

## Chapter 8

# Access to Justice and Legal Representation in Nigeria: Commentaries on the Experiences of Human Rights Lawyers

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### **ABSTRACT**

*In 2009, the Fundamental Rights Enforcement Procedure (FREP) Rules of 1979 was revised to ease the cumbersome process encountered by applicants/lawyers in advocating for the enforcement of fundamental human rights in court. Despite this, human rights lawyers still encounter several challenges when representing applicants for the enforcement of fundamental human rights in court. This chapter examines these challenges and adopts primary research method. Data were gathered from human rights lawyers via video conferencing platforms: Skype and Zoom. Findings reveal that issues of procedural rules of court and disrespect for court orders are some of the challenges encountered by human rights lawyers. The chapter recommends that judges should avoid placing unnecessary emphasis on the procedural rules of court. In addition, human rights lawyers and non-governmental organizations (NGOs) should maintain continuous advocacy for the enforcement of fundamental human rights towards holding government and its agencies more accountable for disrespect of court orders.*

### **INTRODUCTION**

The lack of access to justice has been identified as a major challenge that obstructs the enforcement of fundamental human rights of the citizens. Human rights violations remain proportionately high during the present democratic dispensation in Nigeria (Coker and Obo, 2012). Sadly, many of these sufferers lack access to justice due to poverty, lack of knowledge of human rights as well as procedural rules of

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court (Ejiogu, 2003; Odeku and Animashaun, 2012; Desmond et al, 2014; Bassey, 2016; Apeh and Onoja; Igwe, Nwocha and Steve, 2019; Olanrewaju, 2020). The pragmatism and efficacy of legal representation promote the principle of human rights and some of the victims of human rights violations who cannot afford the cost of litigation are fortunate to receive legal aid through which they seek justice. Precisely, this study does not seek to discuss the level of human rights abuses or access to justice for the poor in Nigeria. Rather, it focuses on the challenges of enforcing the fundamental human rights guaranteed under the 1999 constitution of the Federal Republic of Nigeria (as amended). In doing this, it examines the experiences of human rights lawyers with respect to the enforcement of fundamental human rights in court. There is no doubt that lawyers are plagued with multifarious challenges when they represent applicants for the enforcement of fundamental human rights. Notwithstanding the Fundamental Rights Enforcement Procedure rules of 2009, the practicality of enforcing fundamental human rights in court by applicants/lawyers remains burdensome. It is apparent that the lapses in the Fundamental Rights Enforcement Procedure rules of 2009 serve as a drawback for its comprehensive effectiveness. Too often, applicants for the enforcement of fundamental human rights are denied justice due to the procedural, institutional and human hurdles encountered during court proceedings. In addressing these challenges, it is imperative to ask what needs to be done and how in order to overcome these impediments. This study seeks to fill this gap in the academic literature on access to justice and human rights jurisprudence. The study examines the challenges encountered by legal practitioners in the enforcement of fundamental human rights proceedings. Section one is the introduction. Section two presents the literature review and research methods. Section three evaluates the research findings. Section four proffers some recommendations and clarifies the issues for further study. Section five contains the author's conclusion.

## **LITERATURE REVIEW**

Access to justice is regarded as a fundamental principle in promoting the rule of law. In the context of human rights, the lack of access to justice creates a barrier against the enforcement of fundamental human rights. To this end, access to justice is essential as an instrument for promoting the principles of fundamental human rights. It is important to underscore that a right without remedy is detrimental to human existence and adversely affects the status of the legal system in a civil society. Shittu (2015) remarks that access to justice is the basic element of any justice system that promotes the human rights of the citizens and serves as a symbol of a civilized society. Access to justice equally entails the processes and procedures of the court and how these determine the final judgments of the court when adjudicating cases between litigants (Muftau, 2016). The lack of access to justice therefore leads to discrimination, inequality, oppression, as well as undue delay in the administration of justice. Conceptually, access to justice is commonly constructed within the scope of the affordability of instituting an action in court as well as having legal representation. In this sense, access to justice is ordinarily viewed from the narrative of indigent members of the society that are vulnerable and lack the financial capabilities to bear the cost of litigation. It is from this perspective that the practice of legal aid and pro bono activism were developed to render legal representation. Access to justice is not comprehensive without an unbiased adjudication process (Omoleye and Eniola, 2018). Crucially, access to justice is an indispensable element in promoting and protecting the human rights of the citizens. In this regard, citizens are able to enforce their rights when they have access to the courts through effective legal representation and a fair hearing anchored on an efficient judicial system. Assuredly, individuals have the leverage to enforce their fundamental

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