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DILATORY ADJUDICATION OF DISPUTES IN DOMESTIC AND INTERNATIONAL LEGAL PROCEEDINGS

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Abstract: *Dilatory or delayed adjudication of disputes has always been a threat to justice. This trend is not peculiar to any State or region. It is universal. Courts at domestic and international levels have grappled with it. This article embarks on a detailed exposition of specific cases and how the actors' conduct bogged down the court's affairs. It highlights the unique ways that the States, International Organisations, litigants, legal representatives and the courts have abused time limits meant to perform legal acts. This article constrains itself to Nigerian courts, the International Court of Justice, and the United Kingdom. This article is expository, not comparative. It proffers statutory amendment and stricter measures by the courts as the way forward.*

Keywords: *Dilatory, Delay, Enlargement, Extension, Time limits, Timeline, Timeframe*

1. Introduction

*It is trite law that a Defendant who has no real defence to an action should not be allowed to disturb and frustrate the Plaintiff and cheat him out of the judgment he is legitimately entitled to by delay tactics aimed at not offering any real defence to the action but at gaining time within which to continue to postpone meeting his obligation and indebtedness***.**

Ignatius Igwe Agube, Justice of the Court of Appeal of Nigeria, in *Hyd Road & Others Tech ltd & Anor v. Abia State Govt & Anor (2014)*

This action was initiated as per suit No: FHC/L/CS/591/95, nearly thirty (30) years ago... To make matters worse, this appeal was left "hanging" in this Court since the Appellants transmitted record on 9/11/2006. Sadly, both Counsels involved had been Counsels in this matter from the trial Court. This form of practice is highly deprecated.

Helen Moronkeji Ogunwumiju, Justice of the Supreme Court of Nigeria, in *Dike Geo Motors Ltd & Anor v. Allied Signal Inc & Anor (2024)*

Time cannot be divorced from the law. Any attempt to do so will reduce efforts at justice to nought. Often, persons who have business in the court refuse to operate within this truism. The blame for this conduct is usually shifted from the litigants to the lawyers, then ultimately to the judicial system. In *Obasi v. State* (2020), the Supreme Court of Nigeria held that waste of time in proceedings could be caused by either the parties or the court. It is natural for litigants to act through their Counsel/Legal Representatives. Hence, it makes sense that lawyers are counted as parties for the position in *Obasi v. State.*

Peters G. (1979) made great attempts at describing delays in relation to judicial proceedings but made some mischaracterisations. He described it as ‘case processing time in excess of what is considered normal, appropriate, or necessary’. He mischaracterised court

congestion and backlog as unconnected to delays in the adjudicatory process. He maintained that cases not yet at trial or appeal should not be taken into account when considering delayed cases. He was more concerned with delays in proceedings for which the court has started sitting rather than the generality of affairs, which would have a bearing on the entire adjudication process. Contrary to Peters' position, the author here is of the view that dilatory adjudication of disputes is an incidence of conduct before, during, or after judicial proceedings, which slows its progress. What matters is that more time than appropriate has been expended to perform an act before, during or after the proceedings in court. This conclusion will be vindicated in this paper. Statutes generally provide time limits within which to perform certain acts. Failure to perform the act within the prescribed time creates a bar on the act. However, there are usually allowances afforded in certain circumstances. For instance, an appeal to the Court of Appeal in Nigeria shall be filed not later than three months from the date of judgement and ninety days for criminal matters. An appeal to the Supreme Court of Nigeria shall be filed within three months from the date of judgement, thirty days in criminal cases. But a party that is out of time can apply for enlargement of time. The various rules of courts empower the courts to enlarge these timelines when the applicant has shown a good cause to do so.

In the same vein, the International Court of Justice (ICJ) in The Hague, Netherlands, is no stranger to the practice of time limits and enlargement of time. The Rules of the ICJ provide time limits for State Parties to perform certain acts in proceedings before the ICJ. The ICJ prescribes the time limits for the filing of written pleadings and can extend it if there is justification to do so. The Statute of the ICJ also recognises the power of the ICJ and the President of the ICJ to prescribe time limits for advisory opinions. Of significance is Article 48 of the Rules of the ICJ. It provides that 'Time-limits for the completion of steps in the proceedings may be fixed by assigning a specified period but shall always indicate definite dates. Such time limits shall be as short as the character of the case permits'. The requirement of definite dates and shortness of time underscores the importance of time in the affairs of ICJ.

2. Nigerian courts and the quagmire of extension of time

In 1986, the Supreme Court of Nigeria delivered an instructive judgement in *R. Lauwers Import-Export v. Jozebson Industries Co. Ltd* (1988). It all began in 1984 when the Plaintiff (Lauwers) sued the Defendant (Jozebson) at the High Court of Anambra State to recover the debt of ₦1,176,382.54. The Defendant later admitted the sum of ₦904,644.39 in addition to ₦2,500.00 as cost. On 20 March 1984, judgement was delivered by Nwokedi. J in favour of the Plaintiff based on the admissions of the Defendant. On 30 April 1984, the Defendant, through its Counsel, applied to the court to pay the judgement debt by instalment. The application was heard on 29th May 1984, and the court ordered a down payment of ₦250,000.00, then ₦30,000 monthly until full payment is achieved. Still dissatisfied with this arrangement, the Defendant applied for leave to appeal the Order, but the application was struck out for the non-appearing of counsel or the parties on 15 June 1984. The Defendant started paying the judgement debt. But at some point, the Defendant stopped making payments. From 1984 to 1986, the Defendant paid only ₦432,851.05 to the Plaintiff. The Plaintiff levied execution on the properties of the Defendant to recover the outstanding sum. On 28 April 1986, Awogu. J disallowed the Defendant's application to have the writ of execution set aside.

Maybe as an afterthought, on 8 July 1986, the Defendant applied to the Court of Appeal for an enlargement of time within which to appeal the judgement of Nwokedi. J of 20 March 1984. On 23 September 1986, the Court of Appeal granted the application for enlargement of time. From 20 March 1984 to 23 September 1986 was exactly two years, six months and three days of wasted time. This was way beyond the three-month time limit stipulated by law to appeal a judgement, and the Plaintiff wouldn't have it. Hence, the Plaintiff appealed the enlargement of time granted in favour of the Defendant to the Supreme Court.

The Supreme Court held that one of the conditions *sine qua non* for granting an application for an extension of time to appeal a judgement is that the applicant must show good and substantial reasons for failing to appeal within the time limit prescribed by law. It is vital to reproduce the three main reasons deposed by the Defendant in paragraphs 20, 28, and 33 of his Affidavit as reasons for the delay:

> **Para 20**: That I do not know anything about court processes and procedure, and I relied entirely on my Solicitor N.C.O Okwudili Esq for my defence and guidance
>
> **Para 28**: That our former Counsel N.C.O Okwudili did not tell me or advise me, and I did not know, not being a lawyer, that we could appeal against the judgment
>
> **Para 33**: That our failure to appeal within time was due to no fault of ours but due to either inadvertence or an error on the part of our former solicitor in not appealing or advising us to appeal against the judgment.

The Supreme Court recognised that the Defendant was deeply out of time, and by way of a general rule stated as follows:

> [T]he Court will not visit the sins of counsel on their clients. So, where reasons for delay in appealing within time are attributable to mistakes, negligence or inadvertence of counsel, an application for an extension of time will generally he granted

However, upon specific interrogation of paragraphs 20, 28, and 33 above, the Supreme Court refused to accept them as true. The Supreme Court recounted that at no point did the Defendant mention in the affidavit that he sought the advice of his former counsel Okwudili on whether to appeal the judgement of 20 March 1984. Recall that Okwudili represented the Defendant in the application to pay the judgement debt by instalment on 29 May 1984. Again, it was the same Okwudili, who on behalf of the Defendant, filed an application for leave to appeal the Order of payment by instalment. The Supreme Court then asked: "How can anybody take the Defendant serious when he said that he did not know that anybody could appeal against an Order of court?". Okwudili could not have made these past representations if not on the direct instructions of the Defendant. Hence, the claim of ignorance by the Defendant in the Affidavit was bogus. The allegation of negligence against Okwudili couldn't hold water. Based on this and other reasons which are not germane to this paper, the Supreme Court allowed the appeal and dismissed the enlargement of time granted by the Court of Appeal.

Contrary to the argument of Peters G. (1979) that delay is unconnected with matters not yet in the court, the delay in this case was caused by post-judgement conduct. Remember, the High Court had already decided the substantive suit, became *functus officio*, and the Defendant

had already started paying the judgement debt by instalment. At that point, the matter was no longer in any court. It was the failure of the Defendant to fully comply with the judgement debt and the consequent levying of execution on its property that gave rise to the appeal, thereby making the appeal look like an afterthought. It was indeed an afterthought because a litigant who wishes to appeal a judgement would apply for a stay of execution and appeal the judgement immediately after the High Court delivers it. The Defendant did none of those, rather complied with the judgement for two years and then decided to appeal.

Nevertheless, in *Obasi v. State (supra)*, the Appellant (Obasi) was absent for over forty sittings of the High Court and about fifteen adjournments were had on his account. He applied to the High Court to dismiss and discharge the criminal charges against him for lack of fair hearing due to the incessant transfer of judges who were meant to hear his case for over twenty years. The Respondent, on the other hand, insisted that the Appellant and other co-accused persons consistently made excuses to avoid attending the court for the proceedings to move forward. At some point, the court got tired and issued a bench warrant to compel their presence after they had gone ahead to commit the same crime they were charged with against another complainant. The High Court, the Court of Appeal, and the Supreme Court denied the application for dismissal and discharge. The Supreme Court remarked that the Appellant "must not be allowed to benefit from the delay he caused".

The Court of Appeal in *Anudu v. Olisahi* (2018) observed that if a Counsel deliberately employs delay tactics to frustrate the court, the latter can act against the former's interest, and it will not amount to a violation of the right to a fair hearing. In 2018, the Supreme Court rebuked a Counsel who bogged down the main suit at the trial court with a series of interlocutory appeals. The right of appeal was deployed by the Counsel as a tactic to delay the substantive suit, the Supreme Court found. Some Counsel would want to appeal every single interlocutory ruling of the trial court all the way to the Supreme Court. This effectively puts the substantive matter at the trial court on hold pending the determinations of the appellate courts on the interlocutory appeals.

One would think that these holdups are unique to Counsel and litigants, but that would be a wrong conclusion. The courts have also been instrumental in delays in the adjudication process. The Constitution of the Federal Republic of Nigeria (CFRN 1999 as amended) provides that every court in Nigeria has ninety days after the conclusion of evidence and adoption of final written addresses, to deliver its written judgement. One of the rationales behind the ninety-day time limit is that the court perhaps still retains the mental impression of the witnesses and the entire proceedings. Beyond this time frame, the court is deemed to start losing or have lost such mental impression. In *Nnajiofor & Ors v. Ukonu & Ors* (1985) the Supreme Court had this to say:

> This is not the first occasion when we have to express the disapproval of the Court of such inexcusable delay in writing judgment, but it is well worth consideration by all Courts that human recollection may lose its strength with the passage of time and that justice delayed is as bad as justice denied and may even under certain circumstances be worse.

Courts devised a way around the statutory time limit by inviting parties to come and re-adopt their final written addresses after the expiration of the ninety days. This automatically activates a fresh ninety days for the court to deliver its judgement. With this tactic, the court could always buy time whenever it ran out of it. In *Lasisi v. Federal Republic of Nigeria* (2022) the Court of Appeal addressed this practice as follows:

> A trial Court has the power to invite the parties to re-adopt their final written addresses only before the expiry of the ninety days within which it must deliver judgment, especially where new issues have arisen to which it requires the parties' submissions before delivery of judgment. But the practice where after the expiry of ninety days a trial Court invites parties to readopt final addresses before delivering its judgment, as was done by the learned trial Judge at page 333 of the Record of Appeal, has no place either in the Constitution, or in our statutory laws or rules of procedure. In fact, such a practice neither obviates the fact that the judgment is delivered after the ninety days stipulated, nor adds any value to the final addresses being readopted by the parties. Thus, after the expiry of the ninety days within which it must deliver its judgment, a trial Court can only proceed to deliver its judgment and then comply with the reporting requirement stipulated in subsection (6) of Section 294, by reporting same to the Chairman, National Judicial Council. It is then left to an appellate Court before which a complaint against the late delivery of the judgment is lodged to determine whether a miscarriage of justice had been occasioned as a result of the delay in the delivery of the judgment.

Apparently, a judgement delivered outside the ninety-day timeline, though condemnable, cannot be nullified on account of the delay simpliciter. The party seeking to have the judgement set aside on appeal must adduce evidence of a miscarriage of justice, which they have suffered on account of the delay. Hence, in *Dangaji v. Abdulkadir & anor* (2020) the court was out of time for over one-hundred-and-six-days, but the delay simpliciter was not enough ground to nullify the judgement. The concern has been what events typify a miscarriage of justice in this regard. In *Dibiamaka v. Osakwe* (1989), Oputa (former Justice of the Supreme Court of blessed memory) had this to say:

> [T]he law is that if inordinate delay between the end of the trial and the writing of the judgment apparently and obviously affected the trial Judge's perception, appreciation and evaluation of the evidence so that it can be easily seen that he has lost the impressions made on him by the witnesses, then in such a case, there might be some fear of a possible miscarriage of justice and there, but only there, will an appellate Court intervene. The emphasis is not on the length of time simpliciter but on the effect it produced in the mind of the trial Judge.

While this provides some guidance, it is not a satisfactory description of what constitutes a miscarriage of justice in such circumstances. However, in *Esthon v. Federal Republic of Nigeria & Anor* (2020), the Court of Appeal held that the findings of the trial judge contradicted the evidence given by the witnesses during the trial. The court further held that by the five-hundred-and-eleven-days delay in delivering the judgement, the trial judge had lost his mental impressions of the trial, and the contradictions amounted to a miscarriage of justice.

3. Zhongshan Fucheng Industrial Investment Co. Limited v. The Federal Republic of Nigeria

The arbitration award of 2021 obtained by the Chinese company Zhongshan Fucheng (ZF) against the Federal Republic of Nigeria (FRN) was shrouded in sovereignty strife, especially in the United Kingdom (UK). ZF filed an *ex parte* application before Cockerill J of the High Court of England and Wales in line with Part 62(18) of the Civil Procedure Rules (1998) of the UK. The application sought to enforce the arbitral award as a judgement. ZF, being clever in the application, preempted the FRN by arguing the possible defences the FRN might raise.

ZF told the court that the FRN might contend that the latter is immune from the jurisdiction of the UK courts under section 1 of the State Immunity Act 1978 of the UK. The FRN had raised and lost the argument of State immunity during arbitration. ZF drew the attention of the court to section 9 of the State Immunity Act of 1978, which provides the relevant exception where the court's proceedings are about an arbitration, which the State (FRN) had agreed to in writing. The procedure for ZF's application is summary in nature. The court shall exercise its discretionary powers to either make an *ex parte* order of enforcement or order that the adverse party (FRN) be put on notice if there are compelling reasons not to make the order of enforcement *ex parte*. However, if the order of enforcement is made *ex parte*, the FRN, in this case, can apply to have the order set aside or varied. In paragraphs 4 and 5 of the *ex parte* Order of enforcement by Cockerill. J on 21 December 2021, she stated:

> 4. This Order having been made without notice to the Defendant, the Defendant has the right to apply to set aside or vary this Order, if so advised, within two months and 14 days of the date on which this Order is served on the Defendant
> 5. Should the Defendant make an application to set aside this Order on the grounds that it is immune from the Court's jurisdiction, then it shall have a further period of 14 days from the date on which that application is determined within which it may apply to set aside this Order on any other ground.

This Order was served on the FRN on 30 May 2022. In its regular attitude, particularly in domestic litigations, the FRN failed to utilise the timeframe in paragraph 4 above till it expired in August 2022. The FRN's solicitor became aware of the enforcement Order in July 2022 but claimed to have only received a copy of the same on 11 August 2022, which was a few days before the expiration of the time limit. It was on 17 August 2022, after the timeline had already expired that the solicitor advised the FRN to apply to set aside the Order. This suggests either of two things: the FRN's representatives who received the Order on 30 May

2022 perhaps withheld it to stall the process instead of transmitting same to the solicitor, or sheer listlessness on the part of the solicitor to obtain a certified true copy.

On 15 September 2022, the FRN's solicitor filed an application for an extension of time by an additional twenty-eight days (about four weeks) to be able to file an application to set aside or vary the Order under paragraph 4 above. He also prayed for relief from sanctions for the delay. ZF filed a reply to the application. Again, the FRN missed the seven-day time limit to file its evidence in response to ZF's reply. As a result, the solicitor to the FRN filed another application for an extension of time for the expired seven-day' timeline. The FRN, either deliberately or as an oversight, didn't mention any intention to argue immunity in the first application for an extension of time. It was in the second application for an extension of time that such intention was revealed in the witness statement that accompanied the application.

Cockerill. J heard and dismissed the two applications on 2 December 2022. The court noted that the delay in utilising the seven-day time limit to file reply evidence was deliberate and a grievous breach. The court emphasised that the purpose of arbitration is for a speedy resolution of disputes, and the FRN had not shown any sign of urgency concerning the Order of enforcement. Worst still, the court remarked that the FRN was not even diligent enough to accompany the applications for an extension of time with the substantive application to set aside the Order of enforcement. Perhaps, if the substantive application had accompanied the applications for an extension of time, it might have shown some sense of seriousness and perhaps evoked the favour of the court. The court further held that a good reason for delay can only fall within acts which are beyond the control of the party. The reasons advanced by the FRN were its own actions, which it had full control of. Hence, the failure of the FRN's federal authorities to timeously inform Ogun State (a State in Nigeria), which had a stake in the arbitration, about the Order of enforcement was held not to be a good reason for the delay.

The FRN sought the leave of the Court of Appeal to appeal the decision of 2 December 2022, but Males LJ declined it on 30 January 2023. Again, the FRN applied to the Court of Appeal to revisit the ruling of Males LJ, and on 6 April 2023, Underhill LJ ordered an oral hearing. Part 52(30) of the UK's Civil Procedure Rules (1998) allows the re-opening of the determination of the Court of Appeal if doing so will avert real injustice. But this criterion can only be met if the appeal has the chance of success. At the hearing, the FRN argued State immunity under section 1(2) of the State Immunity Act (1978), that the High Court was obligated to *suo motu* determine the issue of State immunity on the merit even though the FRN did not appear in the proceedings nor filed an application to set aside the Order of enforcement within the time limit set by the court. The FRN maintained that the High Court ought to have *suo motu* journeyed into the abyss of the documents used in the arbitration in search of arguments on immunity. But the Court of Appeal found it enough determination of State immunity by the High Court for granting the Order of enforcement with a two month and fourteen days (74 days) stay within which the FRN could apply to have the Order set aside. The FRN squandered this opportunity. The Court of Appeal dismissed FRN's application for leave to appeal. For the avoidance of doubt, section 1(1) and (2) of the State Immunity Act 1978 provides as follows:

> 1(1) A State is immune from the jurisdiction of the courts of the United Kingdom except as provided in the following provisions of this Part of this Act.

> (2) A court shall give effect to the immunity conferred by this section even though the State does not appear in the proceedings in question.

This provision effectively made the appearance of States optional to determine State immunity. It does not make the filing of arguments of the States optional. It is foolhardy for a State to sit back and expect the court to form arguments for it. ZF had already argued against immunity, and based on their argument, the court *prima facie* found that the FRN was not immune to the court's jurisdiction. The court also allowed a generous time within which the FRN could come and prove otherwise. Indeed, it reeks of selfishness to expect the court to argue immunity for you while you refuse to comply with the court's time limit.

4. The International Court of Justice and the torments of procrastination

The ICJ is empowered to fix the time within which a party must conclude its argument. Of all the proceedings at the ICJ, advisory opinions have suffered the most setbacks. State interventions in cases have also delayed adjudication processes too. However, the focus of this paper will be on the advisory proceedings of the ICJ. The United Nations (UN) Charter empowers the ICJ to give advisory opinions on any legal question at the request of the General Assembly or the Security Council. Other organs of the UN and specialised agencies authorised by the General Assembly can also refer legal questions to the ICJ for an advisory opinion. The President of the ICJ shall fix the time limit within which the ICJ shall receive written statements from States or international organisations, as well as the time limit to hear oral statements. Having presented written or oral statements, States and international organisations can comment on the written or oral statements of other States or international organisations within the time limit fixed by the Court or the President of the Court. Two important advisory opinions will be the focus here, namely:

a. Request for an advisory opinion on the right to strike of workers and their organisations under the International Labour Organisation (ILO) Convention No. 87.
b. Request for an advisory opinion on the obligations of States in respect of Climate Change.

a. Advisory opinion on the right to strike

The Constitution of the ILO confers interpretative powers on the ICJ. In Article IX, paragraph 2 of the Agreement between the UN and the ILO, the UN General Assembly authorises the ILO to refer legal questions falling within the scope of its activities to the ICJ for an advisory opinion. Based on these, at its 349th *bis* (Special) Session held on 10 November 2023, the Governing Body of the ILO adopted a resolution requesting the ICJ to "urgently" deliver an advisory opinion on the following legal question:

> Is the right to strike of workers and their organizations protected under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)?

On 13 November 2023, Gilbert F. Houngbo, the Director-General of the ILO, transmitted the request to the President of the ICJ. In a press release on 14 November 2023, the ICJ announced the reception of the request. The Rules of the ICJ provide that whenever a

request requires an urgent answer, the ICJ shall take all necessary measures to accelerate the procedure of the proceedings. Consequently, on 16 November 2023, the ICJ made some orders. It fixed 16 May 2024 as the time limit within which written statements on the legal question shall be presented to the ICJ. In the same vein, 16 September 2024 was fixed as the time limit within which written comments on the written statements of others shall be presented. Once the ICJ commences advisory proceedings, international organisations and States who are not eligible to participate in the proceedings usually apply to the ICJ to be allowed to participate. The ineligibility is usually an incidence of not being a party to the convention or treaty, which is the subject matter of the proceedings. The interruptions occasioned by the intermittent applications to participate bog down the proceedings.

The United States of America, not being a party to the ILO Convention No. 87, applied to the ICJ to be allowed to participate in the proceedings. On 10 April 2024, the ICJ approved the request of the United States of America. This was about five months from the date the ILO transmitted the request for the advisory opinion to the ICJ. Any State or organisation that desired to participate in the proceedings should have approached the ICJ without taking so long. The delay didn't end with the United States. On 6 May 2024, the ICJ granted the request of the Organisation of African, Caribbean and Pacific States (OACPS) to participate in the proceedings.

After the expiration of the time limit of 16 May 2024, the expectation was for the proceedings to move to the next stage. But on 3 June 2024, the ICJ approved the request of Brazil to participate in the proceedings. Brazil was also granted leave to file its written statement the next day, 4 June 2024. On 18 June 2024, the ICJ recorded thirty-one written statements, and that part of the proceedings was deemed closed. By 1 October 2024, the ICJ recorded fifteen written comments on written statements. From all indications, further proceedings will spill into 2025. Recall that the request for the advisory opinion was transmitted to the ICJ on 13 November 2023 and was tagged 'urgent'. Allowing the proceedings to span across three years (2023-2025) defeats the urgency to say the least.

b. Advisory Opinion on Climate Change

The advisory opinion on climate change has suffered similar setbacks. The request for the advisory opinion was transmitted to the ICJ long before the one on the right to strike. The UN General Assembly, at its sixty-fourth plenary meeting held on 29 March 2023, adopted resolution 77/276 titled "Request for an advisory opinion of the International Court of Justice on the obligations of States in respect of climate change". On 12 April 2023, the Secretary-General of the UN transmitted the request to the ICJ, attaching certified true copies of the resolution. By 17 April 2023, the Registry of the ICJ acknowledged receipt of the request. On 19 April 2023, the ICJ announced the reception of the request. The Registry also communicated the request to all the States entitled to appear before the ICJ. By an Order of 20 April 2023, the ICJ set the time limit for the proceedings: it fixed 20 October 2023 for the filing of written statements and 22 January 2024 for the filing of written comments on written statements filed by others.

As expected, States and international organisations that were ineligible to participate in the proceedings started applying to be allowed to participate. On 14 June 2023, the ICJ authorised the International Union for Conservation of Nature to participate in the proceedings.

Subsequently, on 22 June 2023, the ICJ authorised the Commission of Small Island States on Climate Change and International Law to participate in the proceedings. The next day, the ICJ authorised the European Union to participate in the proceedings. On 18 July 2023, the ICJ authorised the African Union to participate in the proceedings.

One would think that States and international organisations would have started filing their written statements three months after the ICJ received the request. But this was not the case. On 24 July 2023, the Republic of Vanuatu, alongside fourteen other States, sought a three-month extension of time. By a letter dated 28 July 2023, the Commission of Small Island States on Climate Change and International Law added its voice to the plea for a three-month extension of time. The Republic of Chile joined the chorus on 31 July 2023 with its letter to the ICJ. On 4 August 2023, the ICJ acceded to this request and ordered an extension of time to 22 January 2024 and 22 April 2024 for the filing of written statements and comments on written statements, respectively. From the date this order was given (4 August 2023) to the new deadline (22 January 2024) was about five months. Worse still, from the date (12 April 2023) the request for the advisory opinion was sent by the Secretary-General of the UN to the ICJ, to the new deadline (22 January 2024) was about nine months. This begs the question: Do States and organisations with all the resources at their disposal need nine months to prepare and file written statements?

Amid all these holdups, international organisations were still applying to be allowed to participate in the proceedings. On 1 September 2023, the President of the ICJ authorised the Organisation of Petroleum Exporting Countries to participate in the proceedings. On 20 September 2023, the ICJ authorised the Organisation of African, Caribbean and Pacific States, the Melanesian Spearhead Group and the Forum Fisheries Agency to participate in the proceedings. By 24 November 2023, the ICJ authorised the Pacific Community to participate in the proceedings.

The ICJ was even asked for a further extension of time by four months. By a letter dated 22 November 2023, the Director-General of the Melanesian Spearhead Group was the first to request an additional four-month extension of the time limits. In a letter dated 28 November 2023, the Secretary-General of the Organisation of African, Caribbean and Pacific States requested for at least four months extension. In a letter dated 30 November 2023, the Director-General of the Pacific Community asked for a four-month extension. On 5 December 2023, the Republic of Kiribati made the same request. On 11 December 2023, the African Union joined the chorus, followed by the Republic of Nauru on 12 December 2023. Again, the ICJ acceded to the request and ordered an extension of time to 22 March 2024 and 24 June 2024 for the filing of written statements and comments on written statements, respectively. By April 2024, the ICJ recorded about ninety-one filed written statements. This was the highest it has recorded in history. By 30 May 2024, the ICJ further extended the time for filing of written comments to 15 August 2024. The ICJ eventually recorded sixty-two written comments.

If at all, such extension of time limits should only be available to States and organisations who need the express authorisation of the ICJ to participate in the proceedings. The blanket extension of time limits for all and sundry enables a laidback attitude, especially amongst States that have been aware of the proceedings for a long time and don’t need the express authorisation of the ICJ to participate.

5. Recommendations

Much has been said about delays in legal proceedings. It is apposite to propose possible panaceas to the anomaly. Nigerian legislators can amend the Court of Appeal Act as well as the Supreme Court Act by creating a statute bar on certain subject matters which have been adjudicated on. For instance, the judgement of the High Court on civil matters like breach of contract should be appealed within three months, after which the judgement shall stand tall till the end of time. The first two months shall be the natural time to appeal. The last month shall be the time within which an extension of time may be accommodated after the applicant has evidenced good cause. Anything beyond this timeframe should be statute barred except in extreme circumstances like death, and the estate of the deceased is desirous of appealing, provided the deceased died when his right of appeal was still active. The courts should be firm in applying the rules. Tortious claims should also receive similar treatment.

Be that as it may, certain matters should not be appealable to the Supreme Court. The appeals should end at the Court of Appeal. Land matters, breach of contract, tortious claims, suits to set aside an arbitral award, interlocutory appeals, etc., should not be appealed beyond the Court of Appeal. An interlocutory appeal against the ruling of a High Court should end at the Court of Appeal. The practice of appealing every interlocutory decision of a High Court all the way to the Supreme Court is untidy. At best, except in cases of emergency, threat to the *res*, or challenge to jurisdiction, the courts should rule on objections and interlocutory applications at the same time as the final judgement. Afterwards, a party who wishes to go on an appeal spree can go ahead.

The Rules of the ICJ should be amended to provide that an extension of time to participate in advisory proceedings should only be available on a limited basis to States and international organisations who need the express authorisation of the ICJ to participate in the proceedings. Others who can participate as of right should have a common time limit, which is not extendable except when the State is at war. The ad hoc judges of the ICJ should sit for advisory proceedings**.** The ICJ is already inundated with substantive cases. Since advisory opinions are not proper disputes, a different team of judges should handle them. Having an advisory court that is distinct from the main court may be a good way to go.

6. Conclusions

Wouters and Coppens (2001) suggested that the sensitivity of a subject matter could delay the steps taken on it. While this is true, care should be taken to not defeat the purpose of adjudication, which is justice. Broderick (2016) in her work, decried the delays in the implementation of vital legal frameworks and how they leave the target subject's interests in abeyance. By and large, delay not taken with care erodes the best interest of parties. This article is not an attempt to downplay the efforts of various actors identified in the adjudicatory process. Rather, it is an invitation to re-evaluate and adjust. This article focused on Nigeria, the ICJ, and the UK. This does not suggest that other jurisdictions should not reflect on these issues. One thing that has been revealed here is that the events which cause these delays are largely man-made. Therefore, it can be managed with the proper regulation. The world is becoming increasingly litigious. The dockets of the courts are not getting slim anytime soon. It only makes sense that proper measures are put in place to arrest events that delay the adjudicatory process.

REFERENCES

Books

1. Broderick, A. (2016). The Right to Inclusive Education: Article 24 of the UN Convention on the Rights of Persons with Disabilities and the Irish Experience. *The Irish Yearbook of International Law 2014* 38, 44, 45.
2. Peters, G. W. (1979). Introduction and Outline of Some Problems in Court Delay. in *Workshop Papers Prepared for Special National Workshop 'Crime Control: State of the Art' for THE NATIONAL CRIMINAL JUSTICE EXECUTIVE TRAINING PROGRAM NJC 87974*. Arlington, Virginia: May 30 - June 1, p 100 -107.
3. Wouters, J., & Coppens, D. (2001). A Global Actor in the Making? Reforming the EU's External Relations Machinery with or without the Constitution. *Institute for International Law, K.U. Leuven* 16.

Case Laws

4. *Anudu v. Olisahi* (2018) LPELR-51631(CA) Per CHINWE EUGENIA IYIZOBA, JCA (Pp 11 - 12 Paras D - A).
5. *Cotecna International Ltd v. Churchgate Nig Ltd & Anor* (2010) LPELR-897 (SC).
6. *Dangaji v. Abdulkadir & anor* (2020) LPELR-52183(CA).
7. *Dibiamaka v. Osakwe* [1989] 3 NWLR (Pt. 107) 101, 114 [G].
8. *Dike Geo Motors Ltd & Anor v. Allied Signal Inc & Anor* (2024) LPELR-61780(SC) (Pp 38 - 41 Paras E - D).
9. *Esthon v. Federal Republic of Nigeria & Anor* (2020) LPELR-49994(CA) Per CHIDI NWAOMA UWA, JCA (Pp 31 - 34 Paras B - F).
10. *Export v. Jozebson Industries Co. Ltd* (1988) LPELR-2934(SC).
11. *Eze v. F.R.N*. (2017) LPELR- 42097(SC) Per MUHAMMAD J.S.C.
12. *Federal Republic of Nigeria v. Zhongshan Fucheng Investment* [2023] EWCA Civ 867 <https://www.italaw.com/sites/default/files/case-documents/180230.pdf> [9 November 2024.
13. *Hyd Road & Others Tech ltd & Anor v. Abia State Govt & Anor* (2014) LPELR-24375(CA) (Pp 47 - 47 Paras A - E).
14. *Lasisi v. Federal Republic of Nigeria* (2022) LPELR-58687(CA), Per ABBA BELLO MOHAMMED, JCA (Pp 29 - 30 Paras B - C).
15. *Nnajiofor & Ors v. Ukonu & Ors* (1985) LPELR-2056(SC).
16. *Obasi v. State* (2020) LPELR-51080(SC) Per NWALI SYLVESTER NGWUTA, JSC (Pp 11 - 11 Paras A - D).
17. *Olagunju v. Federal Republic of Nigeria* (2018) LPELR-43909 (SC) Per KUMAI BAYANG AKA'AHS, JSC (Pp 17 - 18 Paras F - B).

Statutes

18. Civil Procedure Rules (1998) of the United Kingdom, Parts 52(30) and 62(18).
19. Constitution of the Federal Republic of Nigeria (1999) as amended, section 294(1) (5) and (6).
20. Court of Appeal Act, section 24(2)(a) and (b).
21. Court of Appeal Rules (2021), Order 6 Rule 9.
22. High Court of Lagos State (Civil Procedure) Rules 2019.
23. State Immunity Act (1978) of the United Kingdom, sections 1(1)(2), and 9.
24. Supreme Court Act, section 27(2)(a) and (b).
25. Supreme Court Rules (2024), Order 4 Rule 6.

Other documents

26. Agreement between the United Nations and the International Labour Organisation, art IX (2).
27. Charter of the United Nations, art 96(1) and (2).
28. Constitution of the International Labour Organisation, art 37(1).
29. Freedom of Association and Protection of the Right to Organise Convention (1948) No. 87.
30. International Court of Justice General List No. 187, 'Order of 20 April 2023' <https://www.icj-cij.org/sites/default/files/case-related/187/187-20230420-ord-01-00-en.pdf> accessed 3 November 2024.

31. International Court of Justice General List No. 187, 'Order of 30 May 2024' <https://www.icj-cij.org/sites/default/files/case-related/187/187-20240531-ord-01-00-en.pdf> accessed 5 November 2024.
32. International Court of Justice General List No. 187, 'Order of 4 August 2023'<https://www.icj-cij.org/sites/default/files/case-related/187/187-20230804-ord-01-00-en.pdf> accessed 3 November 2024.
33. International Court of Justice General List No. 187, 'Order of 15 December 2023' [15 December 2023] <https://www.icj-cij.org/sites/default/files/case-related/187/187-20231215-ord-01-00-en.pdf.pdf> accessed 4 November 2024.
34. International Court of Justice General List No. 191, 'Order of 16 November 2023' <https://www.icj-cij.org/sites/default/files/case-related/191/191-20231116-ord-01-00-en.pdf> accessed 28 October 2024
35. International Court of Justice Press Release (unofficial) No. 2023/20, 'The General Assembly of the United Nations requests an advisory opinion from the Court on the obligations of States in respect of climate change' [19 April 2023] <https://www.icj-cij.org/sites/default/files/case-related/187/187-20230419-PRE-01-00-EN.pdf> accessed 3 November 2024.
36. International Court of Justice Press Release (unofficial) No. 2023/29, 'The Court authorizes the International Union for Conservation of Nature to participate in the proceedings' [14 June 2023] <https://www.icj-cij.org/sites/default/files/case-related/187/187-20230614-pre-01-00-en.pdf> accessed 3 November 2024.
37. International Court of Justice Press Release (unofficial) No. 2023/32, 'The Court authorizes the Commission of Small Island States on Climate Change and International Law to participate in the proceedings' [22 June 2023] <https://www.icj-cij.org/sites/default/files/case-related/187/187-20230622-pre-01-00-en.pdf> accessed 3 November 2024.
38. International Court of Justice Press Release (unofficial) No. 2023/33, 'The Court authorizes the European Union to participate in the proceedings' [23 June 2023] <https://www.icj-cij.org/sites/default/files/case-related/187/187-20230623-pre-01-00-en.pdf> accessed 3 November 2024.
39. International Court of Justice Press Release (unofficial) No. 2023/42, 'The Court authorizes the African Union to participate in the proceedings' [18 July 2023] <https://www.icj-cij.org/sites/default/files/case-related/187/187-20230718-pre-01-00-en.pdf> accessed 3 November 2024.
40. International Court of Justice Press Release (unofficial) No. 2023/46, 'The President of the Court authorizes the Organization of the Petroleum Exporting Countries to participate in the proceedings' [1 September 2023] <https://www.icj-cij.org/sites/default/files/case-related/187/187-20230901-pre-01-00-en.pdf> accessed 4 November 2024.
41. International Court of Justice Press Release (unofficial) No. 2023/48, 'The Court authorizes the Organisation of African, Caribbean and Pacific States, the Melanesian Spearhead Group and the Forum Fisheries Agency to participate in the proceedings' [20 September 2023] <https://www.icj-cij.org/sites/default/files/case-related/187/187-20230920-pre-01-00-en.pdf> accessed 4 November 2024.
42. International Court of Justice Press Release (unofficial) No. 2023/64, 'The International Labour Organization (ILO) requests an advisory opinion from the Court on the interpretation of ILO Convention No. 87 with respect to the right to strike' [14 November 2023] <https://www.icj-cij.org/sites/default/files/case-related/191/191-20231114-pre-01-00-en.pdf?__cf_chl_tk=L2Iuugfv2ozQP9o8vHOF3bP0lHUc6nhU23UlTp326nM-1730109248-1.0.1.1-w6Q_hfOOVLzFzIKpDsAjl5YCIXmE.ucxrXAJzqjFCRo> accessed 28 October 2024.
43. International Court of Justice Press Release (unofficial) No. 2023/70, 'The Court authorizes the Pacific Community to participate in the proceedings' [24 November 2023] https://www.icj-cij.org/sites/default/files/case-related/187/187-20231124-pre-01-00-en.pdf> accessed 4 November 2024.

44. International Court of Justice Press Release (unofficial) No. 2023/71, 'The Court makes an Order organizing the proceedings; it fixes the time-limits for the presentation of written statements and for written comments on those statements' [27 November 2023] <https://www.icj-cij.org/sites/default/files/case-related/191/191-20231127-pre-01-00-en.pdf> accessed 28 October 2024.
45. International Court of Justice Press Release (unofficial) No. 2024/29, 'The Court Authorizes the United States of America to Participate in the Proceedings' [10 April 2024] <https://www.icj-cij.org/sites/default/files/case-related/191/191-20240410-pre-01-00-en.pdf> accessed 30 October 2024.
46. International Court of Justice Press Release (unofficial) No. 2024/39, 'The Court authorizes the Organisation of African, Caribbean and Pacific States to participate in the proceedings' [6 May 2024] <https://www.icj-cij.org/sites/default/files/case-related/191/187-20240506-pre-01-00-en.pdf> accessed 30 October 2024.
47. International Court of Justice Press Release (unofficial) No. 2024/50, 'The President of the Court authorizes Brazil to participate in the proceedings' [3 June 2024] <https://www.icj-cij.org/sites/default/files/case-related/191/191-20240603-pre-01-00-en.pdf> accessed 30 October 2024.
48. International Court of Justice Press Release (unofficial) No. 2024/53, 'Filing of written statements' [18 June 2024] <https://www.icj-cij.org/sites/default/files/case-related/191/191-20240618-pre-01-00-en.pdf> accessed 30 October 2024.
49. International Court of Justice Press Release (unofficial) No. 2024/61, 'Filing of written comments' [16 August 2024] <https://www.icj-cij.org/sites/default/files/case-related/187/187-20240816-pre-01-00-en.pdf> accessed 5 November 2024.
50. International Court of Justice, 'Request for Advisory Opinion' [13 November 2023] <https://www.icj-cij.org/sites/default/files/case-related/191/191-20231110-req-01-00-en.pdf> accessed 28 October 2024.
51. International Labour Organisation, 'Resolution adopted by ILO Governing Body at its 349th bis (special) session' [10 November 2023] <https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40dgreports/%40dcomm/documents/genericdocument/wcms_902030.pdf> accessed 28 October 2024.
52. Obligations of States in respect of Climate Change, Order of 20 April 2023, I.C.J. Reports 2023, p. 338.
53. Rules of the International Court of Justice, arts 35(1)(2) and (3), 36(1), 37(1), 44(1) and (3), 48, and 103.
54. Statute of the International Court of Justice, arts 48, 66(2) and (4).