

THE PRESIDENT'S NEWSLETTER

September-December, 2022

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DOMINANCE
TAKES OVER
SUPREME COURT**
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**INIBEHE EFFIONG
VS CJ, AKWA IBOM
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COVER IMAGE

Hon. Justice Olukayode Ariwoola
Chief Justice of Nigeria



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ABOUT US

The emergence of the Freedom of Information Act 2011 came with a mixture of positive constraints on traditional representative government and close door public service reception. This is not without the fear of the cost of review when faced with red tape. The result is that individuals, NGOs and the media are not willing to take financial risks of making innovative or public interest requests. FOI Counsel was registered in 2015 as a business name to assist low-income individuals, media and NGOs to access public records. In 2018, we established Rural Development, Information and Legal Advocacy Centre (RUDILAC) to promote public participation in Nigeria's democracy through research, training and legal support. While the former is registered as a business name the latter is a registered not-for-profit organization. The former has sponsored the activities of the latter for five years running. We have given pro bono legal support to over 437 persons and 63 NGOs and 8 journalists in Nigeria.

We trained over 880 individuals, academic and non-academic staff of Ambrose Alli University (AAU) on FOIA and the Code of conduct for public officers. We also trained and inaugurated the EXCOS of Freedom of Information Club at Ambrose Alli University, Ekpoma. We also consulted the Centre for Citizens with Disability (CCD) to facilitate training for persons with disability on FOIA in Enugu, Kano, Lagos and Uyo. We participated in the ILO's validation meeting of its Toolkit on Forced Labor and Fair Recruitment reporting. We were also part of the round table to validate the National Country Report on the Implementation of the African Union Convention for Preventing and Combating Corruption (AUCPCC) within the framework of the project "Towards Enforcement of Africa's Commitments Against Corruption (TEA-CAC). We campaigned for auditing of the Nigerian Bar Account particularly as it relates to Mac Arthur funding.

In the area of public interest & development litigation support, we assisted inmates in Nigeria to enjoy voting rights. We have also filed and won several cases at the ECOWAS Court. This includes the case of REGISTERED TRUSTEES OF FACULTY OF PEACE AND 3 v. FEDERAL REPUBLIC OF NIGERIA in (Application No: ECW/CCJ/APP/30/21) were the awarded 15, 000 USD in favour of the applicants. Other cases that we have include OKPAMAKHIN V FEDERAL REPUBLIC OF NIGERIA (ECW/CCJ/APP/22/2022), REGISTERED TRUSTEES OF UNEMPLOYED YOUTHS OF NIGERIA v. the FEDERAL REPUBLIC OF NIGERIA in (ECW/CCJ/APP/51/2020) which challenged the discriminatory employment of persons with disability. On covid19 pandemic we filed cases bothering on the test broadcast in AMAKA OKORO v. Nigeria Centre for Disease Control (NCDC) & ORS, SUIT NO: FHC/B/CS/72/2020 and vaccine procurement disclosure in FOIA COUNSEL v. National Primary Health Development Agency (NPHDA) SUIT NO: FHC/B/CS/44/2021

We sued Niger Delta Development Commission (NDDC) in 2014 and moved the right to information from a statutory right to a fundamental right and made the right to information a self-standing human right in Nigeria. We intervened in Katsina when the State Government banned the use of WhatsApp and Facebook in public institutions including schools. In FOI Counsel v. Attorney General of Federation (Suit No: FHC/B/CS/103/2018) we requested to know the local and international donations and grants to Open Government Partnership under the supervision of the Attorney General of the Federation (AGF) between 2015 and 2018. The breach was sanctioned and the court awarded damages in favour of the applicant. In RUDILAC v. International Organization for Migration (IOM) (SUIT NO: FHC/L/767/2019) the Applicant wrote to the Respondent



Ernest received damages courtesy of FOI Counsel after losing his arm at work



FOIA Training for Persons with disabilities in Kano State, Nigeria.



FOIA & Code of Conduct Training for staff of AAU Ekpoma, Edo State.



A 13 year old boy who suffered electrocution gets damages courtesy of FOI Counsel



NYCN award recipient for role in defending the course of ordinary citizens of the country.

seeking to have a record of economic support available for returnees in Nigeria. Hon. Justice O.O Oguntoyinbo of the Federal High Court on 9th December 2019 gave an order for leave for the applicant to apply for a mandamus compelling the Respondent to furnish it with copies of documents requested in its FOI request letter.

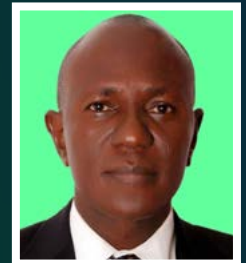
RUDILAC'S BOARD OF TRUSTEES



Prof. D.A Badaiki, B.A., LL.B (Hons), B.L., LL.M, PhD, SAN

Chairman Board of Trustee- RUDILAC.

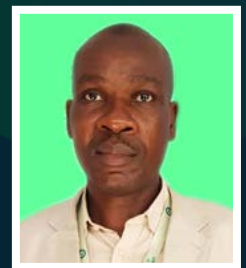
He has served on the editorial board of several law journals such as Lagos State University Law Journal, Ambrose Alli University (AAU) Law Journal, Journal of Legal Science, Nigeria Journal of Labour Law and Industrial Relations, Journal of Clinical Legal Education and the AAU Postgraduate Journal. He was Dean of the Faculty of Law, Lagos State University and Dean of Law, AAU, Ekpoma, Nigeria. Badaiki is currently the Dean of the School of Post Graduate Studies, AAU Ekpoma, Nigeria.



Aigbokhan President

Secretary Board of Trustees/Executive Director

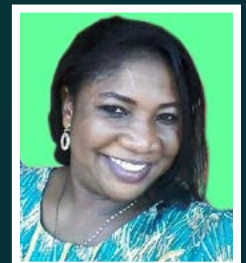
He led a team that enforced inmates' suffrage in Nigeria in 2014 and also was part of the team that made right to information a self-standing human right in Nigeria. He combines successfully academic publication and litigation briefs with clear ideas on a variety of policy areas. While researching on what is lost, he focuses his research and litigation to reveal what is left. Engagement with the current Nigeria's legislation and inter-disciplinary approach is the hallmark of his legal support. He is an active member of Special Public Interest Development Law (SPIDEL) of the NBA and also was a co-opted Executive Member of Nigeria Bar Association, Benin Branch. He is happily married and blessed with kids.



Ogbebor Eseosa Blessing

Member Board of Trustee.

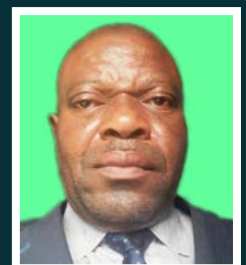
She attended Idia College in (1996) and then proceeded to the college of education Ekiadolor in (2004). She has a record of two decades of active and spirited service as a classroom teacher. She started teaching in (2007) at Ivbiyeneva Primary School and has over the years taught and mentored several hundreds of students. Currently, she serve as a classroom teacher at Ologbosere model primary till date.



Muritala Idaiye

Member Board of Trustee

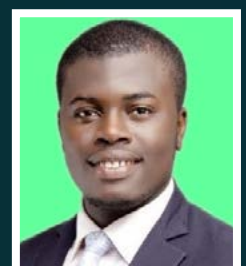
He graduated from Ambrose Alli University in 1998 with an LL.B in law. He proceeded to the Nigerian Law School, Abuja campus, in 1999 and was called to the Nigerian Bar in October 2000. He has been in active legal practice since 2000 and has worked in different law offices including ABIODUN ADESANYA & CO. Nov 2000 - Apr 2005, he was Head of Chambers A.G GIWA AMU & CO 2005-2007 and UWENSUYI-EDOSOMWAN & Co (EKHIKALO CHAMBERS) 2008 till date as head of Chambers respectively. He is presently the principal partner of M.A IDAIYE & CO.



John Edjeba

Member Board of Trustee

A graduate of the University of Benin with a Second Class upper and was called to bar in 2014. Proceeded to undertake the National Youth Service in 2015. Joined the firm of Uwensuyi-Edosomwan SAN & Co where He rose to the position of Head of Chamber. He is currently a member of the Chartered Institute of Arbitrators Member of the Chartered Institute of Taxation of Nigeria, Membership in View of the Institute of Chartered Secretaries and Administrators of Nigeria.



FROM THE EDITOR'S DESK



President Aigbokhan
Editor-in-chief

Information is a key mechanism for innovating justice. Open legal data/information is the foundation of a dynamic legal system. Judiciary constitutes an essential element of society, beyond the budget template for law and justice, we do not know the amount allotted for the judiciary in Edo State and also the headings of judges' allowances. Even in the face of various open government initiatives, the notion of openness in the judiciary is still opaque and unexplored. Today, we analyze precedent to identify patterns of common winning in courts with the potential to identify best practices. A huge array of datasets and statistical complications on crime (arrest, demographic, criminal offenders (sentencing, parole, substance use of juvenile, datasets on violence against women and divorce listing (gender divide of divorce applications).

Citizens can review available information to evaluate criminal justice outcomes to provide valuable insights for policy making. They have the right to request public records and know how taxes are being utilized. Public officials are mandated to make certain public documents available online to the public in fulfilment of the right to the freedom of information. Where a request for a public document is appropriately requested by a member of the public to a public authority and there is a violation of this right by such officer, an action should be instituted against any of such public institutions. Accessibility to information about courts and their activities is a necessary corollary to rule of law.

Every court case and decision should be uploaded on the internet so the public has easy access to it. Interestingly, there is a resistance to ICT innovation by officials of the sector which may be deliberate. Researchers and scholars have it that many African Countries do not comply with their laws as it relates to open government. This first edition of the newsletter is titled Open Justice and the purpose is to evaluate the current position of Nigerian law with regards to the ability to easily access, review and participate in proceedings of court remotely and

online. This edition of this newsletter will focus on public participation in the judicial process. It will open a conversation on the current state of judicial openness in Nigeria, interrogate the link between ICT and the justice sector, create a framework for proactive disclosure and review the secrecy of complaints against judicial officers

Open Justice is more than obtaining documents it includes participation and knowledge. Information is a key mechanism for innovating the law. Open legal data/ information is the foundation of a dynamic legal system. Citizens can review available information to evaluate criminal justice outcomes to provide valuable insights for policy making. Despite ongoing development in open government initiatives and constitutional provisions on open justice, the interface between ICT and the justice sector is at its lowest ebb.

The notion of openness in the judiciary is still opaque and unexplored in terms of emolument, judges' selection criteria, judgment per judge annually and publication of lower court's judgments among others. There is a dearth of law and justice datasets at the national and sub-national. We do not know the specific amount budgeted for the judiciary.

Proactive Disclosure by default for Justice Sector in Nigeria is a forward-thinking legal effort. This has become a defining goal for public administrators around the world. However, progress is still necessary outside of the executive and legislative sectors. There is a need to know what justice is in terms of access, exploration and feedback. To date, most of the rules of court are offline. Cause lists are manually prepared. There is a need for heads of a court to create an Access to Information Policy as this is a requirement of the Freedom of Information Act 2011 which mandates all MDAs in federal and state to embrace proactive disclosure.

In this current age and time where technology thrives, access to information seems to be unrestrained. In Nigeria, the Constitution is the supreme law and all actions are subject to the provisions of the Constitution. The main provision for the freedom of information is stipulated in section 39 of the Constitution of 1999. To further enlarge this provision, the Freedom of Information Act 2011 was promulgated to facilitate storage and access to public information.





FREE LEGAL OUTREACH

RUDILAC, in collaboration with the Voice of Freedom Ministry International, FOI Counsel, and the Legal Aid Council of Nigeria, organized a free legal outreach from 29th Sept. – 1st Oct. 2022. The legal services rendered includes rights protection, family support, alternative dispute resolution and general legal services.

Total number of lawyers for the three days was 17 and total number of cases attended to was also 17. The gender of respondent is 5 male and 12 female. The first respondent to enjoy the service is a male of 45 years with issue bothering on debt recovery and irregular land transfer. In a whole, actions taken include referring cases in writing to the Ministry of Justice for immediate Action, sending petitions to the Economic and Financial Crimes Commission, and the Assistant Inspector General of Police (AIG) zone 5 for investigation and other cases were assigned to the volunteers to continue with the necessary legal intervention.

According to the President of RUDILAC, President Aigbokhan *“The ultimate goal of RUDILAC is to shrunken access to justice gap for rural women. The first edition was held in the Benin City and in the house of God. Next year, we will use Local Government secretariat in selected rural communities to promote rights of women, girls and migrants. We are excited that we started promoting these rights in the vineyard of God”*






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STAKEHOLDERS CLAMOR FOR THE FINANCIAL AUTONOMY OF THE JUDICIARY

According to the former Chief Judge of Edo State Hon. Justice Frances Esohe Ikpomwen, *"the judiciary is suffering from starvation and cannot bear the burden of the cost of Open Justice"*. She made this known during her keynote address at a workshop with the theme – Open Justice, organized by FOI Counsel and NBA to mark Open Data Day. She said that open justice applies the principle of transparency, civic participation, and public accountability. She noted that to facilitate Open Justice, the court must employ open data. She cited the report of the Federal Ministry of Justice on National Policy on Justice 2017 which states that there is a dearth of routine data and statistics to enable proper assessment of the performance of justice sector institutions.

For President Aigbokhan, Esq. the Executive Director of FOI Counsel, *"there is a resistance to ICT innovation by officials of the sector which may be deliberately aimed at concealing wrongdoing and inefficiencies"*. According to Justice EF Ikpomwen (Rtd), the justice sector currently lacks the infrastructure to support digital or automated collection and management of information to protect its integrity and facilitate its timely retrieval. But the judiciary cannot foot the bill of full-fledged Open Justice because of executive and legislative dependence. She reiterated that access to court and its records are basic open justice doctrine characteristics across courts in the country. She recalled a case where a chief magistrate was disciplined for unduly withholding a judgment. For Joseph Otteh of Access to Justice, the National Judicial Policy 2016 insists that the judicial appointment process must be transparent, merit, and skill-based. He added that where the judiciary fails to recruit the most qualified candidates to judicial office, the quality of administration of justice would be unsatisfactory to court users in that jurisdiction.

Mr. Otteh concluded that the judiciary is suffering from starvation. Until there is judicial autonomy there will not be open justice. The Benin branch Chairman of NBA, Mr. Pius Oiwo commended the state of openness in the judiciary and argues that access to court and its records are still veritable to rule of law and that the FOIA 2011 needs no domestication for the implementation of the law and that any court that says otherwise is not living to its oath of office. He added that an automated justice administration will require capacity, strengthening, and installation of infrastructure and as long as the judiciary depends on the executive for funds it cannot foot the wage bill for openness in all ramifications. Therefore, to ensure the digitization of all processes used in courts there has to be a huge budgetary provision which is subject to the determination and consideration of the executive.



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Those present in the workshop which was hybrid (online and physical meeting) include the former chief of staff to Edo State Government, Dr. Isaiah Osifo, Mr. Abbas Inuwa of TranspaciT, Com. Austin Osakue of Foundation for Good Governance and Social Change (FGGSC), Mr John Osawe (member of Edo State Economic Team), Bulus Atsen the chairman of NBA, Abuja Branch and many others.



THE TRIUMPH OF PERSISTENCE AND DOGGEDNESS

Success is not sex-specific and failure is not an everlasting friend depending on the courage to leap over the hurdle. Oluwatobiloba Ayomide Amusan currently holds the world record of 12.12 which won Nigeria her first-ever World Championship gold. Toby started her training at Otunba Dipo Dina International Stadium, Ijebu Ode while schooling at Our Lady of Apostles Secondary School. She was 11th in Rio 2016, 14th in London 2017, 4th in Doha 2019, 4th in Tokyo in 2021 and 1st in Oregon 2022. Indeed perseverance is not a journey, it is many short trips over and over again. Inside every success is a lot of wounds of aborted destinations. Toby in 2016 tweeted "unknown now but soon I will be unforgettable. I will persist until I succeed." Her Twitter handle in one week moved from less than 600 followers to 200k. Don't give up, failure is success in progress. Some of the symptoms of success include late sleep, early rise, failed attempts, loneliness, unsupported, and overwhelmed dreams. All these are necessary for the sturdy formation for the reward.

While Toby Amusan made Nigeria proud, Hon. Justice Ekaete of Akwa Ibom made a Nigerian lawyer Inibehe Effiong

a hero. Inibehe has been on the frontline of the defence of human rights from his University days. The lawyer was sent to prison by Hon. Justice Ekaete Obot the Chief Judge of Akwa Ibom State. Inibehe filed an application on 23rd June 2022 asking her lordship to recuse herself from the case on the ground that the court demonstrates personal interest in the matter. The procedure is that where there is a pending motion it must be taken first before any further substantive procedure is entertained. The most clinical thing to do is to assign the case to another judge. Your lordship has added Akwa Ibom to Kano and Edo State on the watch list of endangered lawyering.

FOI Counsel Report on Endangered Lawyers published in January 2022, gave attention to lawyers who are being harassed, silenced, pressured, threatened, persecuted, tortured, and murdered because they aid their clients in public interest or politically sensitive cases. We identified the forms of threats to include contempt proceedings, harassment, and intimidation in the discharge of their professional duties. In our report, we identified channels of threat to include security agencies, colleagues/clients, judges, and political office holders. Lawyers are agents in the administration of justice and must be independent to paddle with the independent judicial system. We advised that broad stakeholders' lineup to address lawyers' intimidation be beyond a lonely vehicle of network with security agencies.

The impasse between Inibehe and the court has long been addressed by Hon. Justice Edokpaiyi (the former Chief Judge of Edo State) in his paper titled "Is it Contempt of Court or Abuse of Judicial Power?" presented in honour of Hon. Justice SMA Belgore (JSC former Chief Justice of Nigeria) where in his introduction Edokpaiyi stated that there is a need to balance the excess of the Bar with the high handedness of the Bench and concluded that the problem is of gravest emergency. The judicial system is the most expensive innovation crafted to find out what happened and what to do about it. In that wise, objection to the inquiry status must be taken seriously and in good faith.

Lord Tucker in *Izuora v Queen* (1953) 13 WACA 313 @ 34 is the first case that addressed contempt of court. The apex court held that it is not every act of discourtesy to the court that amounts to contempt. The court held further that in the present case, the appellant's conduct

was clearly discourteous but cannot properly be placed over the line that divides mere discourtesy from contempt.

Similarly, in the case of *Candide Johnson v. Esther Edigin* (1990) 1 NWLR (Pt. 129) 660 where the Acting Chief Magistrate ordered the detention of the appellant for some minutes at the cell for refusing to tell the court when he was called to the bar. The Court of Appeal condemned the exercise of power by the Magistrate and held that the invocation of the power of contempt by the magistrate bordered on abuse of judicial authority. Interestingly, the person contemptor is a Silk and the then magistrate retired as the Chief Judge of Edo State. I really don't know how she feels whenever this case is cited.

Achike JCA in its judgement in the *Candide Johnson* case concluded that *"it is clearly improper and will expose the administration of Justice to ridicule for a Magistrate invested with such extraordinary power to provoke unnecessary extra-judicial verbal exchange with counsel or member of the public and yet invoke against him the lethal and drastic power to punish for contempt."*

Hon. Justice Edokpaiyi, former Chief Judge of Edo State strongly arrested the naked judicial power when he submitted that *"what annoys a judge does not necessarily mean a contempt. The power to punish for contempt is not power to be recklessly used to assuage the injured feeling of the presiding judge. It is not a contempt of court when a judge does not agree with the learned's counsel method of advocacy. It is an abuse of office for a judge to abridge counsel's right of audience by dangling his power of contempt"*.

As we know power is not a blessing in itself save when it is used for the advancement of a just society. It is now imperative for the Chief Justice of the Federation (CJN) to release Guidelines for Judicial Officers on the transfer of cases and reclusion. Without a policy guide, there are bound to be several other tests for how not to be a judge.

The NBA Special Intervention Team (SIT) for Uyo led by Aikpokpo Martins will be remembered for being a buffer for branches and not banquet in branches. The journalist sent out of the courtroom should be carried along in the inquiry. Records of proceedings for the last consecutive sittings will aid his report. We are in an era where court proceedings can be broadcasted live as a new approach to access to justice. The court must understand that it is a basic principle of open justice to help reporters to have access to court so that they can cover court proceedings fairly and accurately.

We thank the ex-NBA President Olumide Akpata for his wisdom. The decision to send the National Vice President of the NBA to lead the intervention team is apt. There is a need to sustain this temple. It is also of great concern that the NBA branches are fastly becoming an extension of the arms of government. In recent times, they have failed to address the ills in their jurisdiction for appointive positions and financial support.

"This is my court young man not a court of law or justice; before law or justice there was man. It is either you bow or you perish, be warned." I know there is court of conscience which is higher than the court of justice and law. As I celebrate with athlete Toby and Inibehe Effiong today, I say *"if you try and fail congratulations because most people don't even try."*

**Unknown now but soon I
will be unforgettable. I will
persist until I succeed.**

Toby Amusan via her verified Twitter handle





OPEN JUSTICE SYSTEM IN NIGERIA: REMOTE COURT AND COURT ROOM OPENNESS

By Abbas Inuwa



As the Coronavirus pandemic hit the world in early 2020 and the courts around the world started closing, technology soon became the major tool to support justice delivery by helping the community of justice workers – judges, lawyers, court officials, litigants to embrace ‘remote’ alternatives as against traditional court hearings. Many Courts in Nigeria adopted Remote Court sittings in the beginning, although with infrastructural challenges, only a few like Lagos, Ogun, and Borno State High Courts and National Industrial Court have maintained the system, which is very open and transparent.

Justice is the idea that all people should receive the benefits, protections, and rights granted by law. Open justice applies the principles of transparency and accountability in administering the benefits, protections, and rights of the people by the justice system. These principles are not only important for courts, but also for the many other actors that play a role in the delivery of justice services.

Open justice is the use of new technologies, including big data, digital platforms, blockchain, and more, to improve our legal system by making the workings of our legal institutions easier to understand and scrutinize. It is the state of judicial openness in terms of access to court, records, and disciplinary proceedings against judicial officers. There is a need for the review the secrecy of complaints against judicial officers. The term describes the use of new technology to foster data transparency, courtroom openness, and public engagement to improve the efficiency, effectiveness, and legitimacy of the courts and promote better public policy and justice delivery.

The Nigeria Justice System is ‘scantly’ open to the citizens. Many courts do not embrace proactive data disclosure and do not encourage civic participation. Only 15 courts/judiciaries, including the Supreme Court, Court of Appeal, and National Industrial Court, have functionally-limited websites with scant

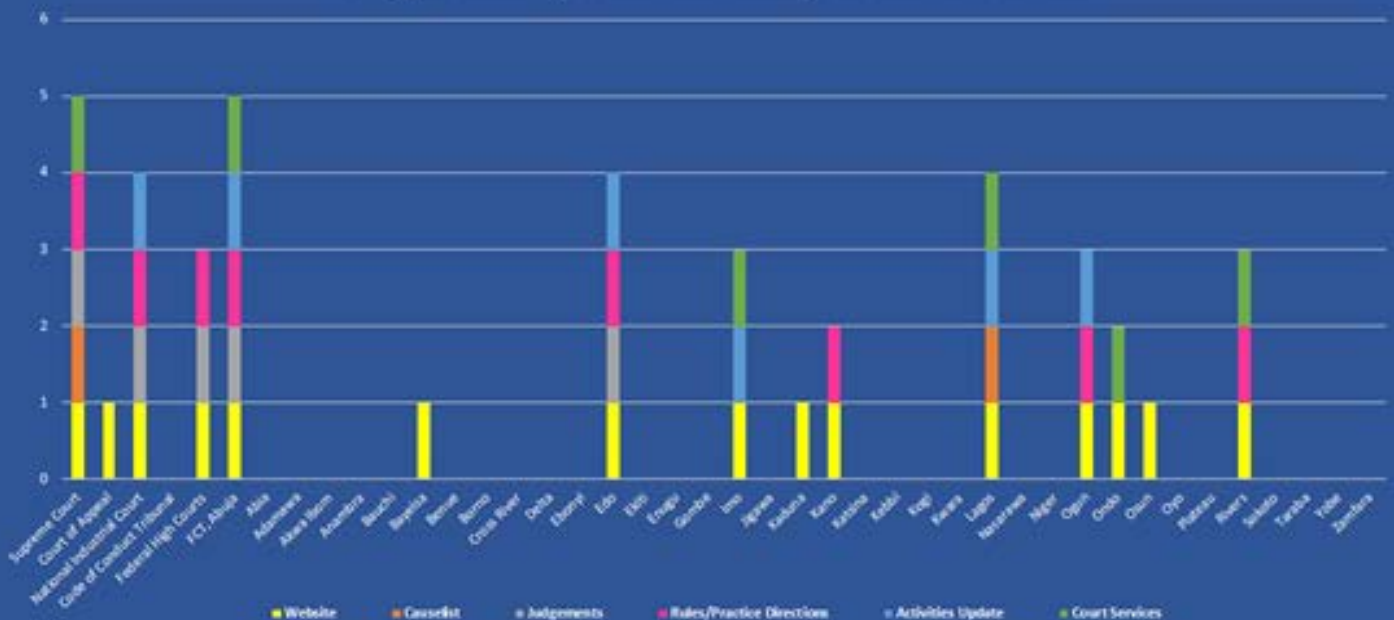


There is little information about the judiciaries likely to be known by members of the public which gives room for speculations on the activities of the judicial system.

information. Information is a key mechanism for innovating the law and open legal data/ information is the foundation of a dynamic legal system. Citizens should be able to review available information to evaluate criminal justice outcomes to provide valuable insights for policy making. Despite ongoing development in open government initiatives and constitutional provisions on open justice, the interface between ICT and the justice sector is at its lowest ebb. The notion of openness in the judiciary is still opaque and unexplored in terms of emolument, judges' selection criteria, judgment per judge annually, and publication of lower court's judgments among others. There is a dearth of law and justice datasets at the national and sub-national.

The data shows that there is little information about the judiciaries likely to be known by members of the public which gives room for speculations on the activities of the judicial system. The constant lack of open and accessible data in the justice sector affects the monitoring and evaluation of the courts and judicial officers by stakeholders and citizens.

Data Openness of Federal and State Judiciaries in Nigeria – looking at availability of functional website, data and online services



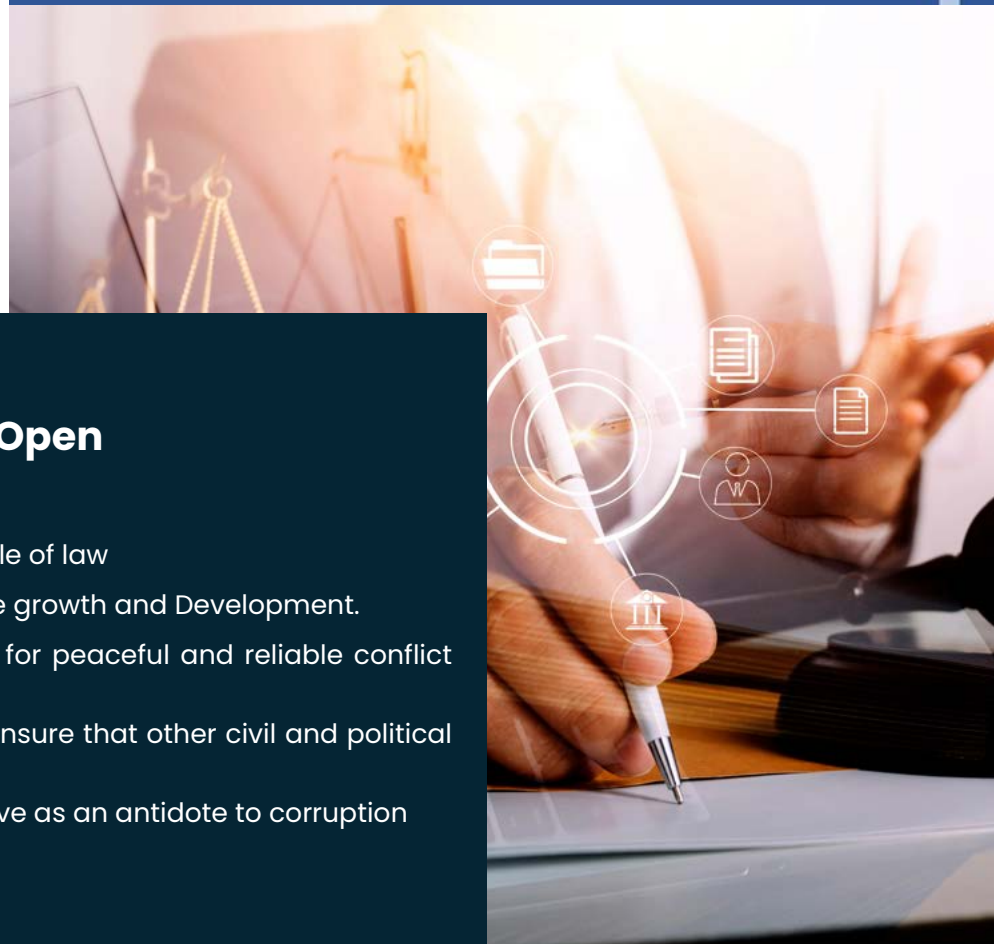
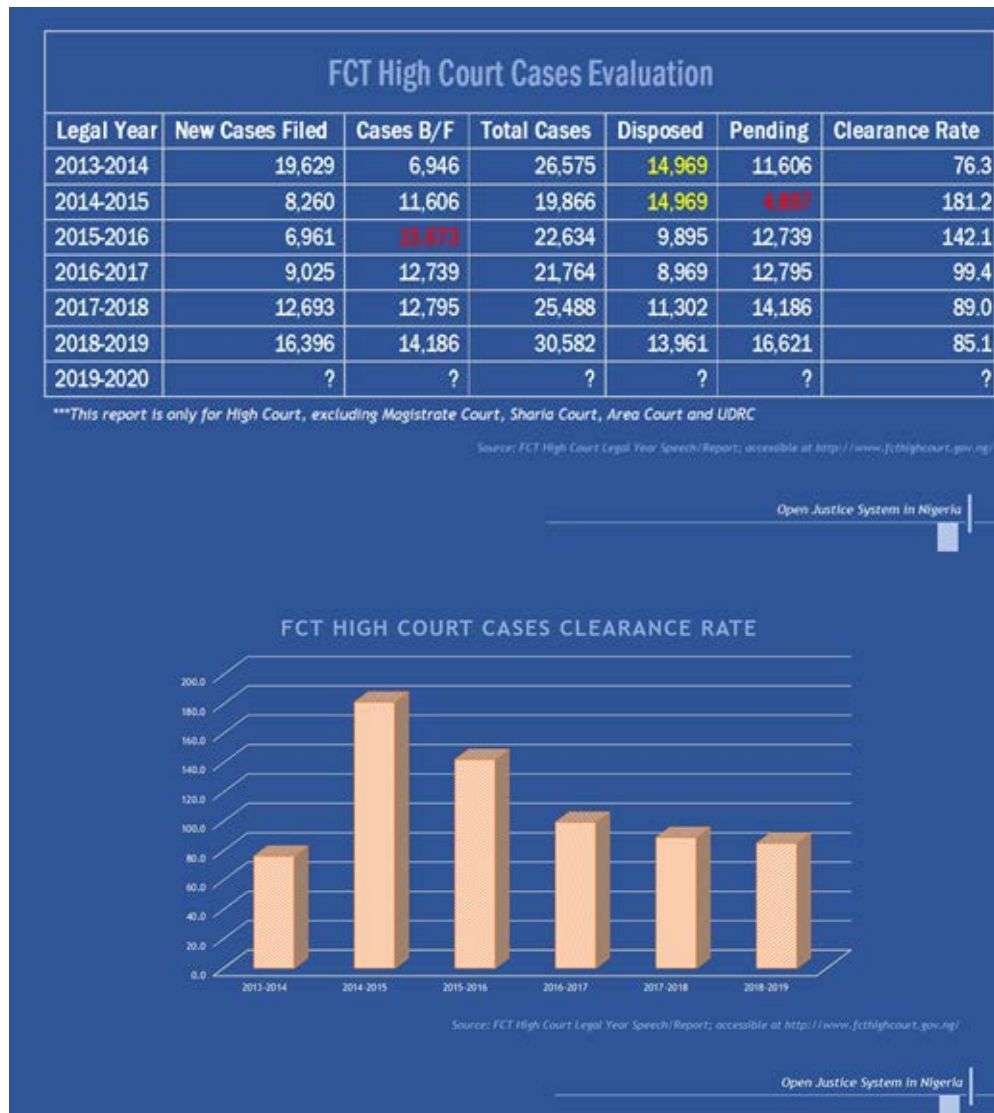
Open Justice System In Nigeria

Today, we analyze precedent to identify patterns of common winning in courts with the potential to identify best practices. The huge array of datasets and statistical complications on arrest, demographic of crime, criminal offenders, sentencing, drug-related offenses, substance use of juveniles, datasets on violence against women and divorce listing across the gender divide Proactive Disclosure by default for Justice Sector in Nigeria as a smart thinking policy drive. This has become a defining goal for public administrators around the world. However, progress is still necessary outside of the executive and legislative sectors. There is a need to know what justice is in terms of access, exploration, and feedback. To date, most of the rules of court are offline. Cause lists are manually prepared on the day of the case

Whilst traditional Court hearings are constitutionally public and open to all, Remote Court sittings have given more impetus to courtroom openness as people of interest from anywhere can follow the court proceedings. Some Courts use tools like Zoom, Facebook Live and YouTube Live to stream/broadcast live court sessions and provide open access to the public.

There is little or no civic participation and transparency in the selection of judicial officers, aside from press releases on the outcome of the process, which always springs up court cases and speculations of political influence against some appointments. Also, there is no open whistleblower portal for reporting judicial officers enmeshed in corruption and abuse of code of conduct for judicial officers.

Media coverage of judicial proceedings needs to be updated in line with the reality of new media. We are in an era where court proceedings can be broadcasted live as a new approach to access the court. There is also the need for the court to create an Access to Information Policy as this is a requirement of the Freedom of Information Act 2011 which mandates all MDAs in federal and state to embrace proactive disclosure.



The Importance of the Open Justice System

- Open justice strengthens the rule of law
- Open justice supports equitable growth and Development.
- An open justice system allows for peaceful and reliable conflict resolution mechanisms
- An open justice system helps ensure that other civil and political rights are respected
- An open justice system can serve as an antidote to corruption

FIGHT FOR ETHNIC DOMINANCE TAKES OVER SUPREME COURT

By Joseph Otteh

The founder of Access 2 Justice (A2J) Mr. Joseph Otteh identifies Gerrymandering in the judicial arena as a more frightening problem militating against Open Justice. He made this position in his paper presented at a workshop with the theme Open Justice organized by FOI Counsel and NBA to mark the open data day. He said *"It seems as though the jostle for ethnic dominance we see going on the broader political landscape has now been carried over to the judiciary. It does strongly look like there is an agenda to ethnically re-balance the Supreme Court as well as courts under it"*. He argues that the National Judicial Policy 2016 insists that the judicial appointment process must be transparent, based on merit, and skill-based. He added that where the judiciary fails to recruit the most qualified candidates to judicial office, the quality of administration of justice would be unsatisfactory to court users in that jurisdiction. In his presentation, he argued that a nation's judiciary determines how quite a lot of things go and one indicator that the judiciary is weak is that the judiciary feels helpless. He admonished that the process for selection of justice must be opened up in both the lower and upper courts of record.

He argued that three major problems in the justice sector include: lack of publicity of vacancies, lack of transparency in the shortlisting process by the Federal Judicial Civil Service Commission, and standard-less selection objective.

Gerrymandering is the manipulation of boundaries or electoral processes in favor of one party or class. Gerrymandering in the judicial sector is a threat to Open Justice, and it seems as though the jostle for ethnic dominance we see going on in the broader political landscape has now been carried over to the judiciary. Where there is no system for accountability and transparency, a system is bound to fail. The unnecessary politics being played in our judicial sectors is a huge risk to the justice system. Qualified candidates should be appointed as judicial officials and not for personal gains or relations. There is little or no civic participation and transparency in the selection of judicial officers, aside from press releases on the outcome of the process, which always springs up court cases and speculations of political influence against some appointments. In his presentation, he argued that a nation's judiciary determines how quite a lot of things go and one indicator that the judiciary is weak is that the judiciary feels helpless. He admonished that the process for selection of justices must be opened up in both the lower and upper courts of record. He identified three major problems in the justice sector which include lack of publicity of vacancies, lack of transparency in the shortlisting process by the



Federal Judicial Civil Service Commission, and standard-less selection objective.

"Unfortunately, there is no system of accountability for bad appointments and those who get to suffer the consequences of judicial appointments are you and I. Those who recruit our judges do not get to answer for the choices they make. It is others who suffer from those wrong choices. The CSOs' must come out to insist that the Judiciary observe its rules and guidelines. We must fight harder, if we don't the forces that have held Nigeria's judiciary captive and incapacitated will it keep going" Mr. Otteh concluded.



OPEN JUSTICE & TECHNOLOGY

By Kelvin Odemero & Happiness Horsfall Aigbokhan

As the coronavirus hit the world in early 2020 and the courts around the world started closing, technology soon became the major tool to support justice delivery by helping the community of justice workers, judges, lawyers, court officials, and litigants to embrace remote alternatives as against traditional court hearing. Many courts in Nigeria adopted remote court sittings in the beginning, although with the infrastructural challenges, only a few like Lagos, Edo, Ogun, and Borno State High Courts and National Industrial Court maintained the stand.

The impacts of technology have been felt in all legal professions, from legal education to government to the practice of law. Within courts, federal agencies, and other executive bodies, the government has made technology an essential part of creating efficiency, promoting access to justice, and easing monitoring, reporting, communication, and processing of documents. The legal and judicial process essentially entails various levels of information gathering and communication between stakeholders and conventional practices. Given the workload and volumes of information and data in the judicial process, applying ICT in the judicial and legal process will increase efficiency, promote easy research and allow for easier information retrieval, and in the long run, reduce stress and enhance the health of judicial officers. It will also reduce if not eliminate inefficiency, inaccuracy, and lack of transparency and integrity, the major causes of delay in justice dispensation. The advent of courtroom technology as a means for putting evidence before has put to fore the inevitability of technological revolution in the justice process and system. It has therefore become imperative for the judiciary and the entire legal ecosystem to embrace ICT in its service delivery.

Open justice and technology-driven court are Siamese twins. However, Nigeria as well as her undeveloped counterparts are fraught with many challenges to the justice system. According to the World Justice Project, two-thirds of the world's population faces some justice problem with a disproportionate impact on the marginalized and poor. In high and upper-middle-income OGP countries, housing consumers, and financial problems are the most common legal problems. In less affluent OGP countries, problems with

basic documentation and services are significantly more common. There is a dearth of knowledge on the use of technology in the judicial sector. Court proceedings are still being handwritten by judges. This delays the whole process of the administration of justice. In an age where technology thrives, the judicial sector is far behind. There is little information about the judiciaries likely to be known by members of the public which gives room for speculations on the activities of the judicial system. The constant lack of open and accessible data in the justice sector affects the monitoring and evaluation of the courts and judicial officers by stakeholders and citizens.

There is a cost of open justice and the judiciary is willing to bear it if allowed to be independent financially. This poses a serious threat to the open justice system. Many Africans are not able to access justice as a result of their inability to pay for legal representation or even still, the knowledge to realize that there are legal aid NGOs like FOI Counsel ready to pick up their cases and serve them their desired justice. According to Carolyn Logan, only 15% of Nigerians have been directly involved in an administrative, civil, or criminal case that has come before a government court, or tribunal as a claimant, a respondent, a defendant, or as a witness. Costs are a paramount concern in court actions. Nearly one in five respondents cite the problem of high court costs (18%), and nearly as many say lawyers are too expensive (17%). Other responses highlight concerns about the integrity of Court officers and proceedings, including expectations of unfair treatment (14%), lack of trust in the Courts (13%), and perceptions of the court as favoring the rich and powerful (11%). The Nigerian Justice System is also scantily open to the citizens. Many courts do not embrace proactive data disclosure and do not encourage civic participation. The information to be proactively disclosed include but is not limited to duties of departments, officers, decision-making procedure, manuals governing the departments, budget, and subsidiary programs. This will be effective where access to information appears in job description of court officers.

THE VALLEY OF THE SHADOW OF SAFETY

By President Aigbokhan

I met with Ernest Friday on the recommendation of Idede Osesky Oseyande. We discussed Ernest's affair while he was in coma at Irua Teaching Hospital (ISTH). Ernest was an artisan with one of the leading construction companies in Niger Delta. He worked in a tunnel feeder that had no emergency button. He had a duty to poke rock stuck to enable the feeder work smoothly.

On a faithful day in June 2018, the machine jammed as usual, he deployed the rod and his arm above the biceps was severed from his body. His disability is tied to non-automation of the crushing plant as against the provision of relevant mining legislation in Nigeria.

The company paid his health bills and also paid his three months'



salary of 20k before they stopped indefinitely. We therefore, filed a suit against the company for negligence for failure to automate the site. The company sought the service of a reputable firm and the lawyer of the company called for out of court settlement.

After several meetings and consultation, Ernest was given six digits as compensation. This brought to close an action of industrial negligence filed in 2019. The light of this story is that the mother who had never reached out to me throughout the duration of this case on receipt of the compensation decided to have a word with me. She said "Thank you Sir. You did not connive with the company against us. You will never have accident in Jesus name", I said "AMEN".

I am not interested in her connivance theory, here is an invitation to a Valley of the Shadow of Safety. I was called into it by strategic Community support. I like the prayer of the stand by mum because there is financial accident, there is professional accident and there is marital accident. Her prayers meant that I AM EXENORATED from them ALL!

SIMPLIFYING THE NOTION OF OPEN JUSTICE SYSTEM IN NIGERIA

By President Aigbokhan, Esq & Robinson Otuakhena, Esq

Justice is the idea that all people should receive the benefits, protections, and rights granted by law. Open justice is a fundamental characteristic of a fair and proper trial. It is a legal principle that Court hearings should be conducted in the open and should not be secretive. The concept of open justice requires not only transparency but the openness of all legal processes. These principles are not only important for Courts, but also for the many other actors that play a role in the delivery of justice services.

Open justice is also, the use of new technologies, including big data, digital platforms, blockchain, and more, to improve our legal system by making the workings of our legal institution easier to understand and scrutinize. Open justice describes the use of new technology to foster data transparency, courtroom openness, and public engagement to improve the efficiency, effectiveness, and legitimacy of the courts and promote better public policy and justice delivery. In providing easy access to documents, public institutions are mandated to record and keep information about all activities, operations, and businesses.

These records are to be organized properly and there must be the maintenance of all documents in custody (Section 2(1), (2) of the Freedom of Information Act). However, where proceedings have been decided many years ago, it is challenging to access these information as a result of bad storage. Normally, access to public documents should be released within seven days, or at most 14 days, because of inadequate storage procedures, it may take up to one month to obtain such documents. This is contrary to Sections 4 of the Freedom of Information Act, 2011, and Section 39 of the 1999 Constitution of the Federal Republic of Nigeria.

There are diverse laws that provide for open justice in Nigeria like the FOIA 2011, Administration of Criminal Justice Act of 2015, Administration of Criminal Justice Law of Lagos State, 2011, Criminal Procedure Act 2004, Administration of Criminal Law of Edo State, 2016, and various court rules. The provision of these laws is proof that Nigeria in Principle respects open justice and protection of the fundamental rights of individuals. Open justice indicates freedom of information and participation. Freedom of information is the right of an individual to find, impart and disseminate information. Information may be in the form of conceptual, empirical, procedural, stimulatory, policy and directive information. (See Professor AD Badaiki & President Aigbokhan (2019), *Freedom of Information: Law, Practice and Procedure*, AMFITOP Books, Nigeria.)

The practice of open courts establishes a focus on hearings and the power to report hearings. There are however circumstances that may restrain the open hearing of a criminal case in Court. Open justice is not absolute and will yield in some circumstances, conflicting imperatives. (Cunliffe E (Ibid)). There are some proceedings conducted in camera, the court may order certain information concealed from the public, and some persons may be identified by pseudonyms suppressions orders. Cases involving minors or minor victims of rape are not permitted to be conducted in the open for the protection of such minors. This in itself is justice. Another scenario where open justice is queried arises when judges are asked to prohibit the publication of the identity of witnesses or parties, including the accused. The rationale for the request varies but may include protecting the privacy of an accused before conviction or of a victim

Parties in a civil or criminal proceeding can request public documents. Individuals who want to access public records and Court rulings, when they apply, will be given certified true copies of the documents requested as this is in line with the provisions of the Freedom of Information Act, 2011 & Evidence Act. Citizens can review available information to evaluate criminal justice outcomes to provide valuable insights for policy making. Under the freedom of information regime, persons not being parties to a suit can request court documents.

The courts downplay the importance of open justice when considering requests for court records, even when those records have been used in open court. (Cunliffe E (supra)). There is a need to review various activities ongoing in the judiciary and this can only be done through access to information.

Analysis of a huge array of datasets and statistical complications on arrest, demographic of crime, criminal offenders, sentencing, drug related offenses, substance use of juveniles, datasets on violence against women and divorce listing across divide will power justice formalization.

Media coverage of judicial proceedings needs to be updated in line with the reality of new media. We are in an era where court proceedings can be broadcasted live as a new approach to access to Court. The court must understand that it is a basic principle of open justice to help reporters to have access to documents that have been used in open courts so that they can cover court proceedings fairly and accurately and most importantly, assist the public to have access and understand the judgment. Legal practitioners and some members of the public have complained several times of the disregard shown by court registrars and clerks. Most court employees do not do their required jobs. They gossip or have side jobs; applications are not being attended to as fast as is needed. This, of course, is a threat to open justice.

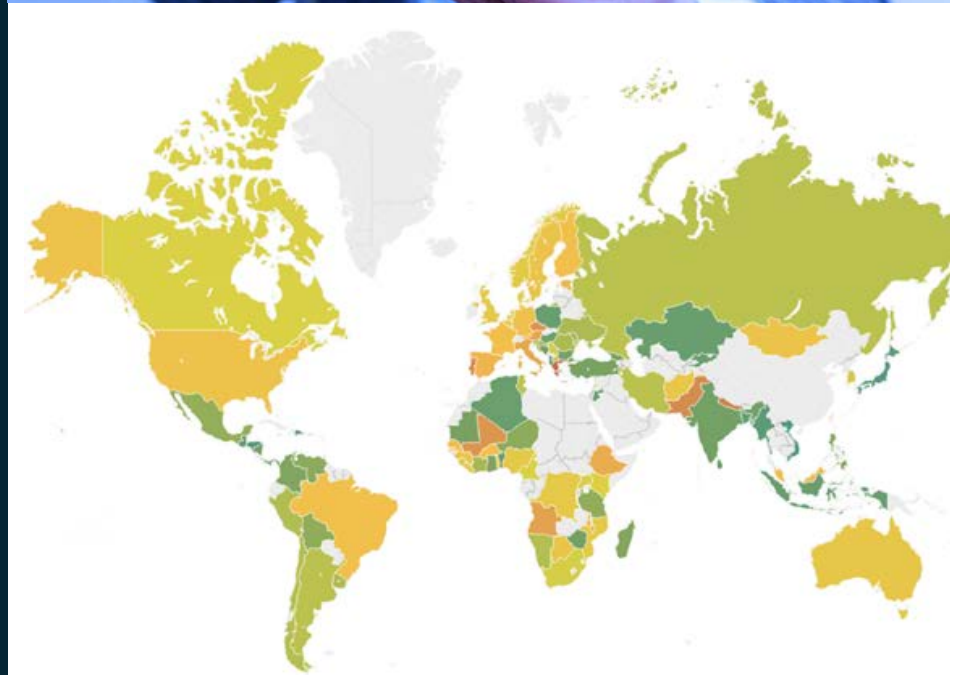


IMPORTANCE OF OPEN DATA FOR JUSTICE SECTOR

By John Osawe

Open data impacts nearly every aspect of life, including health, employment, education, housing, and public safety. Yet opaque processes, unequal access, and discrimination create barriers. According to the World Justice Project, two-thirds of the world's population face some justice problem with disproportionate impacts on the marginalized and poor. In high- and upper-middle-income OGP countries, housing, consumer, and financial problems are the most common legal problems. In less affluent OGP countries, problems with basic documentation and services are significantly more common.

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World Justice Project Global Insights on Access to Justice®

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NIGERIA

Legal Problems	Legal Capability	Sources of Help	Problem Status	Process	Hardship
60% Experienced a legal problem	65% Knew where to get advice	25% Were able to access help	40% Resolved the problem	14 Months to resolve the problem	52% Experienced a hardship
<p>60% Experienced a legal problem in the last 2 years</p> <p>Incident by type</p> <p>Basic Capacity 2%</p>	<p>75% Understood their rights</p> <p>65% Knew where to get advice and information</p> <p>54% Felt they could seek the process</p>	<p>25% Were able to access help</p> <p>Type of advisor</p> <p>Friend or Family 47%</p> <p>Lawyer or Professional 1%</p>	<p>40% Fully Resolved</p> <p>32% Problem is done and fully resolved</p> <p>18% Problem Persists</p> <p>Came up any action to resolve the problem further</p>	<p>72% Felt the process followed to resolve the problem was fair, regardless of the outcome</p> <p>14 Months on average to resolve the problem</p>	<p>52% Experienced a hardship</p> <p>Type of hardship</p> <p>Financial or income related stress 22%</p>



STAKEHOLDERS OF OPEN JUSTICE

GOVERNMENT

- Make Laws & set policies to adopt the framework for Open Justice
- Equip the state ICT Agency to develop the platform with partners such as ODI, OKF, OGP
- Engage the Justice system and CSO in adopting the platform
- Engage citizens on the benefits of the platform.

LEGAL SECTOR

- Ensure are key stakeholders within the sector are onboard (Ministry of Justice, Nigerian Bar Association, Alternative Dispute Resolution Bodies)
- Open Justice Policy adoption and enforcement.
- Ensure all legal issues are documented according to set open justice data standards.
- Keep the system feed with constant data, all year round.
- Engage citizens on the benefits of the platform.

CIVIL SOCIETY ORGANIZATIONS

- Advocate for general adoption and support for the platform.
- Validate data integrity with periodic checks against international best standards and actual cases resolved with evidence.
- Ensure the system is fed with accurate and verifiable data, all year round.
- Engage citizens on the benefits of the platform and advocate usage with feedback.

CITIZENS

- Embrace the platform when dealing with legal issues.
- Engage with lawyers and Civil Society Organizations on how best to deal with cases not properly handled to take advantage of the Open Justice System.
- Provide useful feedback during monitoring and evaluation of the platform.
- Demand for more Openness in the Justice System.

EXAMPLES OF OPEN JUSTICE DATA SET

Record of all reported cases charged to court.

- Type and Nature of Offence.
- Details of Prosecutor.
- Details of Offender.
- Details of the Judge Assigned to the Case.

Record of all cases resolved by the courts.

- Length of time it took to resolve the case.
- Nature of the Judgment delivered.

Police Criminal Record Data

- No. of people arrested.
- No. charged to Court.

Bills introduced by the Legislature

- No. of Bills passed.
- No. of Bills Not passed.

Appointment process of Judicial officers

- Selection process.
- Sex of candidates
- Local Government Areas of Candidates

KEY RESOURCES NEEDED FOR OPEN JUSTICE

- ICT Support to build and maintain the platform.
- An analyst with good knowledge of Open Justice & Open Data defined standards to manage the constant stream of data.
- Funding to keep the project neutral to Individual organizations or Government Bias.
- Training to ensure all key stakeholders are knowledgeable on the proper utilization of the platform.



INIBEHE EFFIONG VS CJ, AKWA IBOM STATE; WHY ARE JUDGES AGAINST RECORDING OF COURT PROCEEDINGS?

By Firsts Baba Isa

The case of Inibehe Effiong brought a lot of things to the fore, a lot of things wrong with our justice system. Today, I will point out one: Why do judges always take offense when court proceedings are being recorded? I challenge any lawyer, judge, or scholar to point me to a provision of the law or rule that prohibits litigants, lawyers, journalists, or members of the public from videoing or recording court proceedings in Nigeria. (Apart from juvenile proceedings and maybe those consented to by parties). In fact, the Constitution provides that all court proceedings must be in public. Why do judges try to keep secret what is meant for the public?

Inibehe's purported contempt case might tell us why. The Chief Judge of Akwa Ibom State has released the records of proceedings in the case where she jailed the lawyer for contempt of court. Have you seen the irony this situation presents: this contempt case is between Inibehe and the CJ, and the only record the public and the Court of Appeal can rely on to determine what really transpired is the record produced by the CJ!

Yes, I know the record of proceedings can be legally challenged and impugned, but all this drama wouldn't be necessary if the proceedings were recorded by journalists and members of the public. How can we know the truth of what transpired in court by depending solely on the record of the judge, who is now a party in the whole saga?

This continuous barring of members of the public from recording court proceedings has absolutely no positive side. Those who argue that allowing anyone who wants to record court proceedings to do so will lead to transparency and stem corruption and abuse of office on the bench have a salient point.

I have read the records of proceedings and the judge wants me to believe that INIBEHE or any lawyer for that matter, will bang the table, shout and point at a judge and say "*I will not continue...*"? Hmmm. Maybe it's true. Maybe, Ini smoked something that day; but now that the CJ is both the offended and the judge, forgive me if I refused to take her word alone, on that record of proceedings, as final. Again, you see, this is where it would have been great to allow that Premium Times journalist she sent out to record the proceedings. But she sent him out and now wants us to believe her story as contained in the records of proceedings.

As I said earlier, I know certainly that the records of proceedings will be challenged, but even as it is, the records of proceedings show manifest irregularities and patent vacancies. The proper procedure for contempt in facie curia was not carried out. From where I stand the conviction for contempt is void.

In closing, we have to go back to the initial question: why are judges so uncomfortable with court proceedings being recorded? What's going on?



REPORT: SUMMER TRAINING ON FOI ACT FOR HUMAN RIGHTS DEFENDERS

The Nigeria's Freedom of Information (FOI) Act was signed into law on May 28, 2011, after it was passed by the National Assembly to enable the public access government information, in order to ensure transparency and accountability. The bill was developed by the Freedom of Information Coalition, a network of over 180 civil society organizations in Nigeria, comprising civil rights, grassroots and community-based Non-Governmental Organizations campaigning to ensure accountability and transparency in public institutions in Nigeria.

The FOI Act aims to make public records and information more freely available and to protect public records and information, in accordance with the public interest and protection of personal privacy. It also seeks to protect serving public officers against any adverse consequences from the unauthorized disclosure of certain kinds of official information.

11 years after the passage of the act, the question has come to the fore on how effective the application of the Act has been in juxtaposition to the low level of knowledge on the provisions and application of the act. Also there has been a seemingly low participation and utilization of the FOI act by civil society organizations and the larger citizenry in driving accountability and transparency in governance in line with SDG 10.10.2. It is in response to this identified gap in knowledge, access and the application of the FOI Act and the need to train and retrain non state Actors in Nigeria that necessitated the one day Summer training on the Freedom of Information act for Human Right Defenders (HDR) including lawyers, civil Society organizations,

This pilot phase of the training was tagged "FOI Acts as A Panacea for Sustainable Development." it held on Friday 12, August 2022 at the headquarters of FOI Counsel, No 4 Ikpokpan Street, beside Zenith Bank, Sapele Road, Benin City, Edo State.

Training Objective

- Equip participants with the general knowledge of the FOI Act 2011



- Help participants to understand the challenges of utilizing the law
- Help participants to understand the place and challenges of litigation in implementing the law.
- Help participants to understand the correlation between the FOI and Sustainable Development Goal 16.10.2

Training Highlights

The core lecture for the summer training was facilitated by President Aigbokhan Esq. Executive Director FOI Counsel on the sub topic "SDG 16.10.2 Access to Information and the Journey so Far.". During the lecture, it was discovered that MDAs lacks the political will to provide information upon request irrespective of the robust ecosystem tutored in open Government Partnership in Nigeria (OGP).

It was also highlighted that the Freedom of Information Act contains more exemption sections and clauses than sections that grant access to information. The implication of which is that some mischievous public officers can use these sections for unjust and mischievous purposes. that only Sections 1 and 3 grant access to information; but as many as ten sections (Sections 7, 11, 12, 14, 15, 16, 17, 18, 19 and 26) are meant to deny the public access to information. The reality of this assertion is that there is an urgent need for a thorough review of the FOI Act to incorporate for local realities with regard to freedom of information while also integrating global best practices.

The training highlighted the importance of proactive disclosure and the need to review the website of NBA, NMA and ASUU against the backdrop of the need to proactively disclose important information to the public.

TECHNOLOGY: AN INDISPENSABLE TOOL FOR JUSTICE IN NIGERIA

INTRODUCTION

Technology has shaped the way we go about our social life and daily activities. Nothing could be farther from the truth when it is realized that in our businesses, in our churches, in our education sector, in our hospitals, and even in our electoral system, technology is now holding sway. Coming down to the justice system, the Nigerian situation has unfortunately worsened because our courts have remained tardy in adapting to technology by worshipping at the altar of conservatism and precedents. For a system that entails various levels of information gathering and processing of data among the actors in the system, stakeholders began to realize that our justice system is now standing comfortably in the relegation zone while other systems are advancing with technology. It is on this note that we, therefore, invite the attention of our audience to a remark made by Dr. Babatunde Ajibade (S.A.N) during a 2-week conference held by Lawpavilion Business Solutions Ltd and Telnet thus *“while there isn't yet a national consensus about the adoption of technology, there needs to be more thinking about how technology can be harnessed to facilitate the delivery of justice, with the corresponding financial and human resources investments required...there are still significant pockets of technologically challenged members of the Bar and the Bench”*.

The above revelation by the distinguished Senior Advocate is just one side of the Rubik's cube when it is observed that the failure to embrace technology completely in our justice system has added to a delayed justice system and equally affected the quality of our judgements. The frustrated common man who now obtains justice after so many years of bringing the matter to court may conclude that *“the court is the lost hope of the common man”*. Indeed, justice delayed is justice denied. It is against this background that this essay adopts the doctrinal research methodology to justify how technology is an essential tool for a justice system like ours. Of course, recommendations will consequently be preferred to bring home our points.

GETTING ON THE SAME PAGE ON TERMINOLOGY.

We will not be doing justice to this essay if we do not define some of the recurrent concepts or terms in other to bring our reader home with the discourse. Now, Britannica defines 'technology' as *“the application of scientific knowledge to the practical aims of human life or, as it is sometimes phrased, to the change and manipulation of the human environment”*. In the legal field, when defined properly, technology is the application of the knowledge of science to support legal service and justice delivery. By a similar token, *“Information and Communication Technology”* is also defined as technology that is used to handle communication systems such as audio-visual processing and transmission systems, and network-based control and monitoring functions. Lastly, *‘Digital technology’* is the electronic tools or devices that store or process data.

IS TECHNOLOGY AN INDISPENSABLE TOO FOR JUSTICE IN NIGERIA?

The problem with the Nigerian justice system is multi-faceted and legendary. If there is any case that brings to notoriety the deficiencies in our justice system and the pressing need to embrace technology, it is the case of Fred Agudua and Charles Ori. What happened is that the duo collected and defrauded a Dutch National, the sum of \$1.69m (One million, Sixty-Nine thousand United States Dollars) in the guise that it was a payment to government officials to secure an \$18 million contract that was not in existence elsewhere. They were arrested and charged by the Economic Financial Crime Commission (EFCC) but that is not all. On October 15th, 2014, to the shock and dismay of all and sundry, the prosecutor informed the court of the inability to procure key foreign witnesses to testify in court and hence would like to discon-



tinue the case. That was how Fred Agudua and Charles Ori escaped justice even though at the time the case was discontinued by the prosecutor, there are video conferencing software like Skype, Zoom, and even Facetime that can accelerate remote communication between people in different countries. Our courts were still dozing in the use of Digital Technology until they were struck by COVID-19. It was this 2020 pandemic that even made some judges wake up and start issuing practice directions that allowed virtual court sittings.

With the above analogy, we are certainly not out of the woods to say that technology can enhance the justice delivery system, ensure that research is made easy, promote e-filing and improve the quality of judgements in our courts. We shall now discuss these points in detail.

ENHANCED AND SPEEDY JUSTICE DELIVERY SYSTEM.

One thing that usually excites the mind when one visits a court in advanced countries is the way digital technology is employed at every stage to fast-track proceedings. Take Stenographers for example. The practice now is that these skilled set of people use their computers and

other information technology to record and type the proceedings in a court. In Nigeria, the situation is nothing to write home about. The situation is like a snail on a journey of a thousand miles that never reaches its destination. You will visit some courts during internships to find some judges who interrupt lawyers and witnesses every minute just to record their statements. Little wonder, a proceeding that will take just 30 minutes will now last some hours. The consequence is that when the judge is exhausted from excessive note-taking, he will simply not have any options than finding ways to adjourn other cases he has for the day. This is just the tip of the iceberg. Moving further, it is shocking that in the 21st century that is being piloted by digital technology, one will still open recent judgements delivered by our appellate courts to hear that "justices of the Appeal Courts cannot interfere with the judgment of the trial court that borders on the demeanour of witnesses because there was no opportunity of observing the same".

The question that agitates the mind is: why can't the judges at the trial courts order the video recording of these witnesses when they are testifying in court to make it available upon request to the appeal court? What if the trial judge wrongly examined the demeanour of the witness in question? On scrutiny of these cases, this essayist suspects that this may be triggered by our courts' sheepish worship of precedent and conservatism. For some who are not aware, the principle in the Nigerian Criminal Jurisprudence is that judges must venture into the additional time-wasting journey of trial-within-trial where the witness objects to the admissibility of a confessional statement if there is an objection as to its voluntariness.

With the additional time this procedure wastes, one wonders why law enforcement agencies who take confessional statements cannot simply video record the same to make it easy for judges to also have a first-hand experience of the taking of these confession statements. Now, one may argue that Section 15(4) of the Administration of Criminal Justice Act 2015 has made provisions for the video or audio recording of a confessional statement, yet one thing we should note is that the true interpretation of that section on whether it is mandatory to electronically record the taking of the confessional statement has been subject to forensic disputation and recondite such that there are divergent views on it. The first school of thought which is driven by the case of *Charles v FRN* holds that the failure to electronically record such a statement will render the whole procedure void. The second school supported by Steve Emeka Ike v The State which anchored their points on the reasoning that "it is the Evidence Act that governs the admissibility of any documents and not on statutory requirements" holds that such requirement is not mandatory having not proceeded for the Evidence Act.

Be that as it may, it could be gathered from the above discourse that technology can accelerate and enhance court proceedings if fully adopted. Like compulsory video recording of confessional statements and examination of witnesses and the use of stenographers.

IMPROVED RESEARCH FOR CASE AND STATUTORY AUTHORITIES.

Gone are the days when lawyers and judges used to rely solely on hard copies and physical libraries to find authorities for the principles they will rely on thereby wasting so much time on research. Today, one aPrimsol, LawcareNigeria, and even The online Nigerian Weekly Law Report to mention but a few. Truly, it is a truism that search engines like Google and Google Scholar use a Search Engine Optimization (SEO) and algorithm that ensures that relevant search results are sent to the researcher within some seconds. It is no longer what we used to have before where one has to spend hours in the library looking for journals and textbooks that are relevant. Some libraries may even refuse to release special texts if they have been catalogued in a restricted area. With the electronic publication of journals, textbooks, cases, and statutes, judges may no longer need to travel to a particular place just to find authorities from the law library or buy all sorts of textbooks.

E-FILING SYSTEM AND JUDGEMENTS.

Technology can make it easy for us to file processes through the email addresses of the parties instead of additionally paying court bailiffs to travel to serve court processes on the other party. One may argue that this may be problematic, especially where the email address of the other party is not known by another party. However, it is our strong belief that other options should only be adopted where the email address is not available. This is because electronic filing saves time, energy, and the cost of transportation. Finally, one wonders, why we cannot adopt a system where a judge writes judgements and send them to the parties' email addresses instead of spending hours to read judgement when the time should be used to hear other cases. What is the benefit of that practice of delivering judgements orally and openly? Does it add any flavour or substance to a judgement that has already been written?

THE WAY FORWARD AND CONCLUSION.

Our justice system has been infested with credibility deficits because we have failed to do the needful. It is time to amend our laws to allow the sending of original copies of judgements through email. Also, our courts should review their stance to allow the video recording of the examination of witnesses. The current use of e-filing in some courts in Lagos State, Port Harcourt, and Abuja is commendable and other courts should follow this trend. More efforts should be made by the Chief Judges of our courts to make sure every court has its stenographer.

Written by Ewulum Ifechukwu Christopher

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A PICTURE GALLERY OF OUR LAST
OPEN JUSTICE EVENT
SATURDAY MARCH 27TH 2021 | NBA HOUSE BENIN-CITY



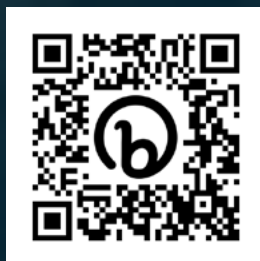


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