophilic Publishing House, 1912), quoted in Ibid.
[15] S Bhandari, *op cit*, 6. See the similarity with the precept of St. Augustine of Hippo that 'An unjust law is no law at all'.
[16]Ibid.
[17]Ibid, 7.
[18] RK Douglas, *Confucianism and Taoism*, Ebook 371, (London: Society for Promoting Christian Knowledge, 1879), quoted in Ibid.
[19] LA Lyall trans., *The Saying of Confucius*, Ebook 110 (The Project Gutenberg, 2007), quoted in S Bhandari, 7-8.

tyranny, careless orders and discrepancy in giving rewards to people.[20] The Confucian notion of justice is encapsulated in the Chinese word *zhenghi* which connotes putting things right and setting righteousness to stand upright.[21] In summary, the Confucian notion of justice entails the practice of virtue and avoidance of evil at the level of governance. This concept of justice, although lofty, is a worthy one deserving of praise. However, one can argue that the concepts of virtue and evil may well be considered to be nebulous in the modern era and susceptible to varied interpretations. Was the bombing of Hiroshima and Nagasaki during World War II by the USA for instance a virtuous or evil act at the governance level considering the fact that although it caused unspeakable grief, it also significantly helped shorten the war?

2.2.3 Plato

Plato was one of the greatest philosophers in antiquity as well as the most famous student of Socrates and the teacher of Aristotle. His esteem is so great that Whitehead (himself a renowned philosopher) famously quipped that 'the safest general characterization of the European philosophical tradition is that it consists of a series of footnotes to Plato.'[22] It is therefore unsurprising that Plato had views on the issue of justice. The platonic notion of justice is usually expressed through the medium of his teacher, Socrates who usually acts as his interlocutor.[23] His concept of justice arising from the dialogues in *Republic, Book I,* is that justice comprises virtue and wisdom while injustice consists of vice and ignorance.'[24] Unlike the Buddhist and Confucian views of justice which focus on the individual and the ruler respectively, the platonic view articulates justice both at the individual level as well as the level of the ruler.[25] It has been stated to stand "as the synthesis of the analysis of major socio-economic and political concepts such as well-being, demand and supply, trade, comparative advantage, production specialization, and constitutionalization of a state.[26] Plato concentrates on how justice (in the guise of optimal and efficient standards) can be legitimized through the instrumentality of the law (constitution).[27] This view of justice is quite remarkable for having anticipated the positive school of jurisprudence as well as modern dynamics of the law at least 2400 years ago! Furthermore, it envisages a more concrete and less idealistic view of justice encompassing the entire gamut of law, economics and other core societal dynamics.

2.2.4 Aristotle

Aristotle, student of Plato and tutor of Alexander the Great, was one of the Great Trio of Greek Philosophers alongside Socrates and Plato. He perceived justice as first, a conduct in consonance with the law, in other words, it connotes a 'moral disposition which renders men apt to do just things and which causes them to act justly and to wish what is just.'[28]This view of justice is mainly concerned with the 'observance of certain authoritative rules of human conduct' and ought to be termed the virtue of 'righteousness' or 'moral justice.'[29] He views justice secondly as signifying equality, which concerns the 'proportionate ratio of commensurable goods.'[30] Aristotle's enquiry into justice commences with the question about the highest good achievable by human actions and proceeds to answer it as happiness.[31] Happiness, to him, consists of pleasure, wisdom and virtue.[32] The relationship between the two aspects of justice perceived by Aristotle is not always an easy one. For instance, if one obeyed the

[20]Ibid.
[21] X Chen, 'Justice: The Neglected Argument and the Pregnant Vision', 19 *Asian Philosophy*, 2009, 189-198.
[22]AN Whitehead, *Process and Reality*, (New York: The Free Press, 1978), 39.
[23] S Bhandari, 8.
[24] B Jowett, trans., *The Complete Works of Plato*, location 22761 (Kindle, 2011), quoted in *Ibid*, 9.
[25]*Ibid.*
[26] S Bhandari, 10.
[27]Ibid.
[28] Aristotle, 'Politica', quoted in AH Chroust and DL Osborn, 'Aristotle's Conception of Justice', *Notre Dame L. Review* (1942), 129.
[29] AH Chroust and DL Osborn,129-130.
[30]Ibid, 131.
[31] Aristotle, *Nichomachean Ethics*, location 19714, quoted in S Bhandari, 11.
[32]Ibid.

law demeaning Jews in Nazi Germany that would have fallen clearly into the first segment while completely eroding the second. On the other hand, acts of civil disobedience aimed at entrenching equality would completely assail against the first segment while following the second. Is a reconciliation of the above possible? Beyond rhetoric, this dichotomy raises fundamental questions which need to be addressed frontally in the realm of justice delivery.

2.2.5 Jeremy Bentham

Bentham, one of the obvious and important contributors in expanding the English concept of justice globally, perceived the issue of justice from the viewpoint of the twin issues of happiness and utility (utilitarianism).[33] In his opinion, 'Nature has placed mankind under the governance of two sovereign masters, pain and pleasure.'[34] He therefore seeks for the promotion of happiness or at least, the reduction of unhappiness as well as the advancement of causes which have utilitarian purposes which will serve everybody or at least, the majority of the populace. Bentham favors any measure for reforming laws and entrenching institutions on the basis of the principle of utility and promoting utility on the fulcrum of law.[35]

In summary, his concept of justice depicts his idea of utility as it is legitimized in law. In other words, the Benthamite idea of justice conceives law as the factor of justice in which law, justice and utility are inextricably linked.[36] This is a modern and 'positive'[37] view of justice and has the obvious merit of seeking the welfare of the populace. However, it is susceptible to the often-unhealthy and difficult-to-define relations between law and justice, especially in the modern era.

2.2.6 Immanuel Kant

Kant, one of the greatest German philosophers and one of the most influential philosophers of the modern era, also lent his thinking to the issue of justice. His conception of justice was founded on *a priori* reasoning which he considered as the groundwork of morality.[38]In his system of justice, rights are grouped into two main areas: metaphysical or rational and empirical or practical.[39] In both areas, rights retain moral representations either of having positive features or being means to same for an end.[40] Unlike Bentham, he believes that the pain or pleasure associated with the object of desire does not always come prior to the activity of desire.[41] For him, the right thing to do is regulated by law, therefore law is the source of justice.[42] He thus shares the Benthamite fixation of positive law (legal positivism) as the fulcrum of justice with the consequent problems such as what happens to justice when the law underpinning it is inherently and irreconcilably unjust? Were the laws in fascist Italy under Mussolini for example meant to be obeyed and would same not have inexorably led to injustice? Did the State sponsored pogroms against Jews in Nazi Germany under Hitler not result in grave injustice to them? This undergirding of justice on positive law is an issue which needs addressing particularly in the face of the inherent realities of the modern era which has almost completely eradicated morality[43] as the basis of law and extirpated the previously feeble and dying influence of the Natural School of Law.

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[33] S Bhandari, 14.

[34] J Bentham, *An Introduction to the Principles of Morals and Legislation* (White Dog Publishing, Kindle edition, 2010), quoted in Ibid.

[35] S Bhandari, 15.

[36]Ibid.

[37] As in relating to the view of Law encapsulated in Legal Positivism. For an in-depth look of this school, see A Taiwao and IO Koni, *Jurisprudence and Legal Theory in Nigeria* (Lagos: Princeton & Associates Publishing Co. Ltd.,2019), 200-221.

[38] S Bhandari, 17.

[39] I Kant, *The Philosophy of Law: An Exposition of the Fundamental Principles of Jurisprudence as the Science of Right* (Liberty Fund Inc., EBook, 2010), 39.

[40] S Bhandar, 18.

[41] I Kant, 40.

[42] S Bhandari, 19.

[43] One may well ask, 'what is morality anyway?'

Thankfully, unlike Bentham, Kant offers the idea (or is it ideal?) of the suzerainty of moral laws over positive laws.[44] One should however not gleefully rejoice at this because the subjectivity of morality also leads to ambiguity here. The good thing is that judges, legal scholars and enforcers of the legal sector have been furnished with a lot of food for thought. It is hoped that they will prove themselves worthy of the task.

2.2.7 John Rawls

Rawls is arguably the greatest contributor to the concept of justice in the modern era. His *magnum opus* ‘A Theory of Justice’ is so monumental that it has been observed that ‘one cannot think about justice without taking a position on it.’[45] It has also been described as ‘one of the most interesting modern attempts to defend principles of justice.’[46] His philosophy of justice demands the following:

i. the maximization of liberty, subject only to such limitations as are vital for the protection of liberty itself;
ii. equality for all, both in the fundamental liberties of social life and also in distribution of all other forms of social goods, subject only to the exception that inequalities may be allowed if they produce the greatest possible benefit for those least well off in a given scheme of inequality; and
iii. fair equality of opportunity’ and the extirpation of all inequalities of opportunity based on birth or wealth.[47]

Rawls’ theory commences in the social contract tradition. He believes that we are most likely to get to just, obligatory and stable principles for ordering the fundamental structure of the society if the process is perceived as an effort to arrive at an agreement by the individuals concerned.[48]Put in another way, his basic concept of justice is that ‘the principles of justice are those principles that free and equal rational persons would agree on for regulating their common association.’[49]Are the above postulations correct though? Does it mean that a positive law system cannot enact laws which encapsulate just, obligatory and stable principles for ordering the fundamental structure of the society without the input of the concerned individuals?

In his theory, he attempts to proffer a moral theory alternative to utilitarianism and which addresses the issue of distributive justice using an updated version of Kantian philosophy and a variant specie of the conventional social contract theory.[50] At the risk of repetition, it bears stating that Rawls is mainly concerned with fairness especially in the quest to distribute resources. To say the least, this is a theory which accords with the passions and desires of the majority of the populace. The judiciary, executive, and policymakers must be guided by same in their quest to render justice to the populace. Unsurprisingly, the theory has been applauded enthusiastically. Accordingly Cohen, has described ‘A Theory of Justice’ as ‘magisterial’ and further stated that Rawls’ utilization of the techniques of analytic philosophy made it the ‘most formidable’ defense of the social contract tradition till the present.[51]

2.2.7 Michael Sandel

As a scholar, Sandel seeks to understand people’s views about justice and the basis for same.[52] He is peculiar in that he is more concerned about continuous discourse on justice not philosophizing about

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[44] I Kant, 47.
[45] RA Putnam in M Nussbaum and J Glover eds, *Women, Culture and Development: A Study of Human Capabilities* (Oxford, Oxford University Press,1995), 303.
[46] MDA Freeman, *Lloyd’s Introduction to Jurisprudence* (9thed, London: Sweet and Maxwell, 2014), 481.
[47] Ibid, 482.
[48] G Merritt, ‘Justice as Fairness: A Commentary on Rawls’ New Theory of Justice’, Vanderbilt Law Review Volume 26, Issue 3, 667.
[49] DW Brock, ‘The Theory of Justice’, *The University of Chicago Law Review*, 488.
[50] ‘A Theory of Justice’, online article available at <https://en.m.wikipedia.org/wiki/A_Theory_of_Justice~>; accessed on 1st September 2023.
[51] Ibid.
[52] S Bhandari, 26.

it.[53] Nevertheless, he argues that justice cannot be analytically discussed without taking into cognizance the conceptions of the good.[54] He is critical of utilitarianism, the Kantian form of liberalism as well as the Rawlsian theory of justice.[55] Unlike Rawls who believes that justice should be independent of social good, Sandel's view is that justice is relative to social good and not independent. Sandel has developed the following 3 major analytical viewpoints on justice: welfare, freedom and virtue.[56] Essentially, he links utilitarianism with welfare, the Kantian notion of justice with freedom and the Aristotelian ideal of justice with virtue.[57]He endorses the virtue viewpoint of justice in the following words: 'Devoted though we are to prosperity and freedom, we can't quite shake off the judgmental strand of justice. The conviction that justice involves virtue as well as choice runs deep. Thinking about justice seems inescapable to engage us in thinking about the best way to live.'[58] Therefore, his conception of justice is 'associated with moral reasoning reflected in virtue, judgmental strand, and good life.'[59] In essence, his theory of justice is rooted in morality, a notion which does not easily prove susceptible to definition, or to application for that matter.

2.2.8 AmartyaSen

Sen, the Nobel Laureate and prominent Economist, also has a theory of justice. In his view, the creation of just institutions is not enough as the ability of people to enjoy justice is often curtailed by powerful segments of the society.[60] Therefore, he advocates for the creation of an environment which would help accentuate the ability of people to fight oppression, protest systemic neglect, go against torture, reject hunger and other circumstances which deprive them of justice.[61] He also considers reason as an instrument for the promotion of justice. While these views are certainly lofty and germane in the universal war against justice, they appear to wear better the garb of theory than practical reality. Be that as it may, Sen embraces three particular methodologies in his quest to entrench justice and extirpate injustice; first, he focuses on how decisions about institutions, behavior and other determinants of justice are reached; secondly, he lays emphasis on how to manage conflicting considerations about justice and finally, he focuses on day-to-day transgressions of justice and not institutional frailties in the belief that these transgressions are capable of being remedied.[62]

2.2.9 Martha Nussbaum

Nussbaum, the Ernst Freund Distinguished Service Professor of Law and Ethics at the University of Chicago, also has a conception of justice. In her 'Theories of Justice', she advances a theory of justice which can address issues of social justice *vis-à-vis* unequal parties, for instance, the extension of education, healthcare, political rights and liberties to those with physical and mental disabilities.[63] She also seeks to extend justice and dignified life conditions to every citizen of the world and also extend social justice to non-humans (animals). She emphasizes the essence of political cooperation and the nature of political doctrines in synthesizing and propagating a future of greater justice for all.[64] Her view of justice is certainly a deep and inclusive one because it panders to the welfare of the often-neglected (or even unconsidered) people such as disabled people as well as animals. This inclusive notion of justice has reverberating and deep-lying consequences because it is not enough to craft an elaborate system of justice if same is not going to be inclusive as it would only amount to a self-damning exercise.

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[53]Ibid.
[54] MJ Sandel, *Justice: What is the Right Thing to do?* (New York: Farrar, Stras and Giroux, Kindle Version, 2010), 186.
[55] S Bhandari, 27.
[56]Ibid, 28.
[57]Ibid.
[58] MJ Sandel, 9.
[59] S Bhandari, 29.
[60]Ibid, 30.
[61]Ibid.
[62]Ibid.
[63] MC Nussbaum, 'Frontiers of Justice: Disability, Nationality, Species Membership', available at <https://philpapers.org/rec/NUSFOJ>; accessed on 3rd October 2023.
[64]Ibid.

3. Natural Justice

The rules of Natural Justice have been in place in one form or another since prehistoric times. They emphasize the importance of procedural requirements in the process of adjudication in resolving issues affecting the rights and obligations of individuals.[65] Essentially, the concept of natural justice demands and expects 'that laws should not only be reasonable, fair and liberal in contents but that they should be interpreted, applied and enforced fairly and liberally.'[66] Lending credence to the above, Justice Jackson of the United States Supreme Court emphatically stated that: 'Procedural fairness and regularity are of the indispensable essence of liberty. Severe substantive laws can be endured if they are fairly and impartially applied.'[67]

This is a piece of ratiocination with which this article entirely agrees. Enthusiastic endorsement of the rules of Natural Justice have been offered by several scholars.[68] The rules of Natural Justice are generally discussed under two precincts:

i. That a man should not be condemned unheard (*audialterampartem*); and
ii. That a man should not be a judge in his own cause (*nemojudex in causasua*).[69]

These two aspects were articulated in the opinion of Viscount Haldane in *Local Government Board vsArlidge*[70] where he asseverated as follows: 'My Lords, when the duty of deciding an appeal is imposed, those whose duty it is to decide must act judicially. They must deal with the question referred to them without bias, and they must give to each of the parties the opportunity of adequately presenting the case made. The decision must be come to in the spirit and with the responsibility of a tribunal whose duty is to note out justice. But it does not follow that the procedure of every such tribunal must be the same.'

Furthermore, underscoring the sheer importance of these rules, they were contained in section 33(1) of the Constitution of Nigeria (1979) as well as the extant Constitution[71] in the following phraseology: 'In the determination of his civil rights and obligations, including any questions or determination by or against any government or authority, a person shall be entitled to a fair hearing, within a reasonable time, by a court or other tribunal established by law, and constituted in such manner as to ensure its independence and impartiality.' These two rules of Natural Justice will now be briefly discussed below.

3.1 *Audi alterampartem*

This rule, said to be 'as old as the world itself'[72], stipulates that a party to a case must be afforded a clear, reasonable and adequate notice of the case he is to face and be availed reasonable opportunity to prepare and respond to same.[73] In a scintillating view, de Smith enthused as follows: 'That no man is to be judged unheard was a precept known to the Greeks, inscribed in ancient times upon images where justice was administered, proclaimed in Seneca's *Media*, enshrined in the Scriptures, mentioned by St. Augustine, embodied in Germanic as well as African proverbs, ascribed in the Year Books to the law of nature and asserted by Coke to be a principle of divine justice.'[74]
Similarly, in *Stuart v Palmer*[75], it was held that:

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[65] MC Okany, *Nigerian Administrative Law,'* (Onitsha: Africana First Publishers Limited, 2007), 172.
[66]Ibid.
[67]*Shanglinessy vs US*, 345 US 206 (1953).
[68] for instance HDR Wade, *Administrative Law, 1961),* p. 172, quoted in MC Okany. No.66, 172 and SA de Smith, *Judicial Review of Administrative Action*, 3rded, 1973, p. 238, also quoted in MC Okany, No.66, 172.
[69] IMO Nwabuoku, 'The Concepts of Justice and Equity and their Efficacy in the Administration of Justice in Nigeria', *EBSU Journal of International Law & Juridical Review*, Volume 1 (2010), 403.
[70] (1915) AC 120 at 132.
[71] Constitution of the Federal Republic of Nigeria (1999) As Amended, s. 36(1).
[72] MC Okany, 174.
[73]*Ibid*, 173-174.
[74]MC Okany No.66 p.135.
[75] 74 NY 183, 190 (1878).

> It is a rule founded upon the first principle of natural justice, older than written constitutions, that a citizen shall not be deprived of his life, liberty or property without an opportunity to be heard in defence of his rights; and the constitutional provision that no person shall be deprived of these without due process of law has its foundation in this rule.

In the case of *R v Chancellor of the University of Cambridge*[76], the Court of Kings Bench invalidated a decision of the University of Cambridge withdrawing the degree of one Dr. Bentley because the University failed to afford him the opportunity of being heard before acting against him. According to the court:

> The objection for want of notice can never be got over. The laws of God and man both give the party an opportunity to make his defence, if he has any. I remember to have heard it observed by a very learned man upon such an occasion, that even God himself did not pass sentence upon Adam before he was called upon to make his defence. Adam (said God) where art thou? Hast thou not eaten of the tree, whereof I commanded thee that thou shouldst not eat? And the same question was put to Eve also.

The above underscore the fundamentality of this rule of Natural Justice which should never be jettisoned in any judicial or quasi-judicial enquiry or proceedings or in deed in any situation where the rights, obligations or affairs of a person are under consideration.

3.2 Nemojudex in causasua

This second rule of Natural Justice is just as ancient and important as the first. It essentially stipulates that 'whoever is entrusted with the responsibility of deciding any dispute between two or more parties, should exercise his functions in a spirit free from prejudice, so as to give each party his due according to the law of the land.'[77] The fundamentality of this rule can be properly appreciated from the holdings in several cases. Accordingly, in *Day vs Savage*[78], the court opined that: 'Even an Act of Parliament made against natural equity as to make a man a judge in his own cause is void in itself for *juranaturae aunt immutabilia* and they are *legeslegum*.'

Similarly, in *City of London v Wood*[79], Chief Justice Holt declared that if an Act of Parliament declared that the same individual should be both party and judge, such an Act would be void. Furthermore, in *Dr. Bonham's Case*[80], where a doctor of medicine of Cambridge University was invited before a Board of the College of Physicians and fined and imprisoned for contempt because he had failed to obtain a licence from the College before practicing in the City of London, the Court per Coke, CJ declared that the Board had no authority to fine Dr. Bonham because the Board constituted itself a Judge in its own case. According to the esteemed jurist, such an action was 'against common right and reason, repugnant and impossible to be performed; the common law will control it, and adjudge such an action to be void.'[81]

It bears noting and emphasizing that this rule against bias (and prejudice) is so established that detraction from it will invalidate any proceedings even if the same was otherwise properly decided. It even goes beyond substance and includes form. Consequently, it has resulted in one of the most popular aphorisms in law to the effect, 'It is not merely of some importance but is of fundamental importance that justice should not only be done but should manifestly and undoubtedly be seen to be done.[82]

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[76] (1723) 93 ER 698.
[77] MC Okany, No.66, 233.
[78](1615) HOB, 85, 87.
[79] (1701) 12 Mod. 669.
[80] (1610) 8 Co. Rep. 113b.
[81]Ibid, at 118 a.
[82]*King v Sussex Justices ex parte McCarthy* (1924) 1 KB 256, 259, per Lord Hewart.

4. What does Justice Delivery Entail?

Having discussed the meaning of justice above, it remains to pinpoint what exactly justice delivery entails. Delivery has been defined as 'the formal act of voluntarily transferring something…'[83] Justice delivery, in a simplistic sense, can therefore be said to be the act of transferring justice. Essentially, for the purpose of this article, justice delivery refers to the system that ensures that disputes between litigants are resolved in a fair, dispassionate and timely manner. Put differently, where parties to an action head to court, their dispute should be resolved in the shortest possible time and in a manner that convinces them that justice has been done, even if one of them ultimately loses. It covers not just the final decision reached by the court but the processes leading up to it. Consequently, justice delivery can be said to be effective when disputes in court are resolved timeously and fairly whereas there is obstruction of justice when the adjudication process is either fraught with delays, bias or anything that indicates that 'justice was not done or seen to be done.'

5. Challenges to Effective Justice Delivery in Nigeria

Justice delivery, for the purpose of this article, relates to the entirety of the machinery put in place by the society to resolve disputes or differences among individuals, between individuals and the government as well as between corporate bodies and the government or individuals. Its importance lies in the fact that it is central to the progress of any country especially in the modern era. Quick and fair resolution of disputes entrenches law and order, adds to the stability of the body polity, aids the growth of the economy and accentuates the progress of the country. It is however most unfortunate that because of the challengers shown hereunder, justice delivery in Nigeria crawls at a snail's speed, leading to a concatenation of deleterious consequences. Because justice delayed is justice denied,[84] when the conclusion of a case takes an inordinate amount of time, even if a litigant ultimately emerges victorious, the justice he gets may well be sterile. Beyond the issue of the speed of justice dispensation, the quality of judgments is equally important.

The challenges militating against effective justice delivery in Nigeria include:

i. Inadequate funding of the judiciary;
ii. Lack of independence of the Judiciary;
iii. Insufficient number of judges and judicial officers;
iv. Non-specialization of judges;
v. Politicized appointment process of judges and judicial officers;
vi. Non-adoption of federalism in the Judiciary;
vii. Inadequacy of court room infrastructure and lack of automation;
viii. Too many cases on the cause list of courts;
ix. Clogs in the appeal process;
x. Delays caused by lawyers;
xi. Delays caused by litigants;
xii. Unwarranted requests for adjournments; and
xiii. Corruption.[85]

An extirpation of the above challenges through the means below recommended should go a long way towards improving justice delivery in Nigeria.

6. Recommendations and Conclusion

In order to entrench effective delivery of justice in Nigeria, the following are recommended to extirpate the challenges noted above:

[83] BA Garner, 521.

[84] T Sourdin and N Burstyner, 'Justice Delayed is Justice Denied', *Victoria University Law and Justice Journal*, Volume 4, Issue 1, 49.

[85] An illuminating perspective on the causes of the delays in Nigerian courts can be seen in AA Oba and IS Ismael, 'Revisiting the Causes of Delay in the Adjudication of Islamic Personal Law Cases in Nigerian Jurisprudence,' *NAUJILJ*11(1) 2020, 5-9.

i. Entrenching a federal judicial system such as the one practiced in the United States of America. Nigeria needs a federal system of Judiciary where each State has a High Court, Court of Appeal and Supreme Court while the Federal High Court, Court of Appeal and Supreme Court are retained. When this is done and their jurisdictions are properly streamlined, it will usher in a system where disputes are resolved very quickly. The Federal Supreme Court, as is the case in most other countries, will then be a proper Policy Court which will deal only with constitutional issues and existential issues of the highest importance.

ii. Creation of more specialized courts or divisions in the Judiciary. Although there are a few specialist courts in Nigeria such as the National Industrial court (which handles labour and employment matters), most courts are generalist courts in which a Judge may have murder, tort, divorce, land and fundamental rights cases on its docket on the same day! It is certainly impossible to find a Judge who has good appreciation of all these disparate areas of law however perspicacious he may appear. It therefore results in ineffective justice delivery including unsound judgments. However, where they are specialist divisions for instance in the High Court, a Judge who is an expert in Family Law is posted to the Family Law Division while one versed in Criminal Law handles Criminal Cases and another experienced in Commercial Law takes care of commercial cases. This will, as the saying goes, put square pegs in square holes and ensure a higher quality of decisions.

iii. Appointment of more Judges across board. In addition to (i) and (ii) above, there is a very urgent need to appoint more Judges and Justices across board. For instance, while the Constitution approves a maximum of 21 Justices for the Supreme Court[86], that number has never been met in the history of Nigeria. Similarly, the Court of Appeal and High Courts of the several states need more Judges to effectively deliver justice. It is not uncommon to see a Court's Cause List containing more than 40 cases for the day. This is improper and unhealthy both for the Judges and Litigants. This is especially preposterous in view of the fact that the country has a high number of well-trained, articulate and competent lawyers who can be appointed to help in effective justice delivery.

iv. Review of the Procedure for Appointment of Judicial Officers, Judges and Justices. It is an open secret that in recent times, the procedure for the appointment of Judges has been unduly politicized[87]. The consequences of this are deleterious and include the fact that a large number of those appointed are incompetent (as shown vividly in the poor quality of their judgments); the appointees owe loyalty to those who influenced their appointments; and legal practitioners, litigants and the general public lack confidence in the Judiciary. This is a far cry from decades past when only the best legal practitioners and academics were appointed to the Bench. Similarly, the current convention of promoting Judges and Justices to the appellate courts just on the basis of seniority is a retrogressive practice. In the past, Justice Taslim Olawale Elias and Justice Augustine Nnamani who were promoted straight to the Supreme Court are largely perceived to have been among the very best Judges in the entire Commonwealth during their time. Appointment to the Judiciary or elevation to appellate courts must be done purely on the basis of merit, competence, capacity and integrity.

v. Complete Automation of Proceedings in Court Rooms. It is most unfortunate that even in this modern era, most Judges still write for hours in long hand and most proceedings in court are not automated. This causes delay in the administration of justice and must be immediately addressed. In addition, court rooms must be upgraded to be more conducive. Situations where court rooms are plunged in darkness or function without air conditioners are unfortunately frequent. This must be addressed to expedite justice delivery because conducive courts will facilitate the work of judges and lawyers in court rooms.

vi. Constant training and retraining of judicial officers and the need for the Nigerian Bar Association, the Ministries of Justice and Non-Governmental Organizations involved in the area of Justice Delivery to complement the efforts of the National Judicial Institute.

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[86] The Constitution of the Federal Republic of Nigeria (1999) As Amended, s. 230 (1) (b).

[87] See for instance, U Chioma, 'Prof. Odinkalu Exposes Politicization of Judiciary Appointments, Calls for Reform', online article available at <https://thenigerialawyer.com/prof-odinkalu-exposes-politicization-of-judiciary-appointments-calls-for-reform/>; accessed on 24th August 2023.

vii. Drafting of retired Justices and Judges, stipendiary Magistrates and Justices of Peace to help handle most non-contentious issues.
viii. Ensuring the true independence of Judges by improving their welfare and ensuring they receive their payment from the Consolidated Revenue Account to avoid control by the Executive because when the Executive dictates how much they receive and when, they will be susceptible to manipulation by the Executive because 'he who pays the piper dictates the tune'.
ix. Declaring a State of Emergency on Justice Delivery in Nigeria.
x. Developing and following a detailed and clear-cut Policy for Justice Delivery in Nigeria.
xi. Increased use of ADRs in dispute resolution.
xii. There should be zero tolerance for unnecessary adjournments.
xiii. Systematic improvement of court registries.

Although the above recommendations are by no means exhaustive, it is expected that the implementation of the above will significantly tackle the noted challenges beleaguering justice delivery in Nigeria and usher in a new vista where justice will be done and done timeously.