TOWARDS FASTRACKING JUSTICE DELIVERY IN LOWER COURTS IN NIGERIA

BRIGHT E. ONIHA*

1.0 Introduction

Justice is the foundation and object of any civilized society and constitutes one of the fundamental pillars supporting all real democracies. The pursuit ofexpeditious justice has been an ideal that mankind consistently seek to attain. The judiciary represents that arm of government entrusted with the sacred duty to administer Justice. To this end, the Constitutions of nations around the world and a host of international legal instruments recognize and the vest judicial powers in the Courts.These courts are enjoined underthese national and international legal instruments to ensure a speedy trial as an integral part of the fundamental right to fair hearing. Under the 1999 Constitution of Nigeria (as amended), judicial powers is expressly vested in the courts to which the section relates, being courts established for the Federation and the States.[1]In relation to expeditious justice, It provides further as follows:

> In the determination of his civil rights and obligations, including any question 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 a manner as to secure its independence and impartiality. [2] (Underlining supplied for emphasis).

Similar consideration is extended tocriminal proceedings under the Constitution in section 36(4) and under the African Charter of Human and Peopleôs Rights 1981.[3]Arising from the above, it is clear that the obligation to ensure quick justice delivery is a constitutional as well as an international legal mandate. Undoubtedly

*LL.B, LL.M, BL, Member Chartered Institute of Arbitrators(Nig). President 1(Special Grade) Area Customary Court, Edo state Judiciary. Onihalawlibrary@gmail.com

[1] Section 6(1) & (2) 1999 Constitution (as amended)

[2] *Ibid* section 36(1)

[3] Article VII African charter of Human and Peoples Rights 1981.

therefore, the judiciary clearly has its work cut out for it in this regard. According to the erudite Obaseki JSC (of blessed memory), in the case of *Ifezue v Mbadugha*.[4]

> é The task before the courts of law is to administer justice speedily and not to allow any denial or miscarriage of justice. Human memory is limited by time and space and loses its impressions or knowledge of persons, things and words with the passage of time and the rate of loss increase with time and pre-occupations

Over the years, the slow pace of justice delivery in Nigeria seems to be a common worry in the minds of virtually all stakeholders in the Nigerian justice delivery system. After a long period of blame identification, apportionment, finger pointing and bulk passing by stake holders, some practical steps have finally been taken aimed at ensuring a faster pace of administration of justice by the judiciary in the nationôs superior courts. In this regard, for example, several states such as Lagos and Edo States introduced a revised High Court (Civil Procedure) Rules as well as Practice Directions in criminal adjudication aimed at fast tracking justice delivery in civil andcriminal proceedings. Similar reform initiatives have also been introduced in other superior courts such as the Federal High Court, National Industrial courts etc.Regrettably, in this contemporary reform windfall, scant or no attention has been paid to fast tracking justice delivery in lower courts in Nigeria. These courts basically include Customary Courts, Area Courts, Magistrates Courts, District Courts, Sharia courts, Juvenile Courts; Coroners etc. They generally carry aloft the generic toga and reference toas óInferior courtsô in sharp contrast to courts listed under section 6(5) of the 1999 constitution as ósuperior courtsôIn complexion, they are basically vested with summary jurisdictions specifically created to deliver quick, efficient and effective justice devoid of the cumbersome practice and procedure of superior courts. For purposes of brevity, this paper shall examine the subject of fast tracking justice delivery in lower courts in Nigeria from the prism of customary courts (particularly the Area Customary courts) and the Magistrates court of Edo State. The law, practice and procedure of the Area and magistrates court in Edo State are similar to and largely represent what is obtainable in other states. The paper shall therefore seek to critically examine the regime of justice delivery in the Customary and Magistratesô Court in Edo State with a view to identifying how well the stream of expeditious justice in these courts have been kept clear and pure and how well they have justified their creation, constitutional and statutory mandate. For according to Lord

[4] (1984) 1 SCNLR 427 at 469

Hardwicke, ôThere cannot be anything of greater consequence than to keep the streams of justice clear and pure.ô[5]

2.0 Creation of Customary and Magistrates Courts

The law establishing Customary and Magistrates Court in Edo State is both Constitutional and Statutory. The constitutional basis for these courtsis embedded in section 6 of the 1999 constitution. Under this section, ôôThe Judicial powers of the State shall be vested in the courts to which this section relates, being courts established, subject as provided by this constitution for a stateò.[6] The section providesfurther that:

ôôNothing in the foregoing provisions of this section shall be construed as precluding:

(a) The National Assembly or any House of Assembly from establishing Courts, other than those for which this section relates, with subordinate jurisdiction to that of the High Courtôô.[7]

By virtue of section 6(5)(k), the section is stipulated to relate to: ôôsuch other courts as may be authorized by law to exercise jurisdictions at first instance or on appeal on matters to which a House of Assembly may make laws.ôô

When this is read along with the provisions of section 315 of the Constitution relating to existing laws, it is clear that, though not expressly listed, Customary courts and Magistratesô court in Edo State draw the legal air they breatheby necessary implication from the constitution. Pursuant to this, customary courts have been established in Edo State by the Customary Courts Law 1984[8]The Law establishes 2 categories of customary courts. They are (a) District Customary Courts and (b) Area Customary Courts. By the provisions of this Law, an Area and District Customary Court consists of a president and two lay Judges who shall be appointed by the Judicial Service Commission of the State.[9] In the case of an Area Customary Court, a person shall not be appointed as president unless he is qualified to practice as a legal practitioner in Nigeria and has been so qualified for a period of not less than 5 years.[10] Whilst a President of a District Customary Court or member of an area or district customary court is only statutorily required to be literate and versed in the customary laws and usages prevailing in the area of jurisdiction of the customary court that he is president or member and to be of good character[11]. Under the law, the Area Customary Court is higher than the district in terms of its composition, powers and

[5] The St. James' Evening post case (1742) 2 Articles 469 at 472 referred to by Lord Denning MR. The Due process of Law (South Asia Edition) Oxford University Press in New York 1980, 3

[6] Section 6(2) 1999 Constitution (as amended)

[7] *Ibid* section 6(4)(a)

[8] Section 3(1) of the Customary Courts Law, 1984 (as amended)

[9] Ibid section 4

[10] Ibid section 6(a)

[11] Ibid section 6(b)

the extent of its jurisdiction. Many other states in Nigeria havelargely copied this Edo State model in their creation of customary courts.

Similarly, Magistrates Courts were established for the state by the Magistratesô Courts Law Cap 97 Laws of defunct Bendel State 1976 (as applicable to Edo State)[12]. It is imperative for purposes of this paper to state that this law came into being on the 1st of July1955 and has remained largely un-amended since then. The Magistratesô Court Law empowers the Chief Judge of the State to divide the state into magisterial districts.[13] Each court shall be presided over by a magistrate. The Law creates various grades of magistrates and stipulates the extent of their powers and jurisdictions. Appointment of various grades of magistrates is provided for under section 7(1) of the Law. Under both the Customary Courts Law and the Magistrates Courts Law, the Customary and Magistrates Court shall be courts of record and shall exercise summary civil and criminal jurisdictions as contained therein.

3.0 Practice and Procedure of Customary and Magistrate Courts.

Pursuant to the exercise of their civil and criminal jurisdiction, the laws creating the Customary and Magistratesô court make provision for the rules of procedure to be adopted by the courts.Under the Customary Courts Law 1984, the rules, practice and procedure of Customary Courts is as provided for pursuant to section 68 thereof. The section provides that the practice and procedure of a Customary Court shall be regulated by rules of court made under section 68 of the law empowering the President of the Customary Court of Appeal (now the Chief Judge) to make such rules. Pursuant to this section, the extant rule of procedure is the Customary Court Rules 2011. This instrument makes elaborate provisions for the rules of practice and procedure regulating the exercise of civil and criminal jurisdictions of customary courts in Edo State. In addition to this, Customary Courts in the state in the exercise of their criminal jurisdictions are also bound by the provisions of the Criminal Procedure Law cap 491 laws of defunct Bendel State 1976 (as applicable to Edo State).

Similarly, the Magistrates court law provides that the practice and procedure of the court-

(a) In its civil jurisdiction shall be regulated by Rules made by the Chief Justice (sic)

(b) In its criminal jurisdiction shall be regulated in accordance with the provisions of the Criminal Procedure Law.

[12] Section 5 of the Magistrates Court Law Cap 97 Laws of defunct Bendel State 1976

[13] Section 3 of the Magistrates' Court Law.

(c) Where any claim is made to any immovable property taken in execution under the process of the court whether civil or criminal, shall be as prescribed in any Act or Law relating thereto.[14]

Arising from this provision, in the exercise of its civiland criminal jurisdiction, the Magistratesô Court (Civil procedure) Rules 1959 and the Criminal Procedure Law cap 49 of defunct Bendel state (as applicable to Edo state) regulate civil and criminal procedure at the Magistratesô court.

3.1 Civil and Criminal Procedure in Customary and Magistrates' Court.

Under the Edo State Customary Courts Civil Procedure Rules 2011, civil and criminal causes or matters are commenced by summons.[15] An application for summons may be made by a written complaint or orally in person.[16] Where the application is made orally in person, the registrar shall record the particulars of the claim or charge which are necessary for the completion of the proper summons.[17] Upon the payment of the requisite fees, the summons is filed by the registrar of the court.

Similarly, under the Magistratesô Court (Civil Procedure) rules, civil proceedings is commenced by the issuance or filing of a written statement called a plaint by the Registrar of the court upon the application of any person desirous of instituting civil proceedings.[18] The plaint shall contain the names and the last known place of abode of the parties and the substance of the action intended to be brought. After a plaint has been entered, the Magistrate or registrar shall issue a summons in the prescribed form directing the defendant to appear at a certain time, not less than 7 days after service, and at a certain place before the court to answer to the plaint.[19]

In respect of criminal procedure, the practice and procedure operational in the customary and magistrates court are identical. Under this regime, criminal proceedings are commenced in a customary court by summons[20]In a magistratesô court by complaint whether or not on oath or by preferring a charge before a Magistrate.[21]This latter mode is also applicable to customary courts.

In practice, a claim is filed on the basis of which a summons is issued and together they are required to be served personally on the defendant or respondent as the case may be by the officer of the court responsible for service of courtôs processes i.e the bailiff. Where personal service is impossible or cannot be conveniently done, the

[14] *Ibid* Section 49
[15] Order 2 rule 2(1) & (2) Customary Courts Rules 2011
[16] *Ibid* order 2 rule 3(1)
[17] *Ibid* order 2 rule 3(2)
[18] Order 2 rule 1 of the Magistrates Court (Civil Procedure) Rules.
[19] *Ibid* order 3
[20] Order ii rule 2(2) Customary Court rules
[21] Section 77(a) and 78 (a) & (b) Criminal procedure Law

court may grant leave for service to be carried out by substituted means. Service of all court process is a condition precedent to the exercise of jurisdiction by the court, except in the case of matters that is permissible under the law to be heard ex-parte. Upon service, an affidavit of service by the officer that carried out service is usually required and accepted as sufficient proof of service unless the contrary is shown by evidence. On the return date where both parties are present in court, plea is taken by the defendant or the accused person. Where the defendant pleads liable to the claim or guilty to the charge, the court is enjoined by the rules to hear the statement of the parties and give its judgment. In a criminal trial, if the court is satisfied that the accused intends to admit the offence and shows no or insufficient cause why sentence should not be passed, the court shall proceed to sentence.[22] But where the defendant does not admit the claim or charge as the case may be, the plaintiff or complaint shall adduce evidence in support of his case.

At the close of the case of the plaintiff in civil trials or the prosecution in criminal proceedings, Customary and Magistratesô courtsare obliged to consider whether a case has been made out sufficient to call upon the defendant to enter into his defence.[23] The court may do so *suomotu* or upon the submission of counsel representing the defendant. Where the court finds that no case has been made out, the charge at this stage shall be dismissed and the defendant discharged. Otherwise, the court shall call upon the defendant to enter into his defence and he may adduce evidence in defence.[24] At the conclusion of the evidence on both sides, parties are at liberty to address the court, after which the courts shall consider the evidence adduced by both sides and give it judgment and the grounds upon which the judgment is based. Constitutionally, judgment shall be delivered within 90 days after the conclusion of evidence and final addresses. In the case of a criminal trial, where the defendant is found not guilty, he shall be discharged and acquitted. But where he is convicted, the court shall pass it sentence, after the defendant is allowed an opportunity to enter into his *allocutus*i.e a plea to mitigate punishment.

4.0 **Fast tracking Justice Delivery in the Customary and Magistrates' Court.**

Statistically over 80% of cases either emanate from or are adjudicated upon by lower courts. The customary court system in particular, was clearly established because of a dire need to bring justice closer to the people packaged in an available, affordable and somewhat pedestrian manner. The nature, essence and functions of customary courts aresuccinctly highlighted by IGUH JSC in the celebrated case of *Erhumwunse v Ehanire*.[25] In this case, His Lordship stated interalia as follows:

[22] *Ibid* section 285
[23] *Ibid* section 286
[24] *Ibid* section 287
[25] (2003) FWLR pt. 170, 1511 (H.B)

> Customary Courts however are not Superior Courts of record. No pleadings are filed in them either. Accordingly, the technical rules and/or procedure which govern the trial of actions in the superior courts of record are not stringently applied in those Courts. Trials are conducted in a summary manner and the only opportunity a defendant has to project his case is by oral evidence, when he and his witnesses testify before the Courts in his own defence...[26]

Virtually all that has been said by his Lordship above is also significantly reflective of the MagistratesôCourt. This decision, like a host of others, therefore encapsulates a strong appetite and bias for quick dispensation of Justice by courts at this level.

But inspite of this obviously lofty ideal, the sad reality is that over the years, a combination of factors now considerably slow down justice delivery at the level of lower courts in Nigeria. A disturbing culture of near stagnation of justice deliverynow reigns supreme at this level. To the extent that it is has become a common sight to see cases pending in these courts for years, sometimes over a decade. Indeed, the prevailing trend is thatvery few contested cases are concluded in less than one year in these courts. This state of affairs often leaves litigants frustrated in consequential milieu of surging understandable feeling oflitigation phobia. Two cases that were determined in two lower courts in the state, easily underscore the gravity of this alarming scourge. The first is the case of Jerry Edosomwan v OsazuwaOnaiwu[27] filedin 1996. This case stated *denovo* over 6 times in its 21 years lifespan ina lower court in the State. Also along this dark alley is the case of Igbinovia v Igbinovia[28], which has been in another lower court for over 13 years and still pending, having also commenced *denovo* countless times.According to Olagunju JCA in the case of Ndili v Akinsumade[29]ñWin or Lose, such a protracted delay cannot but leave a litigant with a harrowing memory of the judiciary as one pedestrian caste of the estate of the realm that is not accustomed to promptitude in a Jet-age..ò

In the light of the above, the urgent need to take stock of the state and pace of justice delivery at this level with a view to identifying the causes of delay and arresting then has become imperative. Unless this is urgently done, public confidence in the judiciary, particularly in a democracy shall be eroded. In the words of Ayoola JSC in the case of *Dantata v Mohammed*[30] ółcare must be taken to ensure that what is supposed to be the machinery of Justice should not be made to grind so slowly that

[26] *Ibid* 1525-1526 para H.B
[27] Suit No: OSWACC/28T/96
[28] Suit No: EACCU/21/04
[29] (2000) FWLR (PT 5) 750
[30] (2000) FWLR (PT 21)908

persons who stand to profit by delay will succeed in converting the machinery of Justice to one of injustice.ò

What then are the factors militating against the quick dispensation of justice in lowers courts in Nigeria and Edo State in particular and what can be done to, in the words of Lord Denning óiron out the creases.ò[31] So that at the end serve on the table a pristine, effective and fast pace justice delivery system in lower courts in Nigerian.

4.1 Factors Militating Against Fast Pace Justice Delivery in Lower Courts

A deluge of factors may be implicated as militating against quick dispensation of justice in lower courts in Nigeria. They include:

(a) Anachronistic Laws and rules of practice and procedure,
(b) Inefficient Registry System,
(c) Poor case flow/management system,
(d) Welfare of judicial officers and support staff,
(e) Inadequate court infrastructure.

Each head shall now be briefly examined.

(A) Anachronistic/outdated Laws and Rules of Practice and Procedure

Even a casual look at virtually all the principal laws of substantive law and procedure governing the administration of Justice in Customary and Magistrates courts in Edo State for example, shows clearly that these laws are outdated and cannot therefore reasonably be expected to support a modern,fast pace justice delivery system. Let us examine a few of these laws and rules of court. As we have seen, the Magistratesô courts are statutorily the creation of the Magistratesô Courts Law cap 97 laws of defunct Bendel State (as surprisingly still applicable to Edo State). On the face of this enactment, it came into being in 1955 (i.e. 62 years ago). The accompanying Magistratesô Court (Civil Procedure) rules came into operation in 1959 (i.e. 58 years ago). In the area of criminal adjudication, the Criminal Code Law cap 48 Laws of defunct Bendel State, came into being in 1916 (i.e. over a century and a year ago). Whilst its statutory bed mate, the Criminal Procedure Law Cap 49 came into operation in 1945. By the way in this area, it must be said at this point that the Administration of criminal justice Act 2015, aimed at reforming criminal procedure has still not been domesticated in Edo State. The bill has since been passed by the Edo State House of Assembly but awaiting the Governorôs assent. Other significant Laws which are relevant to the daily dispensation of justice by Magistratesôcourt include the Recovery of premises Law Cap 142 LBSN (enacted on 1st June, 1945), Registration of Business Premises Law Cap 143 (1st April 1973), the Road Traffic Law Cap 148 LBSN (1st February 1972). Money Lenders Law Cap 100 (1st January 1939).

[31] Lord Denning MR, *The Discipline of Law*,(10th ed.) London: Butterworth and Co. Publishers Ltd, 1990) 11

The above Laws are also enforceable by Customary courts. In addition and more specifically, the law creating Customary Courts in Edo State which as we have seen is the Customary Court Law was enacted by the military in 1984. The Customary Court rules, 2011 is perhaps one of the freshest rules of court in Edo state, second only to the High Court (Civil procedure) rules 2012. The Rent Control and Recovery of Residential Premises Law was also promulgated by the military in 1977. This latter law regulates the day to day never ending legal tussle between landlords and tenant which forms a huge chunk of cases determined by customary courts in Edo State. The above laws have had little or no amendment since the date they came into force. Generally, whilst it is conceded that some of these Laws are substantive and may not directly contribute to delays in justice delivery by lower courts, they generally reflect the lethargic state of law reform in Nigeria.They have combined effectively with the procedural or adjectival laws abovethat were clearly not made for contemporary justice dispensation in a modern fast development and evolving society such as present day Nigeria to enthrone a culture of frustrating delay in dispensing justice at the level of lower courts. For instance in the area of civil procedure, the Customary and Magistratesô courts rules were fashioned along the lines of the provisions of the High Court rules from mode of initiation of action, service, amendments, hearing to judgment and execution. With the notable exception being that pleadings are obviously not filed, most other provisions of the High Court rules have its equivalent in the Customary and Magistrate courts rules, albeit in less elaborate form. On its own, there may be nothing wrong with this. Unfortunately though, over the years the various reforms or amendments made to the High Court Rules aimed at fast tracking justice delivery have not been replicated at the lower courts, thereby leaving the lower courts completely out of recipients of the quick pace justice delivery sacrament. A typical example is the welcome innovative introduction of the practice of front loading, compulsory written addresses and the limitation of oral evidence in chief into the High Court (Civil Procedure) Rules 2012 of Edo State.[32] It is submitted that nothing stopsthe introduction of the practice of front loading of evidence, limitation of oral evidence in chief and filing of written addresses to be replicated in the customary or magistrates court rules. We shall come to this point later, suffice for now to state that although, presently some lower courts have already been restive enough to commence the practice of written addresses, in a commendable bid to accelerate the pace of justice delivery, this is often optional and unsupported by the extant rules. Thereby carrying obvious legal risk if challenged.

Before the present express incorporation of written addresses in the various High Court (civil procedure) Rules, the court of Appeal in the case of *Uzoho v Taskforce*

[32] Order 30 & 31 High Court (Civil Procedure) Rules 2012 of Edo State.

on Hospital management[33] frowned against similar attempts made by some High Courts to adopt the practice of written addresses not expressly contained in the High Court rules. According to Adeniyi JCA in this case, the practice of lower courts inviting counsel to submit written address not provided by the rules of court, is not favored by judicial decisions.

(B) Inefficient Registry System.

The registry of any establishment is effectively its engine room. This is also true of the judiciary. The laws establishing the customary and magistratesô court specifically make provision for officers that constitute the registry of the courts, their functions and duties. Regrettably in practice, the day to day conduct of business in the registry of these courts leaves much to be desired. Corruption has found very comfortable residence in many of them. While many, have very little regard for good organization. It is therefore common practice, for example to find cases of missing case files or missing documents in case files vital to one of the parties due to carelessness or the activities of mischievous registry staff at the behest of some litigants aimed at derailing the case of the opponent. Lack of office infrastructure for proper filing and office management has not also helped matters. All of these foist open the court a situation of helplessness in quick justice delivery or no justice altogether. Also vital under this head is the service of court processes. It is common knowledge, that service is fundamental, for without it, a court lacks jurisdiction. In practice however, after officially paying for service, (though grossly inadequate) processes are not served until litigants ómobilizeô bailiffs to serve. In most cases further mobilization is called for to depose to and put the all-important affidavit of service in the courtôs file. Failure to do so can only mean that the affected cases cannot go on. Here comes the spirit of delay once again.

(C) Lack of Adequate and Efficient Case Management System

Presently, what is obtainable in the area of case management is an obsolete system which basically entails the compilation and collation of monthly statistics of cases filed and concluded on a court by court basis. Scant regard is paid to the central collation of data relating to individual cases, processing of such data in relation to the nature, the developmental stages or progression of the case, the time it has taken to progress from one stage to the other, factors or officers responsible for any delay and ultimately whether or when judgment is given in the matter. With this system, time is not of the essence provided at the end of the day the job gets done. The only time the system takes direct interest in an individual case is where an appeal arises. At this point, compilation of records is suddenly of interest. This present system can certainly not support quick dispensation of justice.

[33] (2003) FWLR pt. 166, 606

(D) Inadequate Court Infrastructure

A serious and legitimate expectation of a quick tempo system of justice delivery in lower courts in Nigeria must necessarily carry along with it the provision of adequate and up to date infrastructure. This includes adequate and conducive court buildings, residential quarters for judicial officers and judiciary workers, office equipment such as stationeries and computers, official and operational vehicles for judicial officers and other categories of judiciary staff, well stock libraries, motor bikes for service of processes in rural areas etc.Sadly, a visit to virtually all lower courts in Edo state reveal apervasive sorry state of infrastructural decay. Court rooms are inadequate, basic stationaries and other necessary paraphernalia are not available. Judicial officers therefore now sit in shifts. Proceedings are expected to be taken in long hand in very hot and humid conditions. There is alsoabsence of proper storage facilities for the safe keeping of courtôs records and exhibits.

(E) Welfare of Judicial Officers and Other Categories of Judiciary workers.

In the words of Yusuf Ali SAN [34]

> You can only get the best service out of a man that is satisfied, contented and happy about his state of life. Magistrates and Presidents of Customary courts are human after all. From my investigation, the welfare of our Magistrates and Presidents leaves much to be attended to. Official quarters are becoming a rarity, official vehicles were (sic) things of the past, minimum security have been forgotten, the pay is left to the whims and caprice of the respective state governments. This has resulted in some Chief Magistrates in some states earning what magistrates grade II earn in some statesé this lack of basic welfare package not only drive away potential good materials but has led to frustration for those who accepted to serve. A person not motivated cannot give his best.

Nothing more need be added to the above statement of the learned silk, except to say that the plight of other categories of judiciary workers is even worse.

4.2 Proposals for Accelerating the Pace of Justice Delivery

(A) Law Reforms

[34] Y. O. Ali, ''Delay in the Administration of Justice at the magistrate court factors responsible and solution'', 22 available at www.yusufali.net.

Undoubtedly, the only panacea to the issue of overwhelming number of outdated laws and rules of practice and procedure is aggressive and continuous law reforms. The extant laws must be critically examinedwith a view to bringing them up to speed with contemporary fast tempo justice delivery. Thislong overdue venture should give serious consideration, in the field of civil and criminal procedure, to the introduction of the following:

(i) Frontloading

This is a term used to describe the act of forwarding the oral and documentary evidence required in the conduct of a case by the parties at the onset of the case rather than waiting to do so at the trial. Without distorting the summary nature of lower courts in Edo State, the system of front loading can be made optional in cases where both parties are represented by lawyers.(underlining for emphasis) and the court is presided over by a legal practitioner; such as in Area customary or Magistratesô court in Edo state. Where parties are unrepresented, they may choose to adopt the present or conventional method of hearing and determination of cases. In the case of the former, the law shall confer adiscretion on the President or Magistrate to make such an order *suomotu* or with the consent of both parties. In any case it is a notorious fact that cases where parties have legal representation are more readily available to the spirit of delay than otherwise.

According to Justice Agube, JCA in the case of *Olaniyan v Oyewole*[35] ñThere is no doubt that the philosophy behind front loading procedure is to quicken the dispensation of justice é ò The requirement of frontloading ensures that ñonly serious and committed litigants with prima facie good cases and witnesses to back up their claims come to courtò[36]

Similarly, in the case of *GE International Operation Ltd* v *Q-Oil and Gas Services*[37], the Nigerian Court of Appeal (Port Harcourt division), on the purport and function of the frontloading procedure held that frontloading ensures that there is no trial by ambush and to expedite the hearing. It is to enable the parties know not only the case they are to meet at the trial but also the oral and documentary evidence by which the case is to be proved. As can be gleaned from this decision, apart from fast tracking proceedings, this proposal of the extension of frontloading procedure to lower courts conveys the added advantage of eradication trial by ambush which is a major drawback in justice delivery in lower courts in Nigeria,being courts of summary jurisdiction. It is submitted here, that this proposal will in no way prejudice the summary nature of trial in lower courts, nor will it introduce undue technicalities. But would herald quick justice delivery. Apart from this, it will be recalled that at a time,

[35] [2008] All FWLR (PT. 399) 532-524
[36] *Ibid* , 503
[37] [2014] AII FWLR (PT 761) 1509

on similar arguments of not introducing technicalities into proceedings at the level of customary, the Evidence Act was made inapplicable to proceedings in customary courts around the country. Today, the welcome reality is that many states such as Edo state, has made the Evidence Act wholly applicable to proceedings of customary courts.

(ii) Written Addresses:

This entails the express incorporation of mandatory written addresses to all applications and at the end of trial, final addresses. By the adoption of this procedure, valuable time is saved by eliminating recording of lengthy addresses and submissions by counsel representing both parties. In addition, it allows counsel to both parties prepare, articulate and present their addresses in the cozy comfort of their chambers.

(iii) Limitation of Oral Evidence in Chief

This is another time saving measure also operational in superior courts. By this practice, oral evidence in chief is limited to mere confirmation of written deposition of witnesses and tendering in evidence all disputed documents or exhibits already referred to in written depositions.

The adoption of the above procedure has indeed heralded a new lease of life in the area of fast pace justice delivery in superior courts. There is no reason therefore, not to extend it to lower courts where both parties are represented by counsel who opt for it; albeit with necessary modifications. The argument has always been made that the introduction of this type of innovations to lower courts, particularly customary courts will only serve to defeat the essence of the creation of the courts which basically represent simple, uncomplicated, grass roots friendly adjudication devoid of legal technicalities. This view was loudest at a time when lawyers had no right of audience in customary courts. But times have since changed. Lawyers are now an integral part of adjudication in these courts. Like customary law, customary courts have continued to evolve and truly continues tomirrorőőaccepted usagesőő. This argument therefore in the words of Lord Denning MR. in *Parker v Parker*[38] does not appeal to me in the least. If we continue to be afraid of introducing contemporary useful innovations into adjudication in lower courts, there is little doubt that the law will stand still, while the rest of the world goes on. That will be bad for both.

(B) Maintenance of an EfficientRegistry System

To ensure a more efficient registry in lower courts, it is imperative that measures be put in place aimed at establishing modern and efficient registriesin all lower courts in Nigeria. Such measures shall seek to address the incidence of missing case files,

[38] (1954)P.15 at 22, All ER 22

locating them when it occurs, and ensuring proper accountability of registry workers and the eradication of sharp practices and corruption amongjudiciary workers.Faced with daunting similar problems, the Chief Justice of Kenya introduced inter alia, twobasic measures.[39]

(i) A system of colour coding of files based on the type of matters. This enabled any one to tell at a glance whether a file was in the wrong place

(ii) Introduction of movement registers. This was to attend to the challenges of keeping track of the movement of files and therefore making it easy to trace them and putting in place a culture of accountability. This latter practice is longoperational in the administrative department of thejudiciary in most states and other government ministries.

(C)Introduction of Modern Case Management System

The need to ensure effective monitoring and efficient case management system led to the laudable creation of the inspectorate Division of the Edo state judiciary, even before a directive came to this effect from the Chief Justice of Nigeria. Undoubtedly, a great job is being done by this division. But the efforts of the inspectorate division will be more effective when aided by an efficient integrated ICT-based modern central management system. This approach was also adopted by the Kenya Judiciary at a time it had problems similar to what is presently obtainable here and the result was heartwarming. Until 2015, the general case management system in Kenya was similar to what currently obtains in Nigeria. All that was required to be compiled were monthly returns of cases filed and concluded by all courts. There was no centralized system of tracking the status of individual cases, how long it had taken to progress from step to step and who or what was responsible for any delay. To solve this problem, the Kenya judiciary in collaboration with its ICT unit developed a template which included information about cases filed and its stage by stage progression until judgment is delivered. Information about the type of case was also provided, process and stored. This is relevant because the nature of the cases is useful in judging the expected duration. It is expected for example, that more time will be spent in a land matter for instance, than say a simple rent case. By the time a case becomes protracted, it shows clearly in the data base of the department placed in charge of monitoring of courts. This system shall among other things focus not just at unearthing disciplinary issues and case disposal, but also a system of collation of data and data processing geared towards tracking the initiation, progress and completion of cases as they travel through the judicial process. This practice is highly recommended to fast track the progress and disposal of cases in lower courts in Nigeria.

[39] Gainer M, ''Transforming the courts: Justice sector Reforms in Kenya,'' 2011-2015, 10 available at www.princeton.edu accessed on 29/7/017

(D) Enhancement of Welfare of Judicial Officers of lower courtsand Judiciary Workers

These two are inseparable, given the fact that the self-evident solution to these twin problems derive from the same source. Basically, it requires increase in the budgetary allocation of the state judiciary and the grant of full financial autonomy by all state governments. This will necessarily translate into making funds available to improve basic infrastructure of the judiciary such as court buildings etc. and the enhancement of welfare of judicial officersandother categories of judiciary workers. In this respect, whilst Government of Edo state must be commended for the enthronement of a regime of prompt promotion of judiciary workers when they become eligible, a whole lot still needs to be done.According to Hon. Justice M. Umokoro, Chief Judge, Delta State in a paper;[40]

> A workforce that is not properly motivated cannot give its best. The provision of good official cars, furnished accommodation, adequate security and conducive environment for magistrates and presidents of customary courts are not out of place. The hazardous nature of the job with the attendant risk of lives and property are compelling enough to make government make adequate arrangement for their wellbeing and welfare...One advantage of paying the magistrates and presidents well is the fact that it will remove the temptation of corruption and unwholesome practice, apart from promoting prompt and efficient justice delivery.

5.0 Conclusion

This paper has spotlighted just a few out of the legion of formidable obstacles standing in the way of the dream of an efficient and fast justice delivery at the level of lower courts in Nigeria, using Edo State as a reference point. A society gets the quality of justice delivery it deserves,ready and willing to finance. The quest for this lofty idea, undoubtedly calls for urgent and comprehensive reforms of all existing substantive and adjectival laws relevant to civil and criminal adjudication in lower courts. To this end, the recognition, protection and actualization of the constitutional and fundamental right of Nigerians to not just justice, but one obtained within a ñtruly reasonable timeò in lower courts must now be placed in the front burner. Therefore,

[40]M.Umokoro, ''Access to Justice in the lower courts:- Re-examining the Civil and Criminal Jurisdiction of Magistrates court in Nigeria,'' being a paper delivered at the 2016 conference of All Nigerian Judges of the lower courts, at the NJI Abuja available at www.NJI.gov.ng accessed on 1/8/2017.

the workshop of reformation must have a clear mandate not just to carry out cosmetic amendment of existing laws as has been done in some states but must also undertake a comprehensive reform exercise with clear bias for expeditious justice as well as midwife new laws where necessary in this regard.