

## **ACCESS TO JUSTICE FOR THE POOR AND VULNERABLE IN THE MIDST OF A PANDEMIC: THE NIGERIAN PERSPECTIVE**

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### ▪ **Introduction:**

Just as in many countries, at the beginning of the pandemic, the entire focus of the government was on the health response. Soon the impact of these measures on other sectors emerged in the face of lockdown in FCT, Lagos and Ogun states. The Justice sector was particularly affected as the key arms and institutions therein stopped operations, marking one of the biggest challenges to access to justice in Nigeria. The justice needs of the poor and vulnerable were left unattended to even as they continued to be oppressed and brutalized by law enforcement officers during the lockdown.

### ▪ **Challenges of accessing justice during the pandemic:**

The events following the pandemic shows there was no emergency preparedness policy<sup>1</sup> in place to ensure continued operations in emergency circumstances for especially the Courts in Nigeria.

On March 23, 2020, the Chief Justice of Nigeria announced the shutting down the Courts in the country.<sup>2</sup> The reason for this decision is simple, the in person participation nature of judicial proceedings and processes made it difficult for the court to function

The announcement by the judiciary raised concerns amongst justice sector stakeholders on the impact of this decision on justice delivery and indeed access to Justice.

One of the key concerns of stakeholders such as ASF France was that the entry point to the criminal justice system remained open. Whereas security agencies continued to function and actually were charged with the enforcement of the lockdown, the other parts of the justice system, essentially the Courts were shut down.

There were several reports of violations of human rights of citizens, excessive use of force and extra judicial killings by security agencies during enforcement of lockdown. The Nigerian National Human Rights Commission released a report accusing security agencies of killing more persons in Nigeria in the first two weeks of the lockdown than the virus itself.<sup>3</sup> These victims were essentially left without access to justice at a time where they required it the most.

Some of the reasons that can be attributed to the challenges in accessing justice by the victims are as follows:

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<sup>1</sup> [file:///C:/Users/HP/Downloads/undp-bpps-rol-Access\\_to\\_Justice\\_and\\_COVID19.pdf](file:///C:/Users/HP/Downloads/undp-bpps-rol-Access_to_Justice_and_COVID19.pdf)

<sup>2</sup> <https://www.premiumtimesng.com/news/headlines/383446-just-in-coronavirus-nigeria-shuts-all-courts.html>

<sup>3</sup> <https://www.thecable.ng/security-agencies-kill-18-nigerians-during-lockdown-more-than-covid-19>

- Many victims are unaware of who to contact to lodge complaints of violations during the lockdown. The lawyers' offices are closed, so are the physical offices of many NGOs who though continue to work virtually are not easily accessible to the victims.
- Most hotlines set up for report of violations by governmental and non-governmental organizations are not toll free, thereby keeping the poor and vulnerable further away from accessing justice. The cost of phone airtime for lengthy phone conversations deterred many victims from using this option.
- The fear of reprisals has always been a key issue militating against Access to justice by vulnerable groups. This is especially challenging where victims know they can easily be traced to their homes where they are expected to be during the lockdown.
- this was worsened with the lockdown the economic impact of the lockdown. Some victims would rather accept paltry sums as monetary compensation than pursue Justice.
- The economic impact of the lockdown in many families made them unable to afford the cost of legal services. Payment for legal representation is simply not on the priority list of many victims and survivors even when they strongly desire justice in their case.

The fact that mobile courts were set up and violators of the lock down and stay at home order promptly tried and sentenced, often without access to legal representation of their choice raised other issues on equal access to justice and right to legal representation.

In spite of the challenges highlighted above, stakeholders acknowledge that the media (traditional and social media) are playing an increasing important role in highlighting cases of victims/ survivors as well as linking them with legal aid providers. In addition to this, Avocats Sans Frontières France on its part has been leveraging on its various networks across states of operation in Nigeria to provide pro bono legal aid to those in need at the state level, especially victims of torture, extra judicial killings and arbitrary detention on the platform of its SAFE project.

#### ▪ **Commencement of virtual hearings**

In a welcome development, the National Judicial Commission on May 6, 2020, issued guidelines for court sittings and related matters in the Covid-19 era, encouraging virtual hearing of courts and judicial proceedings. The guidelines tried to set rules for especially the technical aspects of not just the virtual hearings but also filing of processes and judicial support. Chief Judges of some states also issued practice directions guiding the hearing of cases during the lockdown.

The sentencing to death of a defendant to death in Nigeria via 'zoom' a virtual meeting platform raised serious questions on the selection of cases for virtual hearing<sup>4</sup>. Human Rights groups have called on Chief Judges to rather give priority to cases of human rights violations just like cases with statute of limitation. Cases of Sexual and Gender Based Violence (SGBV) or involving minors should also be put on the priority list. Cases of SGBV have actually been on the increase during the lockdown.

The virtual hearings raise its own challenges from access to internet for legal practitioners and litigants, to ICT equipment and challenges for the courts and registry.

Lawyers are also faced with increased challenges of getting used to electronic filings and telephonic interviews of clients rather than in person confidential communications.

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<sup>4</sup> <https://www.bbc.com/news/world-africa-52560918>

### **Conclusion and Recommendations:**

- The adoption of virtual hearings is a learning experience for all actors in the justice chain in Nigeria. The Lessons learnt and gains of ICT deployment during the pandemic should be sustained after and developed further.
- Opportunity to now develop a robust preparedness plan for Continued operations for future emergency situations. This should involve an inclusive process of all stakeholders in the justice system. The Legal Aid Council of Nigeria (LACON) being the government agency charged with the provision of legal aid to indigent Nigerians should play a key role in such conversation.
- Security agencies must be held accountable for all human rights violations perpetrated during the pandemic,
- Finally, strategies should be put in place to deal with back log of caseloads that would have accumulated during the emergency situation.