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The delay in handing down judgments: A case against the Judiciary of Sierra Leone.

What is responsible for the delay in handing down judgment and ruling on cases by the Judges and Justices of the Sierra Leone Judiciary?

This article is anchored on an ancient aphorism that has persisted for centuries in and out of the legal environment, and that aphorism is: ***"Justice delayed is justice denied."*** The need for expeditious adjudication of cases in the court system of Sierra Leone has been a matter of statute and the common law, and has as well been the concern of every member of the society particularly legal reformers. The ancient pithy statement upon which this article is anchored could have drawn it's inspiration from spiritual Books such as the Holy Bible, or, clause 40 of the very important Magna Carta of 1215.

Whereas the aphorism ***Justice delayed is justice denied*** *gives* credence to the constitutional right of a speedy trial in favour of the litigant, the prosecution, or the parties in any action generally; the lawyers, the courts, the judges have all relied on another aphorism that says: ***"No delay in law is long concerning the death of a man."*** When both aphorisms are pitted against each other, one that favours the parties in an action and the public generally, and the other that favours the lawyers, judges, and

the courts, it becomes difficult for one to conclude which of the two aphorisms must hold sway. Meanwhile, it seems to me that the aphorism ***Justice delayed is justice denied*** that works in favour of the parties in an action must hold sway against the one for the lawyers, judges, and the courts. Why should it be so? Let us say for example, where someone has been accused of rape and his trial becomes protracted by numerous adjourned dates, and eventually he is acquitted and discharged of the offence of rape, the delay in his trial, and the fact that he had been in remand throughout the trial could have caused him to suffer reputational damage and also loss of financial earnings. There are several benefits that can be mentioned in favour of the expeditious determination of cases by the Judiciary which will make the case against that institution stronger. Firstly, a speedy determination of cases guarantees an effective administration of justice by the Judiciary of Sierra Leone which can also influence a positive review of the said institution by the civil society; members of the public, and legal reformers.

Secondly, a speedy determination of cases by the Judiciary of Sierra Leone elevates a sense of confidence and trust in the institution by the general public. It feels good knowing that my case shall not only be heard in court, but judgment shall be delivered in the shortest reasonable time as required in section 23 (1 and 2) of the Constitution of Sierra Leone, 1991, and thus saves me time and money to concentrate on my personal industry. It should not come as a surprise to hear that cases which ought to have been determined within one year have been in our courts for three years or more defeating the essence of speedy dispensation of justice. Overcrowding in our Correctional Facilities across the country, particularly in the Freetown Male Correctional Facility can also be attributed to the delay in delivering judgment, the effect of which is unwarranted expenditure on the government of Sierra Leone in catering for the welfare of the inmates. A study also revealed that Magistrates' Courts are contributing significantly to the social ill of overcrowding in the prisons because of their refusal to hear and determine minor cases swiftly. When parties are in court to resolve a dispute; there is a sense of **legitimate expectation** from the court system by these parties, believing that a verdict will be delivered quickly in order to relieve them of any anxiety that a long trial would cause. This is how the Acting Chief Justice of Sierra Leone, Honourable N.C. Browne-Marke in his obiter puts it in the case of **Abraham Lavaly and Others vs. The State (SC 1 of 2017) [2020] SLSC 11 (3 AUGUST 2020).**

"What were the legitimate expectations of all the plaintiffs herein when put on trial? The sensible answer to such a query is that they expected an outcome; a verdict of guilty which would necessitate each or either of them appealing against their respective convictions to the Court of Appeal; or, an acquittal which would enable them to continue with their lives."

The wisdom of his Lordship, Browne-Marke JSC, is seen in the obiter above whereby he emphasised the need for a speedy trial so that the parties in a court action shall be discharged of the burden of frequenting the courtroom on every adjourned date.

The facts of the case between The State against Abraham Lavaly and Nine others cited above were that, Abraham Lavaly and nine other persons were charged with various corruption offences. While standing trial before The Honourable Justice Paul, Abraham Lavaly and his co-accused applied for bail but the trial Judge refused to grant it throughout the hearing of the case. Upon the close of argument on both sides, the file of the case was withdrawn by Justice Paul for judgment to be delivered. By this time, Abraham Lavaly and the co-accused have spent eleven months at The Freetown Male Correctional Center, and it turned out that the trial Judge had travelled out of Sierra Leone because his contract with the Sierra Leone Judiciary had ended and there was no prospect of renewing his contract. While Abraham Lavaly and the other defendants were languishing in prison, it appeared that Justice Paul travelled with the file of the case making it impossible to be transferred to another judge. It is upon this basis that Abraham Lavaly and the other defendants brought an action to the Supreme Court of Sierra Leone asking the Court to release them from prison unconditionally and also be discharged. Abraham Lavaly and his friends prayed for several other reliefs and relied on sections 18 (1), 20 (1), and 23 (1) of the Constitution of Sierra Leone, 1991. Fortunately for them, the Supreme Court granted the reliefs prayed for and all charges against them were dropped.

It seems as if the Judiciary of Sierra Leone is trapped within the maze of striking the balance between the expeditious determination of cases and the need to guard against doing injustice to any party as a result of rushed dispensation of justice. Doing injustice to a party in a court action as a result of rushed determination of a case contravenes the

principle of impartiality by the Judiciary which also gives credence to another maxim that says: ***"Justice hurried is justice buried."***

The following are said to be the factors responsible for the delay in delivering judgments in our courts:

- The difficulty of the parties in supporting their cases with evidence while conducting them: The success of most cases in court depends on the quality of the case, the ingenuity and tactfulness of the lawyer/s, and the preponderance of the evidence adduced. The biggest challenge every prosecution is faced with is the ability to prove the elements of each and every charge against the accused and to support it with cogent evidence.
- The fact that some lawyers have sometimes failed to appear on several adjourned dates, either because of the workload, or one case's adjourned date clashed with another whereby the lawyer would be in another court arguing another case.
- The complexity and the nature of some cases can cause the delivery of judgment to be delayed.
- Corruption: There is a mainstream belief that the Judiciary of Sierra Leone is corrupt practically and procedurally.
- The fact that the Judiciary is understaffed: Currently, the Judiciary of Sierra Leone has 41 Judges and 34 Magistrates charged with the responsibility of

  dispensing justice to a population of over Seven Million people emphasising a lower ratio of judges to the population. This reminds me of a publication of The New York Times dated 14th January 2024, where it was stated that the Judiciary of India has a backlog of fifty Million civil and criminal cases that will take three

  hundred years for India's Judiciary to clear. (The parties in those cases would have died by then).

- The fact that the main law court building in Freetown does not have enough courtrooms.
- Interference by politicians in the operation of the Judiciary.
- The difficulty in selecting persons who are eligible to serve as jurors in a jury trial.

- The unexpected death of a Judge could delay the delivery of judgment, as was seen in the case of the **The State vs. Abu Kunta Jawara and 11 Others, HC Crim Case 11/1989.**
- The retirement of a judge could as well delay the delivery of judgment: When a judge retires, he is required to deliver all pending judgments and surrender all case files that were in his possession. There are incidents whereby judges have refused to surrender case files, the cases of which they ought to have delivered judgment long before their retirement comes in. Among those cases are: **The State vs. Abraham Lavaly and Nine Others 2013 unreported.**

In all of the above-mentioned factors responsible for the delay in delivering judgment on cases; none is too big for the Judiciary to overcome. It only takes a reformist perspective to put the wheels of change on motion to address the slow motion of justice dispensation. Is the Sierra Leone Judiciary willing and ready to do so? Or, is it that its independence is stifled and limited by the whims of the executive arm of government? Well, it is only when the Judiciary demonstrates or exercises its independence conferred on it by section 120 (3) of the Constitution by radically cutting the **Apron Strings** tethered on them by the Executive Arm or the Legislature that is when the wheels of justice shall freely spin.

Interestingly, an example of a case that has enjoyed the blessings of a speedy trial in recent time is the case between **The Honourable Abdul Kargbo and Another vs. The Attorney-General and Another 2023 [SC APP 6 of 2022] SLSC 1 (27 January 2023)**. In December 2023, the newly appointed Acting Chief Justice assigned to various Judges over five hundred cases which according to reports are cases that have been frozen in the wilderness of judicial administrative negligence, or ineptitude.

The disposal of cases by the courts must follow the constitutional requirement of Section 120 (16) of Act No. 6 of 1991, which requires that every court established under the Constitution should deliver judgment on every case either civil or criminal not later than three months after the conclusion of submission of evidence and final addresses or arguments of appeal. What will be the effect or validity of any judgment delivered after four months of the withdrawal of the file of the case? Can such a judgment be legally enforced or challenged when delivered more than three months later? It seems to me that the drafters of the 1991 Constitution may have included section 120 (16) in the

Constitution to guard against; or, prevent the mischief of **'delay'** in handing down judgments and to also guarantee expeditious determination of cases, and speedy delivery of judgments. The question as to whether a judgment delivered more than three months can be void after the case file has been withdrawn on the close of argument by counsel on both sides came up for determination in the Supreme Court of Nigeria in the case of **Dominic Onuorah Ifezue vs. Livinus Mbadugha & Another (S.C. 68/1982) [1984] NGSC 2 (17 May 1984).** The Supreme Court of Nigeria was required to interpret Section 258 (1) of the Constitution of Nigeria, 1979, in the case mentioned above, and that provision of the Constitution of Nigeria is analogous to section 120 (16) of the Constitution of Sierra Leone, 1991. Both sections require the courts established by the Constitutions of each country to deliver judgments not later than three months after the close of argument by counsel of both sides.

Consequently, on the issue of the Sierra Leone Judiciary being trapped in the maze of handing down judgments expeditiously and guarding against rushed justice, I find the submission of Chief Williams, an Amicus Curiae of the Supreme Court of Nigeria during the hearing of the Mbadugha case very interesting and germane to this article. Chief Williams submitted that…

> ***"Given an option between the right of the parties to a correct judgment according to law on the one hand, and their right to have that judgment delivered within the prescribed time on the other, public interest dictates that the option must be exercised in favour of correct judgment according to law. By opting for a correct judgment according to law, no substantial rights of either parties would have been violated since the ultimate object of the law is to secure for the parties a correct judgment according to law."***

The Judges are endowed with enormous powers by the Constitution of Sierra Leone which makes them inviolable and are thus not subject to the control or direction of any other authority except by the law itself. It follows that while a Judge occupies that office, no civil or criminal action shall be brought against him and such a protection is found in section 120 (9) of the Constitution of Sierra Leone, 1991. The delay in handing down judgment on cases may be attributed primarily to corruption within the judicial system, but the writer of this article cannot without a shadow of a doubt ascertain this

proposition because of the absence of a body of decided cases of corruption by the Anti-Corruption Commission against the Judges of the Sierra Leone Judiciary. Further to this, the only known decided case of corruption brought against a Judge of the Superior Court of Judicature of Sierra Leone is the case between **The State vs. The Honourable Justice M.O. Tajudeen, CR.APP.9/2001,/2001 & 3/2001.** The defendant in this case was a Judge of the High Court of Sierra Leone who was charged with a twelve count indictment of the offences of corruption contrary to sections 7 and 8 of the Anti-Corruption Act, 2000. He was found guilty and convicted making him the first Judge to be indicted, tried and convicted for corruption during the operation of the Anti-Corruption Act of 2000.

Why is it that most people in Sierra Leone are habitually not inclined to bring their grievances in court? Is it because there is a sense of lack of trust in the Judiciary; or is it because the people just cannot afford retaining the services of a lawyer? It could be both; either also because the people are absolutely uncomfortable with the dilatory fashion of proceedings in the courts which always has a huge financial burden on them, or the fact that people (in their view) consider Judges and lawyers as liars who would charge excessive fees for the smallest of legal services they perform.

Finally, if corruption is responsible for the delay in delivering judgments in our courts, then the Anti-Corruption Commission must start to direct its attention to the Sierra Leone Judiciary. If the problem is also as a result of insufficient number of judges in proportion to the abounding case files, the Judiciary must recruit more judges to lessen the burden of work for them and also employ stenographers and research assistants and have them attached to each judge. It could also be that the conditions of service are not excellent for our judges. If that is the case, then, the government of Sierra Leone must address the issue.