* **ACCESS TO JUSTICE MATTER**

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| Day 3 at the M.K.O Abiola Stadium in Abuja saw an interesting continuation of the NBA AGC 2023 technical sessions.  Let's dive into the most significant highlights of the day. |
| **PLENARY SESSION** |
| **ACCESS TO JUSTICE: REALITY OR UNFULFILLED EXPECTATION?**  During this plenary session which started at 9:15am, renowned speakers; Mr. Bryan Stevenson (Lead Speaker); Mr. Chukwuka Ikwuazom, SAN; Prof. Joy Ngozi Ezeilo, OON, SAN; Mrs. Titilola Vivour-Adeniyi and Mr. Duma Gideon Boko ignited a spirited discourse on one of Nigeria's most pressing issues – access to justice.  The Lead Speaker**, Mr. Bryan Stevenson:** Mr. Bryan Stevenson highlighted the exclusion of many from the rule of law as a massive threat to justice and democracy. He stressed that lawyers' words carry tremendous weight, and they should act with confidence, changing narratives through their personal sacrifices.  He encouraged lawyers to be instruments of change for the poor and marginalized in society, emphasizing the importance of recognizing human and people's rights, particularly those of less privileged citizens. Access to justice, Mr. Stevenson argued, holds immense significance as it:   * Changes discriminatory narratives. * Alters the narrative of a civil society. * Offers hope to the hopeless in a civil society.   Mr. Stevenson concluded with a powerful message, reminding legal professionals that hopelessness is the enemy of justice, as it erodes justice itself. Thus, he called upon lawyers to be beacons of hope.  **Prof. Joy Ngozi Ezeilo, OON, SAN** ignited the discussion by raising a fundamental question as to whether equal access to justice can be achieved, given the unmet justice needs of Nigerians. She underscored the essential components of justice, emphasizing equal protection before the law, legal aid, effective remedies, and the necessary structures to make justice accessible. Key takeaways from her address included:   * Access to justice is a right, a duty that governments owe to their citizens. * It encompasses access to information and legal assistance. * It encompasses the right to court and legal representation. * The NBA should play a pivotal role in ensuring accountability and human rights enforcement. * Establishing funds for legal aid and partnerships with organizations to support the vulnerable. * Sensitizing the public to respond to the violation of their rights.   **Mr. Chukwuka Ikwuazom, SAN** delved deeper into the concept of access to justice, emphasizing that it transcends mere access to the courts; it involves obtaining quality and affordable legal representation and substantive justice. He emphasized that a strong judiciary is important in guaranteeing access to justice and identified key challenges hindering access to justice in Nigeria, including:   * Inordinate delays in adjudication due to adjournments and antiquated recording methods. * The filing of frivolous cases. * A shortage of judges. * Issues surrounding the appointment of judges. * The quality of lawyers and judges. * The disposition of legal practitioners towards litigation. * Judicial inefficiencies, such as a judge unnecessarily deciding not to sit. * A dependence on executive goodwill within the judiciary. * Inadequate remuneration of judges. * The specter of corruption within the judicial system.   Mr. Ikwuazom urged the Nigerian Bar Association (NBA) to continue its fight for a more efficient and accountable judiciary.  **Mrs. Titilola Vivour-Adeniyi** began by outlining the factors that hinder access to justice, such as fear of the unknown, lack of access to information, the absence of judicial precedent, and economic factors amongst others. In addressing gender-based violence, she offered solutions including:   * Active involvement in pro bono cases. * Establishment of law firm branches in rural areas. * Incentives for pro bono participation. * Promotion of public interest litigation. * Adequate rewards for lawyers engaged in pro bono services.   **Mr. Duma Gideon Boko** passionately emphasized that all lawyers should champion restorative justice, emphasizing that access to justice is often a matter of life and death for many. He urged legal practitioners to make access to justice their foremost priority, signifying justice as the beacon guiding their actions. |

* Access to justice is defined as the ability of people to seek and obtain a remedy through formal or informal institutions of justice for grievances in compliance with human rights standards. There is no access to justice where citizens (especially marginalized groups) fear the system, see it as alien, and do not access it; where the justice system is financially inaccessible; where individuals have no lawyers; where they do not have information or knowledge of rights; or where there is a weak justice system. Access to justice involves normative legal protection, legal awareness, legal aid and counsel, adjudication, enforcement, and civil society oversight. Access to justice supports sustainable peace by affording the population a more attractive alternative to violence in resolving personal and political disputes.
* Equal access involves extending the reach of formal rule of law institutions to the population by removing barriers to their use.
* Effective access to justice services is a crucial determinant of inclusive growth, citizen well-being and sound public administration.
* It is only when an individual has access to Courts that his fundamental rights can be enforced.

**What constitutes access to justice?**

Access to justice can be broken into three main components, to wit:

the ability of individuals to institute actions in court without hindrance,

the means to pay for the cost of litigation in a court of law and

the timely resolution of disputes. It is trite that justice delayed is justice denied. Therefore, justice should not only be timely dispensed with but that the cost should not be so exorbitant to constitute hindrance. All these considerations must co-exist before one can say that justice is accessible.

There is a growing concern that access to justice is still limited to those who can afford it and also those who know how to redress any wrong done to them. So the saying: "Justice for all", does not apply to every Nigerian in all cases.

How could justice become inaccessible?

 a. Ignorance on the Part of the Citizens

* They do not also know about their existing rights. Worse still, they do not know whether any law exists for their protection. They are also ignorant of the available access to justice structure and Agencies that exist for their protection or how much the Agency can assist in ensuring the observance of their rights.
* b. Nonchalance on Part of the Citizens  
  The average Nigerian is calm, careless and does not feel any anxiety about his right, not to talk about his rights to access justice. It is unfortunate that Nigerians are waiting to be dragged before they imbibe the culture of accessing justice. This nonchalant attitude cuts across all, the rich and the poor, the educated and the illiterates, the good looking and the ugly, all is guilty
* c. Illiteracy among the Citizens  
  The level of illiteracy among the citizens of this country is a serious issue.
* d. Poverty
* e. Judicial Attitude to Cases  
  World over, the civil justice system is a costly one and Nigeria is no exception. Access to justice is not just access to a judicial system but to an adequate dispute resolution process. Effective access to justice is one of the fundamental conditions for the establishment of the rule of law.

**High Cost of Litigation**

* To say the least, almost all stages of court proceedings are money intensive.

Other challenges include: delays, cost of litigation, complex legal rules and procedure, lack of awareness and legal knowledge. Delay and corruption are also some of the factors hindering smooth flow of **access to justice**.

**Delay in Criminal Justice Administration**

* One of the most deleterious aspects of our judicial process is the time it takes to secure justice. It is said that justice delayed is justice denied.
* **Corruption**
* Corruption is a major factor that orchestrates delay and hinders the free flow of access to justice in Nigeria. All the participants in the administration of both criminal and civil justice, namely, the police, the judiciary, legal practitioners, litigants and the prisons, are sometimes corrupt.
* The police exercise the discretion whether or not to prosecute an accused person, based on the evidence it has before it. However, the decision to prosecute or not to prosecute may be influenced by the gratification he may have received or have been promised. He could recommend non-prosecution in a case that requires prosecution, or prosecute on issues that would ordinarily not require prosecution. Where he decides to ignore the relevant evidence and decline to prosecute, the tendency is that the officer will have to suppress the crucial evidence. Corruption also rears its head in the decision to either oppose or not to oppose bail applications.

* The administrative or supporting staff of the judiciary, like the court registrars and court clerks are also involved in corrupt activities. The supporting officers in the judiciary, almost always expect gratification for performing very simple official duties. They brazenly ask for money for lunch for something as little as appending a stamp or signature on a document. Where one needs something like copy of a ruling or judgment, the person might experience some delays, unless he or she promises gratification or has already given it. The court registry staff are often accused of holding lawyers to ransom. It is common knowledge that police still collect money from arrested persons or their relatives before they are released on bail. Investigators sometimes deliberately delay investigation or omit vital information as a result of corruption. In some cases, prosecutors being influenced by gratification received from either the complainant or the accused person, manipulate the trial process to suit the gratifier. Some of the cases of excessive requests for adjournment by the prosecution or the unwarranted grant of adjournment by the judicial officer can be traced to corruption. The prosecutor, accused person’s counsel or the judicial officer could feign sickness and fail to show up for trial, the prosecutor or accused’s counsel could fail to produce the witnesses and then give reasons why the court should adjourn the matter.
* **Certain Cultural/Religious Believes**
* As mentioned earlier, the system of justice we operate in Nigeria is a foreign type. This may therefore explained why some of the citizens do not really believe in the system. In this respect, when there is an action to be filed in court, some people believe to settle such cases out of court. And when dispute sets in, they will rather prefer to settle such matters informally. The above altitude is common in most parts of Northern Nigeria, where because of religious believes, many issues are settled informally without necessarily going to the court. Thus, the popular saying is that: “It is God’s wish.” As such it should be left like that.
* **High Cost of Litigation**
* To say the least, almost all stages of court proceedings are money intensive.
* **High Illiteracy Level in the Country**
* No doubt, illiteracy is also another factor that is inhibiting access to court in Nigeria. Because of low literacy level in the country, some people don’t even know that their rights have been trampled upon.

**When archaic provisions in our laws are not expunged, when lawyers do not diligently prosecute or defend their matters, when judges do not sit promptly and grant unnecessary and long adjournments and when registrars of courts do not ensure that hearing notices are served on time. Lawyers and judges should place more emphasis on substantial justice and less on technicalities so that courts can address the core issues submitted for resolution of conflicts. As regards offences carrying capital punishments, the Federal Government, through the Legal Aid Council, should provide legal representation. Once all these are not sorted out, justice will continue to be inaccessible and, therefore, remain elusive.**

Labour strikes by the Judiciary is an example of how government is not playing its role towards making justice accessible to everyone. The government has a fundamental role to play by creating a conducive atmosphere for judicial officers and judicial employees. Likewise, non-provision of infrastructural facilities is one of the inactions of the Executive that makes justice inaccessible.

The procedural aspects of our laws sometimes impede access. For instance, our Civil Procedure Rules, which provide a time limit within which certain steps are to be taken in the course of defending or prosecuting a suit. There are provisions for extension of time for the defaulting party to do what he failed to do within the stipulated time, thereby leading to unnecessary delays in justice dispensation.

The court generally grants an application at its discretion. Some discretionary powers of our judges are widely misused to scuttle justice

In most criminal offences, the ball of justice starts rolling from complaints made to the Police before arresting an offender, after which the Police will investigate, collect and collate evidence for prosecution. This is done by the Police either directly or through the Attorney-General, either of the federation or the state, or any other relevant authority. The part played by the Police as investigators, prosecutors or witnesses, is always vital. Nevertheless, the role of the Police in timely investigation and prosecution of alleged offences, prompt admission to bail for those entitled cannot be over-emphasised in making justice accessible to all.

* **Way forward**
* *Address barriers to both quantity and quality.*
* *Better prepared defense attorneys, more citizen-oriented court staff, more reasonable hours, better information about the justice system are all means for improving quality. The justice system should be linguistically accessible with local language proceedings or provision of interpretation.*
* *Enhance physical access. Courthouses and police stations may only exist in urban, populated areas, leaving the rest of the country without proper access to the formal justice system.*
* *Increase access through provision of legal aid. Legal information centers and legal aid offices that offer free or low-cost legal advice and representation*
* *Promote legal awareness. For the population to access justice, they must understand their rights and the means for claiming them.*
* *Strengthen civil society as the foundation for promoting access to justice.*
* *Recognize that increased access to justice depends on public confidence in the justice system.*

The advantages of alternative dispute resolution (ADR) over the traditional litigation are too overwhelming to be ignored. The alien nature of the legal system, the attendant inherent delays, the public’s unfamiliarity with the nature of litigation process, the technical nature of law and its procedure are factors which make ADR a better option for litigants. Lawyers and litigants have to be well sensitized to embrace this new process, which is actually a return to our traditional African dispute resolution method.

Realizing smooth access to justice involves a wide range of steps, from amending some of our legislation, to the modernization of court systems, police force and prisons. The aim is to build up respect for the rule of law and due process among stakeholders in the administration of justice and buttress their roles as protectors of those rights, which will ultimately engender unhindered access to justice. A strong, courageous, independent and incorruptible judiciary is indispensable for the people to have confidence in the justice system, thereby shun self help or jungle justice