

X-RAYING THE TRIPARTITE NATURE OF JUSTICE IN THE NIGERIAN CRIMINAL LAW.

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INTRODUCTION

The duty and business of the courts can be primarily summed up to involve, the administration of justice. The great philosopher, Plato in his wisdom, echoed these words that will form a fulcrum of this discourse, and they are: "*The worst form of justice is pretended justice.*" In order to circumvent pretended justice and actualize actual justice, we ought to follow the steps of the aphorism of the learned English jurist, Lord Hewart, who stated that: "*It is not merely of some importance but is of fundamental importance that justice should not only be done, but should manifestly and undoubtedly be seen to be done*", this was held in the famous case of **Rex v. Sussex Justices**,²²⁴

The above emphasizes the need for the visibility of justice it also adds that, justice is done when the architecture and manifestation of it appeals to the senses of those who behold and come in contact with it.

This is indeed the onerous task of a jurist as Justice Niki-Tobi, JCA (as he then was) held in **Veritas Ins. Co. Ltd. v. Citi Trust Inv. Ltd.**²²⁵ that:

"The function of the court is to use the armoury of its rules to do justice in the matter. The armoury, for a change, cannot this time around, be weapons for war but for justice through peace and to the egalitarian advantage of the parties".

WHO ARE THE PARTIES TO JUSTICE?

One herculean task which often arises in the dispensation of justice, is to determine who the parties to justice are? Those who the court must take cognizance of, in the process of adjudication. Although the symbolic, '*Lady Justitia*' is blindfolded; she must endeavour to "see" that justice is meted to the parties to justice.

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²²⁴ [1924] 1 KB 256.

²²⁵ (1993) 3 NWLR (Pt. 281) 349

There are different views as to who the parties to justice are. In **Josiah v State**,²²⁶ Oputa, JSC (of blessed memory) opined that justice is a three-way traffic for the state, the victim and the accused. The court in the case of **Okpe v. Fan Milk Plc**,²²⁷ while agreeing that justice is a three-way traffic, it however considers the aspect of “justice to the court” rather than “justice to the state”. Contrarily, in **Omabuwa v. Owhofatsho**,²²⁸ it was held that: “*Justice is a two-way street - justice for the plaintiff and justice for the defendant.*”

The preponderance of authority however, tilts towards the position in **Josiah v State** (Supra) and this was recently affirmed in **Emenuwe v. State**,²²⁹ wherein the Court held that: “*Justice rests firmly on a tripod... the prisoner, the victim and the society.*”

JUSTICE TO THE STATE

Once an infraction or conduct is classified as a “crime”, it is therefore a “sin against the state”. The State, society, government or any other synonym is seen as the offended, in the commission of a crime, that is why the State has the power to prosecute the offenders.

Consequently, in the administration of criminal justice, the courts must ensure that justice is done and seen to be done to the State, their prosecutorial rights and other appendage rights to be observed and respected including the right of *nolle prosequi*, right to amend charges, the right to offer plea bargain, among others.

The courts must extend its just hands to the dispensation of justice in the interest of the State. The court in **Emenuwe v. State**²³⁰ emphasises that:

“There is justice for the society whose social norms, values and moral fabric has been, unwarrantedly, fractured by the nefarious and bastard act of the offender.”

Also, in **Okomu Oil Palm Ltd. v. Okpame**,²³¹ it was stated that:

“ I think really justice is a three-way traffic,... justice for the society at large whose social norms and psyche are certainly going to be adversely affected if it cannot be seen by the common but reasonable man, that upon the facts as laid down,

²²⁶ (1985) 1 NWLR [pt. 1] 125

²²⁷ (2017) 2 NWLR (Pt. 1549) 282

²²⁸ (2006) 5 NWLR (Pt. 972) 40

²²⁹ (2024) 14 NWLR (Pt. 1959) 385

²³⁰ *Ibid*

²³¹ (2007) 3 NWLR (Pt. 1020) 71

justice in the real and true sense of that word, has been seen to have been done by the arbiter”.

JUSTICE FOR THE ACCUSED

This discusses the justice for an accused, defendant or a prisoner, who are unfortunately disparaged and sneered at by some members of the society. Due to some systemic lapses of correctional facilities or the justice system; justice to the accused may be hard to see, drawing from how they are treated, to how they are dressed, to how they appear in court. However, the courts and the law makes it of utmost importance to ensure justice to the accused. This is especially important because of the presumption of innocence that an accused is given, generally, as provided for under **Section 36(5) of the Constitution of the Federal Republic of Nigeria, 1999, as amended.**

One of the ways to ensure justice for the accused is to conduct a trial that is extrinsically and intrinsically an epitome of fair hearing and natural justice. In my opinion, two maxims should be considered in order to see that justice to the accused is done, these can be seen in the case of **A. Manuf. Ind. (Nig.) Ltd. v. Akiyode**,²³² they include; *Audi alteram partem* and *nemo debet esse iudex in propria causa*. The former maxim infers that both parties be heard on all issues, the latter maxim simply translates into this golden rule that, no one shall be condemned, punished or deprived of property in any judicial or quasi-judicial proceedings unless he has been heard or seen to have been given all available opportunities to be heard.

In the case of **Josiah v State**²³³ it was held thus:

“It is in the interest of justice that every rule in favour of an accused person is meticulously observed and that no rule is broken to his prejudice”.

The Constitution, in **Section 36**²³⁴ spelt out some safeguards that would ensure justice of the accused, and the court in lending her voice to this have held those provisions to be sacrosanct

²³² (2000) 13 NWLR (Pt. 685) 576

²³³ *Supra*

²³⁴ 1999 Constitution of the Federal Republic of Nigeria (as amended)

and impenetrable, failure to comply with, have severally led to an order for a trial de novo (and not acquittal or dismissal).

JUSTICE FOR THE VICTIM

A victim of a crime is a person or a party who is negatively and adversely affected by the commission of a crime, either physically, emotionally or financially. Generally, victims of a crime are not made parties to the cause of action, but usually called up as witnesses in the matter.

The pronouncement of the court in **Joseph v. State**,²³⁵ is that:

“Justice is not a one-way traffic meant to benefit an accused person alone. Justice is in fact a three-way traffic ... justice for the victim who went through the traumatizing experience of being on the receiving end of the crime.”

Also, it was held that, *“The concept of justice is a triplet of justice for the victim whose life was cut short in a brutal manner and whose innocence and wasted blood cries to high heavens for vengeance...”* in the case of **Ganiyu v. State**.²³⁶

The sad legal twist in reality is that, since the victim is not a party to the criminal action, the legal fireworks between the prosecution and the defence may overshadow the cry and bickering of the victim or victims.

Victimology is a discipline or sphere that focuses its attention on the victims of a crime. The Administration of Criminal Justice Act, 2015 (ACJA), contemplates this, and same is engraved in the letters of the law and ought to be reflected and echoed in our courtrooms.

Section 314(1) of the ACJA states that:

“Notwithstanding the limit of its civil or criminal jurisdiction, a court has power, in delivering its judgment, to award to a victim commensurate compensation by the defendant or any other person or the State.”

Section 319 (c) and Section 321 (a) of the ACJA, also stipulates to ensure justice to the victims.

CONCLUSION

Thus, in the administration of criminal justice, the courts must ensure that the scale of justice balances the interest of all the parties of justice. Justice should be viewed triangularly. Therefore,

²³⁵ (2023) 5 NWLR (Pt. 1877) 393

²³⁶ (2013) 10 NWLR (Pt. 1361) 29

for justice to be seen as alright, it must be done to all, right. As it was stated in **Makinde v. Adekola**,²³⁷

“The court’s primary function is to do justice between the parties to a dispute. One-sided justice will amount to injustice. The courts do not administer abstract justice. The law is made to ensure justice. It is only by the orderly administration of law and obedience to the rules of court that legal justice can be attained. When a particular decision is against well-known rules or principles, then it is not made in the interest of justice. Justice given in an aura of impartiality must be justice in the eyes of the public at large that was given without fear or favour. To do otherwise is a travesty of justice”.

²³⁷ (2022) 9 NWLR (Pt. 1834) 13