THE CONCEPTS OF JUSTICE AND EQUITY AND THEIR EFFICACY IN THE ADMINISTRATION OF JUSTICE IN NIGERIA

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ABSTRACT

Justice stands for harmony between individuals' interest and the interest of the society. It is the quality of being just, impartial, fair, equally and balanced. Equity also harps on fairness and impartiality. Justice and equity are therefore inter-related and act pari-passu in the administration of justice. Justice is viewed from different perspectives. No matter the views, they complement equity to administer justice. Different strata of the society, like the bench, bar and others play very vital roles in the administration of justice. The various classifications of justice also reveal the different roles they play in attainment of it. Both concepts are efficacious in the administration of justice in Nigeria, as a society without justice is not worthless even though there is no perfect justice system.

Keywords: Concepts of Justice and Equity, Their Efficacy in the Administration of Justice in Nigeria, Harmony, Complementary, Attainment, Society.

INTRODUCTION

These twin concepts; justice and quity complement each other. The Black's law dictionary (Garner, 1999) defines equity as fairness, impartiality. A body of principles constituting what is fair and right. It has been described as a system of justice, which was developed, and administered by the High Court of Chancery (Bispham, 1902).

Definition and Nature of Equity and Justice

The Osborn concise law dictionary (Osborn, 2013) defines equity as fairness or natural justice.

Equity from these definitions, tend to possess some similarities with justice. The resemblance was noted by Megarry (Maudsley, 1955) where he stated that "*In its popular sense it (equity) is practically equivalent to natural justice*". Justice on other hand is defined as "*the fair and proper administration of laws"* (Dictionary, 1990). In addition, it is noted that the maxims of equity as stated in the Osborn Concise Law Dictionary are maxims which when applied, will serve as a guide to the judiciary in achieving justice.

Equity was introduced by the Court of Chancery to mitigate the harshness of common law, which became so manifest even to the judges themselves and left a sour taste in the mouth of litigants. This therefore precipitated the need for equity, which is the manifest application of

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justice and fairness to a case so that an equitable remedy will be given to wrongs brought to be assuaged in the temple of justice.

It is in the doing of justice that equity is introduced in any legal circumstance. One can therefore posit that justice is the end product of applied equity. One is also tempted to agree with Megarry that the concepts of justice and equity are equivalent for, in the doing of justice, one finds equity and vice versa.

It is important to add here that the judiciary saddled with the role of interpretation, is not mechanical, bearing in mind the need to do justice and/or equity. The Judge therefore modifies or purifies legislation to produce another form of law known as 'case law or Judge's made law'. The concept of justice and equity could also be seen as one of the reasons and need to originate case laws. However, the concept of justice and equity is a relative and subjective term. There are four conceptual views of justice, three of which were identified by Justice Oputa when he stated:

And justice is not one-way traffic. It is not justice for the appellant only. Justice is not even a two-way traffic. It is really three-way traffic. Justice for the Appellant accused of a heinous crime of murder; justice for the victim, the murdered men, the deceased, whose blood is crying to heaven for vengeance' and finally justice for the society at large-the society whose social norms and values had been desecrated and broken by the Criminal Act complained of…

From the above, four views of justice can be identified namely: The Plaintiff's view of justice, the Defendant's view of justice, society's view of justice and the Court's view of justice.

The Plaintiff's View of Justice

From the Plaintiff's view, where a person makes a complaint in a court of law seeking redress, and such a person is not granted the relief sought for, in his eyes, justice has been denied. Jurisprudence however sees justice from the Plaintiff's view as that where the Plaintiff's complaint/redress is judiciable and founded in law, and where such a Plaintiff also seeks redress according to laid-down rules and procedures. Therefore, even if a Plaintiff has a good case, he may be denied justice if he undermines the courts laid down rules and procedure. For instance, where the mistake is so fundamental like in the commencement of a petition, the use of a writ of summons may be applicable. In this regard, the suit will be struck out despite the court's desire to do substantial justice, bearing in mind the need not to sacrifice justice at the alter of technicalities.

Another pre-condition for justice in the view of the Plaintiff to be achieved is that of locus standi. Thus, no matter the special right, sufficient or special interest of the Plaintiff in a matter, the absence of locus stand truncates his zeal for justice and to him, justice may have been denied.

The Defendant's View of Justice

From the Defendant's view, it would amount to injustice where a person is being given more than is due to him. For justice can be gleaned as the virtue, which accepts everyone and renders to everyone his or her own due.

In criminal jurisprudence, the idea of punishment is either of retribution, to wreak vengeance by the society on behalf of itself or an injured party, to deter others from committing the same crime or to educate or rehabilitate the guilty person (Yerima & Oluduro, 2012). Now

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where the punishment levied against the accused would work hardship and not promote the good of society; this from the Defendant's viewpoint will amount to injustice. This is one of the basis with which some schools of thought criticize capital punishment or death penalty in recent times, where on the other hand, the sanctions imposed by the court is one, which will educate, then justice can be said to have been done.

In the eyes of the Defendant, justice would have been denied him where he is not granted fair hearing, under the twin pillars of natural justice audi alterem partem and nemo judex in causa sua (Waterson & Lee, 2000). The first maxim traced to the genesis of man (Fortescue, 2017) and applied in a plethora of cases, states that no one should be denied an opportunity to defend himself.

The second maxim applied in a number of cases as well, suggest that where a judge in some way either by affinity, consanguinity or otherwise has an interest in the matter which tilts in favor of the Plaintiff, justice can be perceived in the view of the Defendant. This can also be gleaned in case of default judgments.

The question here is the credibility of this principle of fair hearing said to be breached. For instance in the case of God Almighty and Adam, God Almighty Himself was the judge in the matter. Also, neither did the doctrine of fair hearing provide what should be done with the fair hearing so given (Curzon, 1998).

The Society's View of Justice

Justice from society's view, in matters of public interest whether great or small, creates debate. Usually, society has a penchant for the sensational. The Supreme Court therefore stated that the impression of a reasonable, ordinary layman present at trial towards the court's decision is proof justice. However, for society's view to be established and concrete, it must stem from a just law, which is that generally accepted by the society or justified by the people.

Another point is that since the Plaintiff, Defendant and the presumed arbiter (the courts), all make up the society, society's view of justice can be termed the view of either the Plaintiff and the Defendant assented to by the court, or the court's personal view. The court's view of justice as different from the other views above could be that of Plaintiff or the Defendant before it, as stated earlier (Barnes, 2001). There are instances where the court's view however differs from that of the Plaintiff or the Defendant. This can arise in situations where the court by its discretionary power conferred on it by statute, grants relief not sought by the Plaintiff or where the court awards damages less than that applied for by the parties.

The Court's View of Justice

It is however pertinent to note that the court like the Plaintiff and the Defendant, are to be guided by laid-down rules and procedures. Those laid-down by statute of limitation, making actions statute barred, while those created for court proceedings can be breached particularly where such breached are fundamental. This is specified in Order 2, Rule 1 of the Uniform High Court Civil Procedure Rule.

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Classification of Justice

Having considered the conceptual views of justice which affects the need to do manifest justice, it is imperative in the understanding of justice and equity to discuss the various classification of justice, like the biological amoeba or a village masquerade does not have a definite scope of its definition or understanding. However in discussing the various classifications which includes; Platonic, Personal, Distributive, Jungle, Natural, Preventive, Communicative, Poetic, Social, Romantic, Formal and Substantial justice, emphasis will be on Formal and Substantial as these have direct relation to be judiciary's role of interpretation and adjudication in disputes before it.

Platonic Justice

This is Plato's concept of justice. This form of justice suggests a form of specialization where one has the will to fulfill only the duties in his station. This flow from Aristotle's ideology that: "*some men are slave by nature, and therefore only fitted for servitude*" (Derham, 1965).

This ideology of justice is feudal in nature. It posits that society be divided into priests, warriors and labourers. This subsequently expanded into the class disparity of freeman and slave, blue blood and red blood.

Plato idea of justice as a form of specialization can be applied in relation to animate and inanimate things. For instance, the cutlass is primarily for cutting grasses and not for killing human beings, likewise the restriction of individuals tot eh class they belong.

Personal Justice

This is that form of justice obtained from the agreement between parties in a dispute, irrespective of the general principle in the larger society (Dictionary, 1990). This can be illustrated in the terms of agreement by parties to be bound by an arbitration panel's decision in case of dispute, parties to a contract agreement term, or in treaty agreement. This class of justice is termed Justice in Personam.

Distributive Justice

This is Aristotle's concept of justice. It demands the fair and equitable distribution of good, privileges, work, obligations and the burdens of society, on all its members. Thus, in the face of this mode of justice, one can say that the wide gap between the per-capita income of the rich and the poor, the Niger-Delta question in Nigeria and the Federal question in terms of development and the relay of political power amongst the clique of few politicians in Nigeria are all jurisprudence questions which can be answered in the view of either compliance or violation of distributive justice.

Jungle Justice

This is encapsulated in expressions like might is right, survival of the fittest and the Hobbesian notion of early society. It thrives where the most powerful or strongest have their way, and the weak perpetually under their whims and caprices. It is a picturesque of the poem,

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Night fall in Soweto (Mtshali, 1971). In line with the definition earlier as fairness and equity, this classification falls outside the scope of justice as the peaceful co-existence of men, is greatly endangered nay, flung through the window.

Natural Justice

It flows from the Natural Law School's perspective of justice. It is expressed in the twin pillars of Natural Justice: audi alterem partem and nemo judex in causa sua. This connotes in all trials, the application of fair-hearing for the parties particularly the Defendants so that justice does not tilt in the direction of the Plaintiffs.

Preventive Justice

As the name suggest, this form of justice protects against future injury. It prevents a wrong from being done. It is gleaned in the equitable remedy of injunctions where damages will not be sufficient compensation for the wrong feared.

Commutative Justice

This form of justice is concerned with fairness and equity in the exchange of goods and in contractual obligations. It follows therefore, that cheating, stealing, fraud and destruction of other people's property will amount to a violation of commutative justice (Omoregbe, 1989).

Poetic Justice

This form of justice is similar to Aristotle's distributive justice. It states that justice should be proportionate and equal. It is also termed vindictive justice expressed in the popular saying: an eye for an eye and a tooth for a tooth (Giwa et al., 2018). It can also be gleaned in capital punishment in penal law. Punishment here is not however in the spirit of vengeance, but for the correction of offenders. It forms the foundation upon which modern theories of justice are built.

Social Justice

This form of justice conforms to the moral principle that all people are equal. It has its foundation at all times in a moral root. It is also known as justice in rem (Dictionary, 1990).

Romantic Justice

This form of justice in contrast with poetic justice is enshrined in the Biblical expression: "*Go ye and sin no more*". Here, forgiveness is seen as the greatest reward. It centers on pity. This form of justice however, is not as romantic as it suggest. For Bible further adds that vengeance is of the Lord. At that point, how justiciable is it when there will be no one to appeal to? This form of justice is also dangerous to practice in a system like Nigeria (Giwa et al., 2018).

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Formal Justice

This form of justice postulates that law as it is laid down, must be strictly applied by the courts without regards for extra-legal consideration. This notion jettisons that Court's discretionary power in the interpretation of the law. To them, when cases are decided or rightly determined strictly according to the law, then justice is done. One fundamental argument of its scholars is that it extols equity, clarity and certainty. It implies that the law should treat everybody or categories of persons equally. There should be no discrimination of any kind.

Unfortunately, this juicy and appealing notion of justice is not practicable. It is more fictional than real, easy to assert but difficult to verify. The old cynical saying if the Victorian Judge reported by Lloyds is true in relation to the equality that:-"*…the law like the Ritz Hotel is open to the rich and poor alike*". Bringing this illustration to our local scenario to understand the futility of the equality in formal justice, one should answer the question, "*how correct is the argument that the Sheraton Hotel is open to the rich and the poor"? 'Are they open to the hotel lobby or the services of the hotel*'?

Another question mark on this form of justice is in its application, which leaves much to be desired. It is so formalistic and mechanical, eroding to a large extent the judge's discretionary power (Oduguwa, 2012). Also, justice in the eyes of the court may vary from that of the Plaintiff, Defendant or society (Olokooba, 2019), as discussed earlier. However, despite the criticism of this form of justice, it is the closest one can get at equality under the law. It provides for uniformity of applying the law in similar cases although it does not guarantee equality of persons before the law. It is also pertinent to not that in the application of laws; one cannot do without formal justice or justice according to formality.

Substantial Justice

It is the introduction of this form of justice that highlights the similarity between equity and justice. The rule generally is that justice be administered formally and equally. However, the diversities and exigencies of human nature dictate some measures of informality where the interest of justice demands. This brought the need for substantial justice which is achieved when the law is applied side by side with the doctrines of equity.

Substantial justice does not stipulate that the law is jettisoned, but it requires that it should be deviated from where its application will lead to manifest absurdity. This is termed Judicial Activism. In doing this, the court employs the golden rule interpretation formulated by Parke B. in Becke v. Smith as opposed to the literal rule. It ensures that the technicalities of the law at all times do not override the justice in a case. This, the Supreme Court have supported in a plethora of cases.

However, despite the laudable features of substantial justice, it must be stated that it is not in all instances that the court will deviate from laws. For instance, non-compliance in relation to rules expressly provided for in statutes cannot be waived by the courts. It will therefore not have the discretion to do substantial justice no matter how justiciable the course of the Plaintiff is, where the action is statute barred.

On a final note, Lord Wright also sounded the need to do substantial justice when he stated that: "*I should be sorry of the quest for certitude was to be substituted for the quest for justice*". Now, one would be clearly convinced that the similarly they may all possess, justice

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with the features of substantial justice, is that expected from the judiciary in performing its judicial functions.

One can conveniently say from the proceeding that in a system where the Constitution, nay the rule of law holds sway, the judiciary can perform at its peak as this is the best environment. To bring out this best, it must not just apply law strict sense as posited by formal justice, but dilute laws with the doctrine of equity to produce substantial justice. It is only then that judicial activism, a quality of a vibrant and independent judiciary can be fully manifested to put the judiciary in that towering pedestal as the bedrock of justice and equity in Nigeria.

The Role of the Judicial Sector

Having been noted earlier that the judiciary is a composition of the Bar and the Bench, it is therefore ideal that any write up will be discussed from both perspectives. In lieu of this fact, a discussion of the role of the Bar and the Bench will be sufficient or as good as a discussion on the role of the judiciary.

The Role of the Bench

Nnemeka-Agu, JSC (rtd.) in his work The Position and the Role of a Judge in a Democratic State (Ogbodo, 1980) noted that very few persons have time to consider the position of a Judge (a good judge) in a democratic State like Nigeria. He went further to add that for a number of reasons, one can say without fear of contradiction that without Judges (good Judges), there can be no democratic State. He in addition buttressed this statement as having been recognized by a number of jurist and experts, that in a democracy, good governance is a government according to law.

Judges who make up the Body of Benchers are in the context of this work taken to mean a good Judge, that is a Judge who by good general and professional education, experience and expertise exhibits on continuing basis, a sound exposition of the law; one who has such high index of character that he is always capable of, and seen as, resolving the issues in controversy coming before him with absolute sense of justice, impartiality and uninfluenced by bias or prejudice or any extraneous considerations.

Judges, as Honourable Thurgood Marshall put is: "… *sit astride the crucial nexus where the citizen meets his government* …" (Allen, 1973). The courts, nay the Judges it is, which deals with people and their individual problems on a case, day to day basis. In doing this, they are to act as guardian of constitutionality where the case involves the exercise of powers by any of the arms of government or their functionaries. They are also expected to act as the ultimate protectors of rights in disputes involving threats to human rights. Thurgood Marshall in addition noted that if the system is working inequality, he is likely to be the first to know since he is the one called upon to send innocent Defendants to prison or deny legal claims, which in justice should be granted. In such a scenario, he is the one who has the final say. He can in so doing preserve or mar the stability of society by his decision. A good judge conscious of this as well as his judicial oath to be a mirror of unalloyed justice must therefore handle disputes in such a manner that he renders to every man according to his dues.

The Judge's performance of this arduous task has most times been difficult to appreciate due to the weakness of his method and weapon exposition (Hamilton, 1904). His weakness is in

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the sense that the only power is has is the power of judgment and even these judgments cannot be executed without the aid of the executive personnel's (police). Jacob (1972) suggests as a panacea, a real and effective separation of powers by giving the judiciary the powers to fully take control and charge of its processes and execution of its decision. This brings out another important role of a Judge. The duty to be courageous. This he must do in instances where his decisions run contrary to the powers-that-be, or some powerful vested interest.

It must be added that it is also a mark of courage for a judge to dissent in the court of last resort in the judicial hierarchy. Although (Nnaemeka-Agu et al., 1996) is of the view that dissent in an intermediate appellate court is that which demands the greatest courage. He states that in Anglo-America jurisprudence, dissenting at the intermediate Court is an appeal to the depth sensitivities and careful considerations of the apex court in a particular field of law, while dissents at the apex court is an appeal on the court itself to reconsider its stand in an area of law.

In all, the role of dissenting judgments serves as initiating change and growth of the law. This is because it requires the Judges in depth knowledge of the law, his analytical mind, solid reasoning, beauty of linguistic expression and courage.

The Role of the Bar

The term Bar connotes the whole body of legal practitioners or the members of legal profession. The most popular thing they do in Nigeria is advocacy. That is, appearing in wig and gown before the court to defend a client in a civil or in criminal matter brought against him, or in other circumstances to press the client's right at law.

The Bar, nay lawyers sneered at as tricksters and quibblers are still called upon for advice and guidance on numerous questions, public and domestic even though in private, they are regarded as equivocators, artists in double dealing, masters of chicanery and an unscrupulous race of men (Frank, 1970) preached against as an incompatible profession with good Christianity (Martin, 2019), and condemned by many. The Bar and hitherto lawyers are still greatly valued as practical men of affairs whose talents and special training are almost indispensable in any human organization. This is in lieu of the roles it plays in democratic societies. It holds a prior, paramount and perpetual role as a retainer on behalf of truth and justice, a determined fighter for freedom ensuring that the right of the ordinary citizen is protected from abuse and misuse of power: whether of the prosecution, legislature, executive, wealth, status, monopoly, etc.

The law in carrying out this arduous task has a duty to the court before which he appears to discharge these roles. He also has a duty to his client who retains him and confers him with the fiduciary duty to be honest in rendering efficient and conscientious service. He also owes a duty to the legal profession, to possess the quality of good fellowship. Flowing from his duty towards the maintenance of law and the administration of justice, he must exude the qualities of leadership and guidance in steering the people towards the harbor and shelter of the rule of law. While doing this, he must be well vast in our laws so as to make suggestions to the legislature on the review of our laws, where necessary. The Lawyer also owes a duty to the government, the country and the society at large; as his skill and knowledge is deemed to be held in trust for the society.

He is saddled with these duties in all directions as he is still expected to remain impartial in the administration of justice. He is under a duty to be fearless though with a blend of integrity to render the legal profession which is longer honorable. The Lawyer must be prepared to defend

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persons associated with unpopular causes and minority views. He should be free to accept briefs without fear of State intervention, less of income, status or reputation. He should be prepared to defend threats to life, liberty, property or reputation, despite all odds.

In carrying out these duties, lawyers must strive to have a broad education and knowledge. He must flow with the dynamics of society. He should have an insight of Public Administration, Public Law, Finance, Music, Arts and the interpretation of law to other aspects of society.

However, in the so many the Lawyer must and the Lawyer has a duty to highlighted above; the Lawyer is faced with so many challenges in the actual practice of his profession. Some of them stem from the bad traits inherent in the Lawyers themselves. For instance in today's practice, there are lawyers fresh from Law School and lacking experience, handling briefs of their own without being attached to a senior colleague. There are also senior members to the Bar who have obsolete knowledge of the law, and are reluctant to update their knowledge. Some unscrupulous lawyers fleece money from innocent and ignorant clients on frivolous basis and this goes against their professional ethics. The clients on the other hand, are even ignorant of the fact that in itself is an enforceable right against the counsel for acting mala fide. Some senior members of the Bar also mischievously send junior and inexperienced counsel to represent them in court on the day of hearing so as to get adjournment and therefore frustrate the case and delay judgment or better still, justice.

In other instances, members of the Bar who have taken upon themselves cases or causes of client who they know in themselves to be bad or fraudulent, are not ready to give them up and in some cases, they go for such cases even when they know from the onset that they are fraudulent or based on an unjust course. This is in clear contrast to what Gandhi did where upon discovering that he has been deceived by his client, asked the court to dismiss his client's case.

Some corrupt lawyers have devised so many means of arm-twisting and mischief in a bid to delay or distort the justice of their case. For instance, some send the junior counsel to handle briefs, which in their opinion will not bring in much financial profit, as against the duty of the Lawyer to accept briefs of clients without fear or loss of income. These junior Counsel on their part, handle such briefs with laxity and lack of seriousness. This has made clients receive contrary judgments, judgments which are not in consonance with their course of action. A good example is the case of Udofia v. State where as a result of the seriousness of the accused Counsel, the accused got a guilty verdict. On appeal to the Supreme Court, Oputa JSC.

Stated: The case mirrors and reflects the general and steady decline in the standard of professional responsibility required of counsel defending an accused person on the gravest of all charge attracting the death penalty. What is the country turning into when members of the NYSC will be sent to Court to defend a man on trial for his life?

His learned colleague, Karibi-Whyte JSC also added that in his opinion, the Appellant did not have a fair trial not as a result of what the trial Judge did, but as a result of the conduct of the defense counsel. They may also concoct tricks to postpone the evil day, by refusing to appear in court to defend the interest of their client, especially when a Judge is to go on transfer or on retirement. Where the court proceeds to judgment, such counsel are quick to cry foul; finding an excuse to appeal. This was however in the case of Military Governor of Lagos State v. Adeyiga where Oguntade JCA and Aderemi JCA admonished that:

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In the citadel of justice vis-à-vis the client who instructs him, the counsel in the master of law and he takes absolute control of the conduct of the case of his client. But the counsel, as a member of the bar, must first and foremost remember that he is a helper in the administration of justice…on being called to the bar, a counsel first and foremost becomes an officer of the court and, like the court itself, an instrument or agency to advance the ends of justice, not to delay it. It is my considered view that a counsel owes it as a duty to the court, and the course of justice, to help reduce the period of delay in determining cases in our courts by avoiding delays so as to make the adage-justice delayed is justice denied' no longer applicable to proceedings in our courts.

Some lawyers also allege bias or real likelihood of bias by instigating their clients to allege that records of proceedings by the court are incorrect. However, the Supreme Court in Ojengbede v. Esan corrected this by stating that any person assenting incorrect or faulty record of proceedings carries the burden of not just alleging, but must proceed to supply the supposed mode in which the proceedings ought to be.

In addition, these lawyers have not been free from the common societal vices of corruption and greed. For instance Christopher Sapara Williams, the first Nigerian Lawyer took fees from his client without ever appearing for the case in court (Adewoye, 1977). It is noteworthy to state here that this unsavory attitude of members of the Bar has not been allowed to run wild. A look at the above cases stated show the Bench as being a good check on these excesses. For instance, in a case of corrupt practice, Ithill Kolajo Doherty after being suspended was imprisoned for 18 months with hard labor. The same can be said of mischievous attempt by counsel to delay action.

It is therefore follows that although the role of the Judiciary is split between the bar and the bench, the bulk of the work falls on the bench to curtail the excesses of both branches. The question therefore is; who will curtail the excesses of the Bench? The Bench? How about the maxim of natural justice?

An Evaluation of Society without the Judiciary

Having evaluated the role of the Judiciary, its inefficacies and otherwise, one may be tempted to wish away the whole concept of the Judiciary or its semblance from society. It will be interested to note that some schools of thought have suggested where there will be no law or its machinery of operation. They are the proponents of anarchism, the antithesis of law. Its proponents are Robert Wolfe, Pierre Proudhon, Michael Bakun, and Peter Kropotkin among others. They all seem to suggest a resort to Primitivism; mankind living in small independent subsistent and troglodyte clusters devoid of present day globalization.

Ovid pictured the global age of man thus:-

The Golden Age was first, when men yet knew no rule but uncorrupted reason knew; and with native bent, did good pursue unforced by punishment, unaw'd by fear, his words were simple, and his soul sincere; for conscience was their guard.

This alluring description of a serene life outside the law similarly posited by Tolstoy has been greatly criticized. Aylme Maud criticizing this theory of primitivism devoid of concepts such as law, ownership, amongst others and which on the contrary suggest the near independence of man illustrated that in such a colony, a boy helped himself to waistcoat hitherto belonging to a man. The elders of the colony amounting it to stealing invited the body to return same. The boy

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insisting on not returning it, was only prepared to dialogue. He wanted a conviction on why the man should have the waistcoat and not him when ownership has not been the practice. The only way to resolve the matter was to employ coercion, which again was forbidden in the colony. There was obviously a dilemma or dead-end in this scenario. The inadequacies of this system can also be gleaned from the life of the bushman tribe in the all-time movie, the gods must be crazy it must be noted here that this theory of anarchism does not suggest a system of violence, but a society having the portion of the judiciary and all its ancillary concepts, carefully sliced-off. It is however sounded as a word of caution to persons who might be tempted to adopt this preposition that the concept of anarchism was made without recourse to some salient factors that:

1. A conscientious adherence to the notion of anarchism may serve as a recipe for chaos, mayhem and insecurity, as 'freewill' which it advocates existing side-by-side with unparalleled natural endowment, May almost certainly lead to oppression.
2. The anarchist form of society has never existed in practice in the memory of the world such a society may at best exist in a state of Utopia or illusion.
3. The preposition of anarchism has obviously been made in ignorance of the Hobbesian denotation that man is intrinsically revolting, avaricious, greedy, crude, selfish, treacherous and unfriendly, and it should be noted that this Hobbesian proposition unlike anarchism has historical antecedents in Slavery and Feudalistic Systems.

Flowing from the above, scholars and researchers in the field of law and other disciplines are admonished that a quest for perfect judiciary devoid of its manifest defects in practical society should not and cannot begin in the leaking ship of anarchism.

CONCLUSION

Conclusively, in the words of Giwa: "*It is therefore inevitable that the law has always been necessary and compulsory for the sustainability and survival of the human species*". Total republicanism or unchecked Philistinism or anarcho-communism or some other semblance of non-governmental set ups or propositions cannot operate or survive without some form of rules and regulations. This proposition elucidates the indispensable nature of the Judiciary in any form of society whether elementary or complex, the judiciary whether active or dormant, weak or strong vibrant or otherwise is a sine qua non to any democratic society. Odje adopting the words of Hon Oputa JSC. (rtd.) Described the judiciary as the surest safeguard of the rights of man in modern society and should be proud bastion of justice. Hence, any alternative to the excesses or inadequacies of the judiciary may be resolved within and its sister arms of government, can sharpen and create a judiciary that will be the pride of society. We therefore humbly align ourselves with them as we are definite and positively sure.

REFERENCES

Adewoye, O. (1977). *The legal profession in Southern Nigeria, 1863-1943.* Columbia University.

Allen, R.B. (1973). World peace through law center holds tenth anniversary conference in the Ivory Coast. *American Bar Association Journal, 59*, 12-89.

Barnes, K.D. (2001). Impracticability of holding a company meeting: Order based on defective application. *Nigerian Law Journal, 14*, 141.

Bispham, G.T. (1902). *The principles of equity: A treatise on the system of justice administered in courts of chancery.* Banks Law Publishing Company.

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Curzon, P. (1998). *Jurisprudence lecture notes.* Routledge-Cavendish.

Derham, D.P. (1965). *The Idea of Law*.

Dictionary, B.L. (1990). *Black's law dictionary.*

Fortescue, W. (2017). *The third republic in France 1870–1940: Conflicts and Continuities.* Routledge.

Frank, J. (1970). *Law and the modern mind*.

Garner, B.A. (1999). *Black's law dictionary.* St. Paul, MN: West Group.

Giwa, A., Kabir, M., Umar, I.I., Lawal, B., & Suleiman, H. (2018). Awareness and willingness to pay for community based health insurance scheme in North-Western Nigeria. *Journal of Pharmaceutical & Health Sciences, 6*(2), 139-147.

Hamilton, A. (1904). *The works of Alexander Hamilton*.

Jacob, H. (1972). *Justice in America: Courts, lawyers, and the judicial process.* Boston, Mass: Little, Brown.

Martin, L.R. (2019). *The unheard voice of God: A Pentecostal hearing of the book of Judges.* Brill.

Maudsley, R.H. (1955). *Snell's principles of equity*.

Mtshali, O.M. (1971). *Sounds of a cowhide drum*.

Nnaemeka-Agu, P., Nweze, C.C., & Nnamani, G.C. (1996). *Justice Philip Nnaemeka-Agu: Imprints on law and jurisprudence*.

Oduguwa, A.S. (2012). *Chief Obafemi Awolowo: The Political Moses*.

Ogbodo, G.S. (1980). *The role of the Nigerian judiciary in the environmental protection against oil pollution: Is it active enough.*

Olokooba, S.M. (2019). The Nigerian tax laws. *In Nigerian Taxation, 29-42*.

Omoregbe, J.I. (1989). *Ethics a systematic and historical study*.

Osborn, P.G. (2013). *A concise law dictionary-for students and practitioners*.

Waterson, G., & Lee, R. (2000). *Arbitrator's bias.* Property Management.

Yerima, T.F., & Oluduro, O. (2012). *Criminal law protection of property: A comparative critique of the offences of stealing and theft in Nigeria.*

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