

GAVEL.

# Rule of Law and Disobedience of Court Orders in Nigeria



“...are we a nation where the rule of law is practiced or the rule of men is the norm?”

- Adebayo Akinlade

## 1. Introduction

The menace of disobedience of court orders in Nigeria, particularly by the government and its agencies, is well documented.<sup>2</sup> Needless to say, disobedience of court orders is detrimental to the rule of law, good governance, and progressive democracy.<sup>3</sup> Historically, although incidents of disobedience of court orders abound,<sup>4</sup> the menace has become even more prevalent in recent history so much so that government officials and agencies now brazenly disobey valid and subsisting court orders with reckless impunity, often under the guise of “national security and anti corruption”.<sup>5</sup> This paper examines the prevalence of disobedience of court orders by government, enforcement agencies, public officials, and political actors in Nigeria to highlight the legal implication thereof, identify potential legal repercussions for individuals or entities consistently disobeying court orders, and spotlight patterns or trends (if any) in the disobedience of court orders. The paper makes salient recommendations to curb the menace.

## 2. Meaning and Purport of Court Order

A court order is a decision, ruling, or judgment of a competent court.<sup>6</sup> It is usually the end product of a judicial process.<sup>7</sup> It may be an interim or interlocutory decision, that is a ruling.<sup>8</sup> And it is a judgment, properly so called, where the decision conclusively terminates a legal dispute, determines the final rights and/or obligations of the parties and often requires action to be taken

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<sup>1</sup> Adebayo Akinlade, “Disobedience to Judgements and Orders of the Lower Court: Implications for the Rule of Law in Nigeria” Being a Paper Presented at the All Nigerian Judges Conference for Lower Judges Held on 14 November 2023 at the National Judicial Institute, Abuja, p.4

<sup>2</sup> Theophilus Adedokun, “Major Court Orders Buhari Administration Disobeyed in Eight Years” ICIR 19 May 2023. Available at <https://www.icirnigeria.org/major-court-orders-buhari-administration-disobeyed-in-his-eight-years/> Accessed 17/12/2023; Olugbenga Adanikin, “El-Zakzaky, Wife Return From India Medical Trip Three Days After Departure” ICIR 15 August 2019. Available at <https://www.icirnigeria.org/el-zakzaky-wife-return-from-india-medical-trip-three-days-after-departure/> Accessed 8/1/2024; Onozure Dania, “Buhari Years Revive Ghost of Military Dictatorship, Disobedience to Court Orders” Punch 29 May 2023. Available at <https://punchng.com/buhari-years-revive-ghost-of-military-dictatorship-disobedience-to-court-orders/> Accessed 16/12/2023. <sup>3</sup> Adebayo Akinlade, “Disobedience to Judgements and Orders of the Lower Court: Implications for the Rule of Law in Nigeria” supra p.4

<sup>4</sup> Onozure Dania, “Buhari Years Revive Ghost of Military Dictatorship, Disobedience to Court Orders” supra <sup>5</sup>Ibid; see also Punch Editorial, “Defiance of Court Orders Threaten Democracy” Punch 15 December 2022. Available at <https://punchng.com/defiance-of-court-orders-threatens-democracy/> Accessed 16/12/2024. <sup>6</sup> Constitution, Section 318(1); Contract Resources Nig. Ltd. v. Standard Trust Bank (2013) LPELR-19934 (SC) <sup>7</sup> Abacha v. Jurassic Nig. Ltd. (2014) LPRLR-22703

<sup>8</sup>Ibid

by one or more parties.<sup>9</sup> While a ruling has been held to be "the outcome of a Court's decision either on some points of law or on the case as a whole,"<sup>10</sup> in the case of *Onyia v. Augustine*,<sup>11</sup> the Court of Appeal held that "... [j]udgment has been shown to mean a decision or determination in relation to a Court just as 'ruling'. However, in contradistinction to ruling, judgment represents a final decision of the Court resolving the dispute and determining the rights and obligations of parties".

In the case of *Inyang v. Etuk*,<sup>12</sup> the court held thus;

"Judgment" used in the provisions of the section was not defined by the constitution but Section 318(l) of the constitution as altered, defined the word "decision" to include judgment or order in relation to a court of law. In the context of that definition, "judgment" used in Section 285(6) means a decision by the tribunal which has the effect of disposing of the petition by the tribunal such that the parties could no longer on their own, approach the tribunal again in respect of the claims in the petition.

In *Falola v. UBN PLC*,<sup>13</sup> the Supreme Court held that "[i]n any judicial proceedings, the word "judgment" connotes a binding determination by a court or tribunal in a dispute between two parties".<sup>14</sup> Hence, a valid and subsisting court order is binding in all ramifications and it is unlawful and unconstitutional to disobey a valid and subsisting order of court.<sup>15</sup> This is the import of Section 287 of the Constitution of the Federal Republic of Nigeria, 1999 (as Amended), which obligates every person, government, public institution, public official, and/or public authority to obey or enforce (respectively) the decisions, rulings, judgments, or otherwise orders of court. Section 287 of the Constitution provides thus;

287 (1) The decisions of the Supreme court shall be enforced in any part of the Federation by all authorities and persons, and by courts with subordinate jurisdiction to that of the Supreme Court.

(2)The decisions of the Court of Appeal shall be enforced in any part of the Federation by all authorities and persons, and by courts with subordinate jurisdiction to that of the court of Appeal.

(3) The decisions of the Federal High Court, a High Court and of all other courts established by this Constitution shall be enforced in any part of the Federation by all authorities and

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<sup>9</sup> *Falola v. UBN PLC* (2005) LPELR-15506; *Osafire v. Odi* (No.1) (1990) 3 NWLR (Pt. 137) 130 <sup>10</sup> *Abacha v. Kurastig Nig. Ltd.* Supra; Blacks Law Dictionary, 9th edition, pages 889 and 1450 <sup>11</sup> *Onyia v. Augustine* (2013) LPELR-20161 (CA)

<sup>12</sup> *Inyang v. Etuk* (2012) LPELR-8483

<sup>13</sup> *Falola v. UBN PLC* (2005) LPELR-15506

<sup>14</sup> *Ibid*

<sup>15</sup> Constitution, Section 287

persons, and by other courts of law with subordinate jurisdiction to that of the Federal High Court, a High Court and those other courts, respectively.<sup>16</sup>

Stated differently, an order of court is a fundamental part of the judicial process that is not made in a vacuum; once made, it must be enforced, except it is stayed, varied, or vacated by a competent court.<sup>17</sup> Thus, however ill-fitted a court order, however opposed a party is to a valid and subsisting court order, and however irregular a court order may be, even if it is unlawful, unless the question of its irregularity or unlawfulness is duly determined through a judicial process, and until the order is declared irregular, unlawful, invalid, discharged, or stayed by a competent court of jurisdiction, it must not be disobeyed.<sup>18</sup> Nevertheless, there are limited instances where an order of court may be “disobeyed” for purposes of audience in court. That is, where a party seeks to appeal against the order of which they are in contempt (note that this is not as a matter of course as an appeal does not operate as a stay of execution per se<sup>19</sup>), or challenges the order on the ground of lack of jurisdiction, or the order ought not to be sustained because there were procedural irregularities in the process of making the order.<sup>20</sup> In effect, this reinforces the above point that a valid and subsisting court order can only be questioned through a judicial process, otherwise, it remains binding and must be obeyed.<sup>21</sup>

In *Odu v. Jolaoso*,<sup>22</sup> the court, per Rhodes-Vivour, stated the position of the law thus;

Parties are thus bound to obey court orders that are clear and unambiguous, notwithstanding the fact that the order may be wrong. So long as a party refuses to implement a court order he would not be given a hearing in any subsequent application... There are exceptions to the above. A party in disobedience of court order may be held in subsequent application if – (a) the party seeks to appeal against the order of which he is in contempt [note that this may not be as a matter of course], (b) he challenges the order on the ground of lack of jurisdiction, [and] (c) the order ought not to be sustained because there were procedural irregularities in the process of making the order.<sup>23</sup>

Hence, “[u]nless and until a valid court order of a court of competent jurisdiction is either set aside or stayed by another court, it is liable to be obeyed to the letter”.<sup>24</sup> Obedience to valid and

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<sup>16</sup> Ibid; see also Falana, order 7

<sup>17</sup> Adebayo Akinlade, “Disobedience to Judgements and Orders of the Lower Court: Implications for the Rule of Law in Nigeria” supra p.3

<sup>18</sup> Ibid

<sup>19</sup> Supreme Court Act, Section 24; *Alioke v. Our* (2018) LPELR-45153 (SC); *Abiola & Sons Bottling Co. Ltd v. 7UP Bottling Co. Ltd.* (2012) LPELR-9279 (SC); *Mohammed v. Olawunmi* (1993) LPELR-1898 (SC) 20 *Odu v. Jolaoso* (2002) LPELR-7008

<sup>21</sup> Adebayo Akinlade, “Disobedience to Judgements and Orders of the Lower Court: Implications for the Rule of Law in Nigeria” supra p.3

<sup>22</sup> Ibid p.7

<sup>23</sup> *Odu v. Jolaoso*, supra at 20-21; Adebayo Akinlade, “Disobedience to Judgements and Orders of the Lower Court: Implications for the Rule of Law in Nigeria” supra p.7

<sup>24</sup> Ibid p.3

subsisting court orders consolidates the rule of law and ensures law and order in society.<sup>25</sup> As Akinlade puts it “obedience to court order is at the very foundation of the administration of justice and the rule of law.”<sup>26</sup> It also ensures that a party to a suit benefits from the fruits of a court order/judgment in their favour.<sup>27</sup> In fact, obedience to court orders is fundamental to the judicial process as orders of court do not exist in a vacuum.<sup>28</sup> Valid and subsisting orders of court must be specifically, completely, and wholly obeyed and acted upon by the duty bearer or party responsible to do so. In this sense, it may, therefore, be said that a judicial process does not end indeed until the order(s) of court thereof is obeyed or acted upon to the letter.

### 3. Prevalence of Contempt of Court Orders in the Fourth Republic

Since the end of military rule and the return of civilian rule in 1999, Nigeria has witnessed uninterrupted democracy.<sup>29</sup> Under this dispensation, the role of the judiciary as the third arm of government cannot be overemphasised. The increasing role of the judiciary in the affairs of the country has resulted in numerous court decisions. Unfortunately, the Fourth Republic has witnessed brazen disregard of court orders by the government and public officials and authorities.<sup>30</sup> Ironically, these are the same duty bearers tasked with the obligation to ensure compliance with or obedience to court orders under the Constitution.<sup>31</sup> According to Femi Falana, a reputable human rights lawyer, not even under the military regime did Nigeria witness the unprecedented and brazen contempt of court orders since the return of civilian rule in 1999, especially under the administration of former President Muhammadu Buhari.<sup>32</sup> According to Kolawole Olaniyan, [a]ny time the court has asked Buhari to do something that it doesn't like, it has refused to obey it”.<sup>33</sup> But even the military, including Buhari as the military head of state from 1983-85, obeyed court orders.<sup>34</sup>

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<sup>25</sup> *Oko-Osi v. Akindele* (213) LPELR-20353 (CA) at 37-39; *APC v Korti* cited in Adebayo Akinlade, “Disobedience to Judgements and Orders of the Lower Court: Implications for the Rule of Law in Nigeria” supra, p.4. <sup>26</sup> Adebayo Akinlade, “Disobedience to Judgements and Orders of the Lower Court: Implications for the Rule of Law in Nigeria” supra p.4

<sup>27</sup> *Ofutola v. Togonu-Bickersteth* (2022) LPELR-57574 (CA); *Franchal (Nig) Ltd v. N. A. B. Ltd.* (2000) LPELR 1289 (SC); *Royal Exchange Assurance (Nig) Ltd. V. Aswani Textile Industries Ltd.* 92) LPELR-2960 (SC) <sup>28</sup> *UBA Plc v. Jargaba* (2007) LPELR-3399 (SC)

<sup>29</sup> Wale Adebaniwi (ed), “Democracy and Nigeria's Fourth Republic: Governance, Political Economy, and Party Politics 1999-2023” Boydell & Brewer (Abstract) Available at <https://boydellandbrewer.com/9781847013514/democracy-and-nigerias-fourth-republic/> Accessed 17/1/2024. <sup>30</sup>

Taiwo Adebulu, “Falana Asks Osinbajo to Stop Disobedience of Court Orders” Cable 15 August 2018. Available at <https://www.thecable.ng/falana-asks-osinbajo-stop-disobedience-court-orders/amp> Accessed 17/1.2024. <sup>31</sup>

Constitution, Section 287

<sup>32</sup> Taiwo Adebulu, “Falana Asks Osinbajo to Stop Disobedience of Court Orders” supra

<sup>33</sup> Onozure Dania, “Buhari Years Revive Ghost of Military Dictatorship, Disobedience to Court Orders” supra <sup>34</sup> Femi Falana, “Nigerian Court Lacks Power to Detain Sowore, Dasuki Aginst Court Orders by Femi Falana” Sahara Reporters January 5, 2020. Available at <https://saharareporters.com/2020/01/05/nigerian-government-lacks-power-detain-sowore-dasuki-against-court-orders-femi-falana> Accessed 17/1.2024; Femi Owolabi, “Falana: Buhari Obeyed Court Orders as Military Head of State” Cable 23 December 2019. Available at <https://www.thecable.ng/falana-even-dictators-didnt-justify-disobedience-of-court-orders/amp> Accessed 17/1/2024.

Under the pretext of “national security,” which the government has elevated above the rule of law, and sometimes outright political witch-hunting, the government continues to disobey valid and subsisting court orders that are against it.<sup>35</sup> Under the regime of former President Muhammadu Buhari alone, Olaniyan asserted that there were at least 40 instances of contempt of court orders.<sup>36</sup> According to available reports, “Buhari’s regime will be remembered for its penchant for regular disobedience of court orders, using national security and anti-corruption as excuses, therefore significantly contributing to the decline in public confidence in the judiciary”.<sup>37</sup> The current government of President Tinubu has continued with this legacy with the travesty of Godwin Emeifele seeming to be only the beginning of what is yet to come.<sup>38</sup>

In this Fourth Republic, the government obeys orders of the court at its convenience, if at all,<sup>39</sup> or demand that certain preconditions are met before it would do so.<sup>40</sup> This goes to show how emboldened the government has become in impunity and illegality. Valid and subsisting orders of court are final and absolute; they must be obeyed in its totality and with the immediacy required thereunder.<sup>41</sup> To better appreciate the implications of the prevalence of contempt of court orders in the Fourth Republic, the next discussion proffers some brief insights.

## 4. Legal Implications of Disobedience of Court Orders, Potential Consequences for Parties Involved, and the Broader Impact on the Rule of Law

Valid and subsisting orders of court are sacrosanct and must be obeyed.<sup>42</sup> The prevalence of disobedience of orders in Nigeria threatens the rule of law, progressive and transformative democracy, and the very unity and cohesion of the country.<sup>43</sup> According to the United Nations, “[h]uman rights, the rule of law and democracy are interlinked and mutually reinforcing, and they belong to the universal and indivisible core values and principles of the UN [which Nigeria is a State Party].”<sup>44</sup>

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<sup>35</sup> Onozure Dania, “Buhari Years Revive Ghost of Military Dictatorship, Disobedience to Court Orders” <sup>36</sup> Ibid; Falana similarly compiled at least 32 incidents of court orders disobeyed by Buhari’s government. See Ronke Sanya Idowu, “I Have Compiled 32 Court Orders Being Disobeyed By Nigerian Government – Falana” Channels 27 August 2019. Available at <https://www.channelstv.com/2019/08/27/i-have-compiled-32-court-orders-being-disobeyed-by-nigerian-govt-falana/> Accessed 17/1/2024.

<sup>37</sup> Ibid

<sup>38</sup> Ameh Ejekwoyilo, “Timeline: Naira Redesign Policy From Inception to Supreme Court Judgement” Premium Times March 2023. Available at <https://www.premiumtimesng.com/news/top-news/585737-timeline-naira-redesign-policy-from-inception-to-supreme-court-judgement.html> Accessed 7/1/2024.

<sup>39</sup> Punch Editorial, “Defiance of Court Orders Threaten Democracy” supra

<sup>40</sup> Taiwo Adebulu, “Falana: FG Complies with London Court Orders But Disobeys Nigerian Judges” The Cable December 1, 2019. Available at <https://www.thecable.ng/falana-fg-complies-london-courts-disobey-nigerian-courts/amp> Accessed 15/12/2023.

<sup>41</sup> Odu v. Jolaoso, supra

<sup>42</sup> Ibid

<sup>43</sup> Oko-Osi v. Akindele, supra

<sup>44</sup> United Nations, cited in Punch Editorial, “Defiance of Court Orders Threaten Democracy” supra

Furthermore, disobedience of court orders, especially by the government, enhances the prevalence of corruption in Nigeria, and undermines the constitutional and fundamental rights of the people.<sup>45</sup> What happens when everyone takes law into their own hands? Then Nigeria would degenerate unto chaos and anarchy.<sup>46</sup> With the blatant and brazen contempt of valid and subsisting court orders and the rate with which they occur today, one may not be too far from thinking that Nigeria is fast becoming a “Banana Republic” as Falana always warns.<sup>47</sup>

The role of the judiciary in a democracy cannot be overemphasised. The law exist to keep society together and orderly.<sup>48</sup> And the rule of law can only prevail where valid and subsisting orders of court are obeyed by all persons, particularly the government, as a matter of law and not as a matter of convenience.<sup>49</sup>

In the case of *Oko-Osi v. Akindele*,<sup>50</sup> accentuating that disobedience to an order of Court is “a calculated act of subversion of peace, law, and order in the Nigerian Society”<sup>51</sup> the Court of Appeal, per Justice Ibrahim Mohammed Musa Saulawa, held thus;

...it's a trite veritable principle, that obedience to lawful orders of Court is fundamentally a sine qua non to the good order, peace and stability of the Nigerian Nation, nay any nation for that matter. Paradoxically, the alternative to obedience of lawful Court orders is brute self help and anarchy. As authoritatively held by the Supreme Court: Disobedience to an order of Court should, therefore, be seen as an offence directed not against the personality of the judge who made the order, but as a calculated act of subversion of peace, law, and order in the Nigerian Society. Obedience to every order of Court is therefore a duty which every citizen who believes in peace and stability of the Nigerian State owes to the nation. See *HART VS. HART* (supra) at 297 paragraphs C - D. per Nnaemeka - Agu, JSC (of blessed memory). Thus, the Court of Appeal, nay any Court of law for that matter, has an onerous duty not to lend the machinery thereof in aid of a recalcitrant party by ordering a stay while the party is still in contempt of order thereof. See *GOVERNOR OF LAGOS STATE VS. OJUKWU* (1986) 1 NWLR (Pt.18) 621 ; *HART VS. HART* (supra) at 297 paragraphs D - E. *CANADIAN METAL CO. LTD. VS. CANADIAN BROADCASTING CORP. (NO.2)* (1975) 48 DLR (3d) 641 . To allow Court orders to be disobeyed would be to tread the road to anarchy. If orders of the Court can be treated with disrespect, the whole administration of justice is brought to scorn... If the remedies that the courts grant to correct wrongs can be ignored, then there will be nothing left to reach person but to take the law in to his own hands. Loss of respect for the Courts will quickly result into the destruction of our society. Per O'Leary, J; at 669. It's equally rather axiomatic, as

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<sup>45</sup> Vanguard News, “Obey Court Judgments or Face Contempt Proceedings, SERAP Tells Buhari Government” Vanguard News 8 December 2021. Available at <https://www.vanguardngr.com/2021/12/obey-court-judgments-or-face-contempt-proceedings-serap-tells-buhari-govt/> Accessed 16/12/2022.

<sup>46</sup> *Oko-Osi v. Akindele*, supra

<sup>47</sup> Wale Odunsi, “CBN Disobedience to Supreme Court Ruling Happens Only in Banana Republic” Daily Post 15 February 2023. Available at <https://dailypost.ng/2023/02/15/cbn-disobedience-to-supreme-court-ruling-happens-only-in-banana-republic-falana/> Accessed 17/1/2024.

<sup>48</sup> *Oko-Osi v. Akindele*, supra

<sup>49</sup> Ibid

<sup>50</sup> Supra

<sup>51</sup> Ibid



copiously alluded to above, that contempt of Court, in whatever ramification, is antithetical to the well cherished rule of law, democracy and independence of the judiciary. Thus, there is no iota of doubt, that public confidence in the integrity of judicial officers that man the Courts, and in the impartiality and efficiency of the administration of justice system, as a whole, unarguably contribute immensely in sustaining the judicial system of a nation. As aptly asserted by MR. JUSTICE FRANK-FURTER, that eminent and rather fearless U.S. jurist, over five decades ago: "The Court's authority ...possessed of neither the purse nor the sword... ultimately rests on sustained public confidence in its moral sanction." See *BAKER VS. CARR*, SUPREME COURT OF USA (1962) 369 US 18.<sup>52</sup>

Separation of powers is foundational and fundamental to the rule of law. Each arm of government, in this particular instance, the Executive, must perform its duties as enshrined under the Constitution, one of which is ensuring the enforcement of valid and subsisting court orders and not disobeying them. In *Dasuki v. FRN*,<sup>53</sup> the Court of Appeal, per Abdu Aboki made it clear that;

It is still pertinent to observe, that bail is a right of a person accused of crime, once it is not a homicide charge. It enables him to prepare for his defence, which is a constitutional right. If Courts grant bail, there should be compliance, as disobedience to Court Orders, is injurious to the smooth-running of the administration of justice and capable of eroding the rule of law which is necessary a part and parcel of any democratic society, and to avoid anarchy.<sup>54</sup>

Parties should know that there are consequences to the disobedience of court orders. Parties who disobey court orders risk being denied the right of hearing in court unless they purge themselves of the contempt. Thus, in the case of *Aba South LG & Ors v. Nwajiobi & Ors*,<sup>55</sup> the Court of Appeal, per Justice Tijani Abdullahi, held thus;

It is trite that where a party has refused to implement a Court order the Court will not give him audience. Courts do not exercise its discretionary powers to those who flout its orders. To ask a Court to exercise its discretion in ones favour when he did not obey its order amount[s] to an abuse of court process<sup>56</sup>

### ***It is trite that where a party has refused to implement a Court order the Court will not give him audience***

Also, as a consequence of disobedience of a valid and subsisting court order, the court can undo what has been done by an erring party in contravention of the order.<sup>57</sup> In the case of *Abbi v. Prince well*,<sup>58</sup> the Court of Appeal emphasised the need for the judiciary to "take a positive and mandatory act in order

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<sup>52</sup> *Ibid* at 37-39

<sup>53</sup> (2016) LPELR (CA)

<sup>54</sup> *Ibid*

<sup>55</sup> (2007) LPELR-5125 (CA)

<sup>56</sup> *Ibid* at 23-24

<sup>57</sup> *Abbi v. Prince well* (2011) LPELR-3952 (A)

<sup>58</sup> *Ibid*



to instill judicial discipline on the erring party”.<sup>59</sup> The court, per Justice Ejembi Eko, held emphatically thus;

... I earlier stated that it is apparent from page 292 of the Record that the learned trial Judge acknowledged that the order made on 31st July, 2000 was a subsisting order. The order was violated, and it is that order that the application before the learned trial Judge was trying [to] enforce. That order is enforceable under section 287 (3) of the 1999 Constitution that provides. 287. (3) The decisions of the Federal High Court, a High Court and all other courts established by this Constitution shall be enforced in any part of the Federation by all authorities and persons, and by other courts of law with subordinate jurisdiction to that of the Federal High Court a High Court and those other Courts, respectively. When a court finds itself in this situation the remedy is clear. It will not only frown against it. The court must in addition take a positive and mandatory act in order to instill judicial discipline on the erring party and in order to maintain, restore and preserve the dignity and respect of the court. This includes the undoing of what has been done by the erring party irrespective of what the court will decide on the merits, when the matter is properly heard. see *EZEGBU v. F.A.T.B* (supra) at page 725; *DANIEL v. FERGUSON* (supra) at page 30. Every judge worth his office will not condone such a conduct that denigrates the authority, dignity and respect of the court. It goes without further emphasis that courts preserve their authority jealously. This is further bolstered by section 17 (2) (e) of the 1999 Constitution that says that in furtherance of the social order, which is founded on ideals of justice, among others, the independence, impartiality and integrity of courts of law shall be secured and maintained. No other person maintains and secures the independence and Integrity of the courts more than the judges themselves who sit and preside in those courts.<sup>60</sup>

Also, parties who disobey valid and subsisting orders of court may be cited for contempt, and where found guilty they may be committed to prison until they purge themselves of the contempt.<sup>61</sup> A fuller discussion on the potential consequences of contempt proceedings and how effective these consequences (or the threat thereof) have been in curbing the menace of contempt of court orders is made under subheading (7) below. To better appreciate the prevalence of contempt of court orders in Nigeria, the next discussion proffers some instances.

## **5. Hundred (100) Incidents of Disobedience of Court Orders in Nigeria**

The discussion below gives a detailed report summarizing some incidents of disobedience of court orders. The discussion outlines the nature of each case, the specific court order(s) involved, and the parties or entities responsible for the disobedience. On the whole, at least a hundred incidents of contempt of court orders are hereunder referenced.

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<sup>59</sup> Ibid at 16-17

<sup>60</sup> Ibid

<sup>61</sup> *Nwawka v. Ohazurike* (2014) LPELR-22558(CA)



## 5.1 Federal Republic of Nigeria v Godwin Emefiele

This is a criminal case involving the federal government, particularly the Department of State Security or the State Security Service (DSS/SSS), and the former Governor of the Central Bank of Nigeria (CBN), Godwin Emefiele. At least 3 orders of court were disobeyed in connection with this case.

Following his suspension as the CBN Governor on 9 June 2023, Emefiele was arrested by the DSS for “some investigative reasons”.<sup>62</sup> Having been in DSS custody for 6 weeks without charge, Emefiele, through his lawyer, Joseph Daudu, instituted a Fundamental Rights Enforcement action against the DSS at the Federal High Court to enforce his fundamental rights against illegal detention.<sup>63</sup> On 13 July 2023, the court in its judgment ordered the DSS to charge Emefiele to court within one week or release him on bail.<sup>64</sup> Six hours later, the DSS released a press statement stating it has charged Emefiele to court in compliance with the court order.<sup>65</sup> However, neither the suit number or charge or the court where Emefiele was arraigned was revealed.

***On 13 July 2023, the court in its judgment ordered the DSS to charge Emefiele to court within one week or release him on bail.<sup>64</sup> Six hours later, the DSS released a press statement stating it has charged Emefiele to court in compliance with the court order.<sup>65</sup> However, neither the suit number or charge or the court where Emefiele was arraigned was revealed.***

In fact, it was not until 25 July 2023, one week and five days after the court judgment referenced above, that DSS formally arraigned Emefiele before Justice Nicholas Oweibo of the High Court, Ikoyi, Lagos on two counts charge bordering on illegal possession of firearm contrary to Section 4 of the Firearms Act, Cap F28 Laws of the Federation 2004, and punishable under Section 27 (1b) of the same Act, and possession of 123 rounds of live ammunition (Cartridges) without a licence, contrary to Section 8 of the Firearms Act Cap F28 Laws of the Federation 2004 and punishable under Section 27 (1)(b)(il) of the same Act. Emefiele pleaded not guilty to the two counts charge.<sup>66</sup>

Following his arraignment and plea, Emefiele applied for bail pending trial, which was conditionally granted by the court. In its ruling, Justice Nicholas Oweibo made two further orders, that is, (1) admitted Emefiele to bail in the sum of N20m and further, and (2) ordered that he be remanded at the correctional centre pending the fulfillment of the bail conditions.

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<sup>62</sup> Ayodele Oluwafemi, “Finally, DSS Brings Emefiele to Court over ‘illegal Possession of Firearms’ (note this was also the offence dasukin was charged with) The Cable July 25, 2023. Available at <https://www.thecable.ng/breaking-finally-dss-brings-emefiele-to-court-over-illegal-possession-of-firearms/amp> Accessed 9/1/2024. <sup>63</sup> Shola Soyele and Kayode Oyero, “Updated: Emefiele Arraigned, Pleads Not Guilty to Firearm Charges” Channel July 25, 2023. Available at <https://www.channelstv.com/2023/07/25/dss-brings-emefiele-to-court-for-arraignment/> Accessed 8/1/2024.

<sup>64</sup> Ibid

<sup>65</sup> Ibid

<sup>66</sup> Ibid

However, instead of complying with the orders of the court, DSS insisted on taking Emeziele into custody, leading to a scuffle between officers of DSS and those of the Nigerian Correctional Service – an action which the NBA described as a “brazen disrespect for the sanctity of the court premises”.<sup>67</sup> Emeziele continued to be in DSS custody in violation of the High Court order until he was finally released on 26 October 2023, only to be re-arrested hours later by EFCC for investigation into some other unrelated offences.<sup>68</sup> From the above, it can be gleaned that the at least 3 orders from the Federal High Court and the High Court, essentially granting bail to Emeziele were all disobeyed by DSS.

**instead of complying with the orders of the court, DSS insisted on taking Emeziele into custody, leading to a scuffle between officers of DSS and those of the Nigerian Correctional Service**

**3 orders from the Federal High Court and the High Court, essentially granting bail to Emeziele were all disobeyed by DSS.**

## **5.2 Naira Swap: Suit No. SC/CV/162/2023<sup>69</sup> (2 orders disobeyed)**

This was a civil suit involving state governments and the federal government, particularly CBN. At least one order of court was disobeyed in this case. Two orders were disobeyed in this case. Again, Emeziele was at the centre of the disobedience of court order involving the Naira redesign or Naira swap in 2022. Only that this time, it was the CBN under Emeziele's governorship that disobeyed court order.<sup>70</sup> In fact, Emeziele's current traverse mentioned in (5.1) above is believed to be connected with his role in the Naira swap saga. President Tinubu believed that the Naira swap scheme was initiated by Emeziele to undermine Tinubu's financial capacity to finance his (Tinubu's) presidential campaign in the 2023 general election.<sup>71</sup>

On 26 October 2022, Emeziele announced that the federal government through the CBN was working to redesign the N200, N500, and N1,000 Naira notes pursuant to powers conferred on it under Section 7 of the Central Bank of Nigeria Act, 2007.<sup>72</sup> He stated that the new notes were to be begun circulation on 15 December 2022 and gradually phase out the old notes on 31 January 2023.<sup>73</sup> According to him, this was to ensure liquidity by mopping up trillions of Naira outside the banking system. At the time, CBN Data indicated that N2.73tn out of the N3.23tn of the currency in circulation was outside the banking system.<sup>74</sup>

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<sup>67</sup> Kayode Oyero, “Emefiele: NBA Slams DSS, Correctional Service, Seeks Punishment for Officers” Channels July 26, 2023. Available at <https://www.channelstv.com/2023/07/26/emefiele-nba-slams-dss-correctional-service-seeks-punishment-for-officers/> Accessed 18/12/2023

<sup>68</sup> Abiodun Sanusi, “EFCC Detains Emeziele After DSS Frees Ex-Gov” Punch 27 October 2023. Available at <https://punchng.com/breaking-efcc-detains-emefiele-after-dss-frees-ex-cbn-gov/> Accessed 7/1/2024; Kingsley Nwezeh, “EFCC Arrests Emeziele After His Release by DSS” This Day Available at

<https://www.thisdaylive.com/index.php/2023/10/27/efcc-arrests-emefiele-after-his-release-by-dss> Accessed 17/1/2024.

<sup>69</sup> Cited in Azimazi Momoh Jimoh, et al, “Govs Direct States to Join Suit Against FG Over Naira Swap” The Guardian 13 February 2023. Available at <https://guardian.ng/news/govs-direct-states-to-join-suit-against-fg-over-naira-swap/> Accessed 7/1/2024.

<sup>70</sup> Ameh Ejekwoyilo, “Timeline: Naira Redesign Policy From Inception to Supreme Court Judgement” Premium Times March 2023. Available at <https://www.premiumtimesng.com/news/top-news/585737-timeline-naira-redesign-policy-from-inception-to-supreme-court-judgement.html> Accessed 7/1/2024.

<sup>71</sup> Ameh Ejekwoyilo, “Timeline: Naira Redesign Policy From Inception to Supreme Court Judgement” supra

<sup>72</sup> Ameh Ejekwoyilo, “Timeline: Naira Redesign Policy From Inception to Supreme Court Judgement” supra

<sup>73</sup> Ibid

<sup>74</sup> Jide Ojo, “Supreme Court Decision on Naira Redesign Policy” Punch 8 March 2024. Available at <https://punchng.com/supreme-court-decision-on-naira-redesign-policy/> Accessed 7/10/2024.

It was also believed that the Naira redesign would facilitate the transition to a cashless economy and strengthen the eNaira system, among others.<sup>75</sup> Hence, “the policy would enable the CBN to take control of the naira [sic: Naira] in circulation, manage inflation, combat counterfeiting, and ransom payment” as disclosed by Emeziele on 27 October 2022.<sup>76</sup>

Following the cash crunch and the concomitant hardships occasioned by the policy, several stakeholders, including the NBA and the National Assembly asked the CBN to extend the deadline for the deposit of the old Naira notes under consideration, the latter requested a six-month extension.<sup>77</sup> On 29 October 2023, the CBN extended the 31 January 2023 deadline by 10 days to 10 February 2023.<sup>78</sup>

However, on 3 February 2023, Kaduna, Kogi, and Zamfara states instituted an action against the federal government at the Supreme Court. The suit, Attorney General of Kaduna State v. Attorney General of the Federation,<sup>79</sup> which was eventually joined by 16 other states as Applicants/Plaintiffs and 2 other states as Respondents/Defendants, prayed the Supreme Court to halt the implementation of the new naira swap/redesign policy. In its defence, the government argued that the Supreme Court lacked the jurisdiction to determine the matter and that “the plaintiffs have equally not shown reasonable cause of action against the defendant.”<sup>80</sup> Hence, the federal government prayed to the court to strike out the suit.

Upon an ex parte application on 8 February 2023 by the Applicants, the Supreme Court suspended the CBN deadline, ruling that the old notes would continue to be legal tender pending the hearing and determination of the substantive suit on 22 February 2023.<sup>81</sup>

However, the CBN disobeyed the interim order, insisting that the deadline subsisted and the old N200, N500, and N1000 notes ceased to be legal tender.<sup>82</sup> On 16 February 2023, in further disobedience of the Supreme Court interim order, former President Buhari stated that only the old N200 notes would remain valid until April 10, 2023, but N500 and N1000 notes ceased to be legal tender.<sup>83</sup>

***the Supreme Court suspended the CBN deadline, ruling that the old notes would continue to be legal tender pending the hearing and determination of the substantive suit on 22 February 2023.<sup>81</sup> However, the CBN disobeyed the interim order, insisting that the deadline subsisted and the old N200, N500, and N1000 notes ceased to be legal tender.<sup>82</sup>***

In its final judgment delivered on 3 March 2023, the Supreme Court dismissed the preliminary objection

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<sup>75</sup> Ibid

<sup>76</sup> Ameh Ejekwoyilo, “Timeline: Naira Redesign Policy From Inception to Supreme Court Judgement” supra 77 Ibid

<sup>78</sup> Ibid

<sup>79</sup> Suit No. SC/CV/162/2023

<sup>80</sup> Emmanuella Obaje-Daniels, “Naira Swap: AGF Asks Supreme Court to Dismiss State Government's Suit” Channels 8 February 2024. Available at <https://www.channelstv.com/2023/02/08/naira-swap-agf-asks-supreme-court-to-dismiss-state-governments-suit-challenging-cbns-policy/> Accessed 7/1/2024.

<sup>81</sup> Ameh Ejekwoyilo, “Timeline: Naira Redesign Policy From Inception to Supreme Court Judgement” supra

<sup>82</sup> Ibid

<sup>83</sup> Ibid

by the Respondents on the question of jurisdiction, holding that it had jurisdiction to determine the matter. The Supreme Court frowned at the brazen disobedience of its order by the government, stating that it was “a sign of the failure of the constitution and that democratic governance has become a mere pretension and is now replaced by autocracy or dictatorship.”<sup>84</sup> The Court, per Justice Emmanuel Agim, stated thus;

The rule of law upon which our democratic governance is founded becomes illusory if the President of the country or any authority or person refuses to obey the orders of courts. The disobedience of orders of courts by the President in a constitutional democracy as ours is a sign of the failure of the constitution and that democratic governance has become a mere pretension and is now replaced by autocracy or dictatorship.<sup>85</sup>

Holding that the action of the federal government was unconstitutional and a breach of the fundamental rights of citizens, the Supreme Court's judgment further reaffirmed its earlier interim order and finally ordered again that the old N200, N500, and N1000 notes would remain legal tender alongside the new notes until 31 December 2023.<sup>86</sup> This order was again immediately disobeyed until Buhari's administration came to an end in May 2023. The current government of President Tinubu has since extended the validity of the relevant old notes indefinitely.<sup>87</sup>

***Supreme Court's judgment further reaffirmed its earlier interim order and finally ordered again that the old N200, N500, and N1000 notes would remain legal tender alongside the new notes until 31 December 2023.<sup>86</sup> This order was again immediately disobeyed until Buhari's administration came to an end in May 2023.***

### **5.3 The El-Zakzakys: Suit No. FHC/ABJ/CS/281/2016<sup>88</sup>; Suit No. FHC/ABJ/CS/282/2016<sup>89</sup>**



This was a criminal case involving the leader of the Shia religious organisation, the Islamic Movement of Nigeria (IMN), the federal government of Nigeria, and the Kaduna state government. At least 5 orders of court were disobeyed in this case.

<sup>85</sup> Ibid; Leke Baiyewu, “New Naira: CBN Must Comply with Supreme Court Judgment, Says Gbajabiamila” Punch 3 March 2023. Available at <https://punchng.com/new-naira-cbn-must-comply-with-supreme-court-judgment-says-gbajabiamila/> Accessed 7/1/2024.

<sup>86</sup> Emmanuella Obaje-Daniels, “Naira Swap: AGF Asks Supreme Court to Dismiss State Government's Suit” Channels 8 February 2024. Available at <https://www.channelstv.com/2023/02/08/naira-swap-agf-asks-supreme-court-to-dismiss-state-governments-suit-challenging-cbns-policy/> Accessed 7/1/2024

<sup>87</sup> Camilla Eboh, “Nigeria Central Bank Says Old Bank Notes to Remain Legal Tender” Reuters 14 November 2023. Available at <https://www.reuters.com/markets/currencies/nigeria-central-bank-says-old-bank-notes-remain-legal-tender-2023-11-14/> Accessed 7/10/2023.

<sup>88</sup> Cited in Sahara Reporters, “The Many Court Orders Violated By Nigerian Government on El-Zakzaky, Wife's Release” Sahara Reporters 29 June 2021. Available at <https://saharareporters.com/2021/07/29/many-court-orders-violated-nigerian-government-el-zakzaky-wifes-release> Accessed 8/1/2024.

<sup>89</sup> Ibid



Following a fatal clash between officers of the Nigerian Army and members of the IMN in Zaria, Kaduna state, in which about 347 followers of the religious sect were killed, El-Zakzaky and his wife were arrested on 14 December 2015 on suspicion of committing a criminal offence.<sup>90</sup> In 2016, after being in detention for several months without charge/trial, the federal government finally arraigned El-Zakzaky at the Federal High Court where an 8-count charge bordering on homicide, unlawful assembly, and disruption of public peace was preferred against him.<sup>91</sup>

Available reports show that on 2 December 2016, following a fundamental rights enforcement action filed by El-Zakzaky against the federal government before Justice G.O. Kolawole of the Federal High Court, the court ordered that El-Zakzaky and his wife be released from unlawful detention within 45 days.<sup>92</sup> In the suit, *El-Zakzaky v. DSS & 2Ors*,<sup>93</sup> the court further ordered the government to provide a decent accommodation for the applicant anywhere of their choice within the Northern Region. Also, the court ordered the government to pay a total sum of N50 million to El-Zakzaky and his wife; and the court further ordered the government to provide 24/7 police protection to El-Zakzaky and his wife in their new home.<sup>94</sup>

***the court ordered that El-Zakzaky and his wife be released from unlawful detention within 45 days.<sup>92</sup> In the suit, El-Zakzaky v. DSS & 2Ors,<sup>93</sup> the court further ordered the government to provide a decent accommodation for the applicant anywhere of their choice within the Northern Region. Also, the court ordered the government to pay a total sum of N50 million to El-Zakzaky and his wife; and the court further ordered the government to provide 24/7 police protection to El-Zakzaky and his wife in their new home.<sup>94</sup>***

All the four orders of the court were disobeyed by the federal government as the El-Zakzakys remained in detention until about five years later (from the date of their arrest) when the case against them was dismissed and they were acquitted and released from federal custody.<sup>95</sup> As reported by Sahara Reporters,<sup>96</sup> the judgment of the Court, per Justice Gabriel Kolawole, partly reads thus;

The Respondents shall within 45 days of this Judgment make proper and decent arrangement of a residential abode for the Applicant and his family in Kaduna State or anywhere of their choice within the Northern Region, where the Applicant and his wife and their children can relocate when released upon the expiration of 45 days from today (that is, 2/12/2016).

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<sup>90</sup> Sahara Reporters, "The Many Court Orders Violated By Nigerian Governemnt on El-Zakzky, Wife's Relaese" Sahara Reporters 29 June 2021. Available at <https://saharareporters.com/2021/07/29/many-court-orders-violated-nigerian-government-el-zakzaky-wifes-release> Accessed 8/1/2024.

<sup>91</sup> Aljazeera, "Nigerian Court Acquits Shia Leader El-Zakzaky of All Charges" Aljazeera 29 July 2021. Available at <https://www.aljazeera.com/news/2021/7/29/nigerian-court-acquits-shia-leader-ibrahim-zakzaky-of-all-charges> Accessed 8/1/2024; Premium Times, "Passport Seizure: Court to Hear El-Zakzaky, Wife's 4 Billion Suit January 19" Premium Times and Agency Report 5 November 2021. Available at <https://www.premiumtimesng.com/news/more-news/493549-passport-seizure-court-to-hear-el-zakzaky-wifes-n4-billion-suit-january-19.html?tztc=1> Accessed 8/1/20.

<sup>92</sup> Tayo Souemi, "Court Orders 24/7 Police Protection for Shia Leader, El-Zakzaky and His Wife Upon Release" Sahara Reporters 19 December 2016. Available at <https://saharareporters.com/2016/12/19/court-orders-247-police-protection-shi%E2%80%99-leader-el-zakzaky-and-his-wife-upon-release> Accessed 8/1/2024

<sup>93</sup> Suit No. FHC/ABJ/CS/281/2016

<sup>94</sup> Tayo Souemi, "Court Orders 24/7 Police Protection for Shia Leader, El-Zakzaky and His Wife Upon Release" *Supra*

<sup>95</sup> Sahara Reporters, "The Many Court Orders Violated By Nigerian Governemnt on El-Zakzky, Wife's Relaese" *Supra*

<sup>96</sup> Tayo Souemi, "Court Orders 24/7 Police Protection for Shia Leader, El-Zakzaky and His Wife Upon Release" *Supra*

The judgment dated December 2 2016 reads in part: "Let me state clearly and for the avoidance of doubt that the failure by the government to effect the release of the Applicant and his wife from its custody or any illegal custody whatsoever, upon the expiration of the 45th day from 2/12/2016, such failure shall not only constitute a deliberate acts of disobedience of these orders, but it will crystallize into fresh cause of action of infraction of the Applicant's rights and his wife to personal liberty guaranteed by the Constitution of Nigeria 1999, as amended."

The Inspector General of Police or any of its subordinate officers not below the rank of Assistant Inspector General when he received the Applicant and his wife as ordered, shall take immediate step within 24 hours of receiving the Applicant and his wife convey the Applicant and his wife under necessary security escort to their place of abode as would have been provided by the 1st Respondent working in conjunction with the 3rd Respondent. The 2nd Respondent shall then provide the Applicant and his wife police protection which shall operate 24/7 until the alleged threats which were not provided by any admissible evidence but left in the realm of speculation are moved or significantly diminished."

Let it be clearly stated and for the avoidance of doubt that the protection which the 2nd Respondent shall accord to the Applicant and his wife shall not be used under any guise by the 2nd Respondent to place or confine the Applicant and his wife under any form of restriction which would invariably translate to the 2nd Respondent substituting its own 'safety custody' with the 1st Respondent's 'protective custody'.

The essence of the order which I have made is to enable the Applicant and his wife to be able to live their normal lives whilst being under constant protective watch by the 2nd Respondent's officers in their new place of abode. It is the primary responsibility of the 2nd Respondent to protect lives and properties of every Nigerian and even non Nigerian within our country's boundaries."

Applicant and his wife in the said sister suit have cumulative general damages which I have fixed at N50 million. The Applicant's suit and the wife's sister suit succeed on the basis of the reliefs which the Court has granted."

When I reflected on all the issues and questions which I had raised in the course of reviewing the processes filed and exchanged by both parties, not only was I unable to set my eyes on the provision of any law or the Constitution by which the Applicant's detention, albeit in a 'protective custody' can be justified."

By my modest understanding of constitutional law, every act of detention is presumed to be unlawful and having to the omnibus provision of Section 35 of the Constitution of Nigeria 1999 as amended, to be unconstitutional. The evidential burden to prove that the detention of any citizen or non-citizen who resides within the boundaries of Nigeria in the context of the exceptions in Section 35(1)(a)-(f) invariably lay on the State or any of its agents or agencies as the jailer."

The Court has not been afforded any believable evidence (for instance, to produce the Applicant in order for him in the full glare of the public, to denounce the suit filed on his behalf by Femi Falana,



and to state as a free citizen, that he had consented to his being held in the custody of the 1st Respondent's custody for his own safety) to prove the alleged consent of the Applicant to be held in protective custody.”

The issues which the instant suit has thrown up are in my view too serious and of fundamental importance to the health of our national psyche in a democratic setting that this Court will fail the legitimate and expressed expectations of the Rules to enforce the Applicant's fundamental rights allegedly breached by the Respondent. If I leave to borrow a folklore saying in the Yoruba language, a more deleterious ailment of leprosy as it were, and begin to grapple with the lesser issue of 'ringworms.'

To do so by dancing to such niggling issues of technicality will be a disservice to the demands of justice, and the legitimate expectation of majority of Nigerian people who look up to the Judiciary as the only arm of government empowered by virtue of the provisions of Chapter IV of the Constitution to serve as the bulwark against possible violations of the Constitution and occasional mindless abuse of powers by any of the arms or agencies of government.”

While both learned Counsel have been duly heard on their respective processes, in the course of adjourning the case for Judgment, I deliberately engaged both the Applicant's lead Counsel Femi Falana, Esq. SAN, who over the years has remained unarguably one of Nigeria's legal profession's constant and unwavering 'combatant' in the field and on the frontline of human rights advocacy and the Respondents' Counsel.”

“My judicial intervention in this regard was to protect our country from further needless global exposure which the instant case has occasioned, and to minimize whatever damage the incident may have caused to our national image with the international community amongst friendly democratic states.<sup>97</sup>

From the above, it can be gleaned that the court anticipated that the federal government would likely disobey its orders. This was not unconnected to the impunity and brazen nature of contempt of court orders under the presidency of former President Muhammadu Buhari, a fortiori, the Fourth Republic.

Following the federal government's disobedience of the court orders, in January 2017, a Federal High Court again ordered and directed the government, that is, the then Inspector General of Police, Ibrahim Idris, the Attorney General of the Federation, and Minister of Justice, Abubakar Malami, and the Director of the Department of State Services to obey its earlier order granting bail to the El-Zlazzakys.<sup>98</sup> The court notice warning the public officers that they risked being charged with contempt of court read partly thus;

Take notice that unless you obey the direction contained in the order of the Federal High Court of Justice Abuja, delivered on the 2nd December 2016 which ordered you to the Applicants in Suit No.

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<sup>97</sup> Ibid

<sup>98</sup> Sahara Reporters, “The Many Court Orders Violated By Nigerian Governemnt on El-Zakzky, Wife's Relaease” Supra

FHC/ABJ/CS/281/2016 and its sister case Suit No. FHC/ABJ/CS/282/2016 within forty (40) days, inter alia you will be guilty of contempt of court and will be liable to be committed to prison.<sup>99</sup>

**January 2017, a Federal High Court again ordered and directed the government, that is, the then Inspector General of Police, Ibrahim Idris, the Attorney General of the Federation, and Minister of Justice, Abubakar Malami, and the Director of the Department of State Services to obey its earlier order granting bail to the El-Zakzakys.**

However, this directive from the court was also displayed. Although in August 2019 the El Zakzakys were released on medical grounds to travel to India following an order of the court, they were re-arrested upon arrival in Nigeria.<sup>100</sup>



## **5.4 Col. Sambo Dasuki (Rtd)**

This case involves the former National Security Adviser (NSA), Col. Sambo Dasuki, and the federal government, including EFCC, DSS/SSS, and the office of the AGF. According to Falana, in this case, the government disobeyed at least “eight orders of the Federal High Court, Federal Capital Territory High Court, ECOWAS Court and the Court of Appeal, which admitted Dasuki to bail”.<sup>101</sup>

After DSS laid siege to his house, Dasuki was arrested in July 2015 by DSS.<sup>102</sup> According to the International Centre for Investigative Report (ICIR);<sup>103</sup>

“Dasuki was arrested over an alleged diversion of \$ 2.1 billion arms funds while serving as the NSA under the administration of former President Goodluck Jonathan. The former NSA boss was also charged with awarding ghost contracts to buy 12 helicopters, four fighter jets, and ammunition meant for Nigeria’s military campaign against the Boko Haram insurgency.”

On 24 August 2015, Dasuki was arraigned before Justice Adeniyi Ademola of the Federal High Court where he was charged with illegal possession of firearms punishable under Section 27(i)(a)(i) of the

<sup>99</sup> Ibid

<sup>100</sup> Theophilus Adedokun, “Major Court Orders Buhari Administration Disobeyed in Eight Years” supra ; Olugbenga Adanikin, “El-Zakzaky, Wife Return From India Medical Trip Three Days After Departure” supra; Onozure Dania, “Buhari Years Revive Ghost of Military Dictatorship, Disobedience to Court Orders” supra

<sup>101</sup> Femi Falana, Nigerian Court Lacks Power to Detain Sowore, Dasuki Against Court Orders by Femi Falan” Sahara Reporters January 5, 2020. Available at <https://saharareporters.com/2020/01/05/nigerian-government-lacks-power-detain-sowore-dasuki-against-court-orders-femi-falana> Accessed 17/1/2024; Evelyn Okakwu, “Special Report: How Buhari Administration Serially Disobeys Court Orders” Premium Times June 11/2017. Available at <https://www.premiumtimesng.com/news/headlines/233665-special-report-how-buhari-administration-serially-disobeys-court-orders.html?tztc=1> Accessed 16/12/2023.

<sup>102</sup> Sonia Daniel & Chris Ochai, “DSS Charges Dasuki, Ex-NSA to Court” Vanguard 25 August 2015. Available at <https://www.vanguardngr.com/2015/08/dss-charges-dasuki-ex-nsa-to-court/> Accessed 9/1/2024)

<sup>103</sup> Theophilus Adedokun, “Major Court Orders Buhari Administration Disobeyed in Eight Years” ICIR 19 May 2023. Available at <https://www.icirigeria.org/major-court-orders-buhari-administration-disobeyed-in-his-eight-years/> Accessed

Firearms Act Cap F28 LFN, 2004.<sup>104</sup> On 3 November 2015, upon his bail application, the court admitted him to bail on medical grounds. The court also ordered the DSS to release his international passport to enable him to travel abroad for medical treatment.<sup>105</sup> These orders were disobeyed.<sup>106</sup> Instead of returning his international passport to him as ordered by the court, the DSS laid siege to his house and rearrested him.<sup>107</sup>

While the above trial was pending, in a separate case, having been indicted of a \$2 billion arms deal fraud, the EFCC arrested Dasuki and charged him with various offences against the Penal Code and the EFCC Act. Upon Admittance to bail pending trial, DSS rearrested Dasuki.<sup>108</sup> An appeal by Dasuki to the Court of Appeal against the ruling of the High Court of the Federal Capital Territory, Abuja, which dismissed Dasuki's case against his re-arrest by DSS was also dismissed. Dismissing the appeal, the Court of Appeal held to the effect that Dasuki's re-arrest by DSS was lawful as there was no order made by the lower court against his re-arrest.<sup>109</sup>

***the court admitted him to bail on medical grounds. The court also ordered the DSS to release his international passport to enable him to travel abroad for medical treatment.<sup>105</sup> These orders were disobeyed.***

To expand on this, in *Dasuki v. FRN*,<sup>110</sup> as reported by LPELR, the appellant (Dasuki) was arraigned along with four others on a 19-count charge alleging diverse Penal Code offences of Criminal Breach of Trust, Receiving stolen property, Criminal misappropriation and sundry offences against the EFCC Act. They all pleaded not guilty to the charges. The trial Court remanded the appellant and other accused persons in prison custody pending their bail applications. The charges against all the accused persons were filed by the EFCC and it is this body that is prosecuting them. On the 18th of December 2015, the trial High Court granted the defendants bail. In respect of the appellant, the Court admitted him to bail in the sum of N250 million with a reasonable and responsible surety in the like sum. He was at the time, held at the Prison in Kuje, on the Orders of the trial High Court. He was released from prison, by the comptroller of Prisons, because the Warrant of release was directed at the Comptroller of Prisons.

The Appellant was later rearrested by men of the DSS, after his release from prison custody. Aggrieved by his re-arrest, appellant sought redress from the Trial Court. In its ruling on 8 of February, 2016, the trial court dismissed the appellants application. Dissatisfied, the applicant appealed to the Court of Appeal, per Abdu Aboki held thus;

Power to punish for disobedience of Court Order is quasi-criminal and by Section 36(9) of the 1999 Constitution, no person is guilty of any act or omission that was not an offense at the time it was made. *OGAJI VIGOKKEN-DIGBANI* (2010) 10 NWLR (PT. 1202) 289 In the instant appeal, the trial judge in his Ruling rise to this appeal, held "... I did not make any order against a re-arrest..." Obviously

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<sup>105</sup> Ibid

<sup>106</sup> Kingsley Obiejesi, "Five Times DSS Refused to Release Dasuki Despite Being Granted Bail By Court" supra

<sup>107</sup> K Akintoye, "DSS Arrests Dasuki Again" Channels 1 December 2015. Available at <https://www.channelstv.com/2015/12/01/dss-arrests-dasuki-again/> Accessed 9/1/2024

<sup>108</sup> Ibid

<sup>109</sup> *Dasuki v. FRN & Ors* (2016) LPELR-45731(CA)

<sup>110</sup> Supra

of the Appellant, since there was no order made against the re-arrest of the Appellant, in existence. In the circumstances, there cannot be a disobedience of a non-existing Order of the Court, whether by the EFCC or the DSS. Again, apart from an existing Court Order, it must be shown that the order of the Court was served on the alleged contemnor. Here, the trial judge found that there was no service of Form 48 on the DSS. The Order itself has not been shown to be served on the DSS. The failure to so serve is fatal to the proceedings as the disobedience could not have been established - *KADIRI V. KADIRI* (1990) 5 NWLR (PT. 153) 665. This is because by Section 36(6) of the Constitution a person is entitled to be informed in detail about the nature of the offence he is accused of, in addition to giving him adequate time to prepare his defence. If the DSS was not served with the Order of Court and Form 48, they could not conceivably know of the Order of Court they allegedly disobeyed - *MAJORAH V. FASSASSI* (NO. 1) (1986) 5 NWLR (PT, 40) 243. So, the Appellant, ought to have established that (1) the terms of the Court Order were clear and unambiguous; (2) the Respondent had proper notice of the Order and (3) they had broken it - *ONAGORUWAV. ADENEJI* (1993) 5 NWLR (Pt. 293). If any of these ingredients is missing, it will be fatal to the charge of disobedience of Court Order and so contempt. Hence, the Order was clear but it did not prevent re-arrest. The Order was not served on the DSS. In respect of the EFCC, I need to point out also, that disobedience to Court order, as contempt is an imputation of crime and so the onus is always on the Appellant who alleges the contempt, to prove that not only is there contempt, but that it was the EFCC or any other body, that actually committed it deliberately with guilty mind. See *A-G ANAMBRA V. IKEKE* (2002) 12 NWLR (PT. 762) 575. The EFCC did not re-arrest the Appellant, as found by the trial judge. The EFCC that arrested him had not been served with any Court order not to arrest him so it could not have acted with any deliberation and with a guilty mind. From the foregoing therefore, I firmly hold that there was no violation or disobedience of the Order of the trial High Court, made on the 18th of December 2015, whatsoever. The Appellant has also made heavy weather stating that the act of DSS is the act of EFCC since they are both agencies of the complainant Federal Republic of Nigeria. I entirely agree with the position of the trial Court that this cannot hold true. Both agencies are set up by different Act, giving them separate powers and functions. One cannot bind the other or perform the function of the other. If the Appellant having been granted bail is driving along the highway and he commits a traffic offence, and the police (which is also an agency of the Federal Government) arrests him, would the Prisons (which is the body agency directed to release the Appellant) be held responsible for disobedience of the Order of Court, because of the action of the Police? That would be incredulous. The case of *HADKINSON V. HADKINSON* (Supra) does not apply here as contrary to the position in this case, there was found and proved contempt in that case. As for the case of *LAGOS STATE GOVERNMENT V. OJUKWU* (Supra) that was a civil case not a criminal case. Besides, there was also proved, a clear case of contempt and self help by the Lagos State Government. That is not what obtains here.<sup>111</sup>

The above judgment shows that the mere fact of re-arresting a defendant does not constitute a violation of a prior order of court admitting the defendant to bail. However, this further set the stage for the disobedience of numerous orders of court by the government in connection with Dasuki.

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<sup>111</sup> Ibid

Again, after Dasuki was arraigned before Justice Peter Affen of the High Court of the Federal Capital Territory, Abuja, he was admitted to bail.<sup>112</sup> This was again disobeyed by the government,<sup>113</sup> prompting Dasuki's counsel to describe it as "an affront to the rule of law under democracy".<sup>114</sup> Even the order of the ECOWAS Court was disobeyed. In *Col. Muhammed Sambo Dasuki (Rtd) v. Nigeria*<sup>115</sup> Dasuki took his case to the ECOWAS court against his illegal detention by the government. On 4 October 2016, the court ruled that the continued detention of Dasuki was illegal and unlawful and ordered his release from custody.<sup>116</sup> The court also ordered N15 million Naira damages in favour of Dasuki, and further ordered that the cost of litigation should be paid by the government.<sup>117</sup> All these orders were disobeyed by government.<sup>118</sup> Instead of obeying the orders of the ECOWAS Court, "the Attorney-General of the Federation and Minister of Justice, Abubakar Malami, said government was not under compulsion to respect that court order".<sup>119</sup>

**after Dasuki was arraigned before Justice Peter Affen of the High Court of the Federal Capital Territory, Abuja, he was admitted to bail.<sup>112</sup> This was again disobeyed by the government**

There were series of reaffirmations of the order of court granting bail to Dasuki. Reports show that on 24 January 2017 and in April 2017, Justice Baba Yusuf and Justice Ahmed Mohammed, both of the Federal High Court, Abuja, respectively reaffirmed the bail earlier granted to Dasuki in 2015.<sup>120</sup> In effect, the justices further ordered the release of Dasuki from illegal detention. These reaffirmation orders were also disobeyed by the government.<sup>121</sup>

**Dasuki took his case to the ECOWAS court against his illegal detention by the government. On 4 October 2016, the court ruled that the continued detention of Dasuki was illegal and unlawful and ordered his release from custody.<sup>116</sup> The court also ordered N15 million Naira damages in favour of Dasuki, and further ordered that the cost of litigation should be paid by the government.<sup>117</sup> All these orders were disobeyed by government.**

Further more, it is on record that on July 2, 2018, the Federal High Court, Abuja, made an order admitting Dasuki to bail, which is similarly disobeyed by the government.<sup>122</sup> According to report, the court, per Justice Ijeoma Ojukwu ruled that;

[Dasuki's] detention since December 29, 2015 amounted to a violation of his right to liberty

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<sup>112</sup> Suit No. FCT/HC/CR/43/2015. Cited in Ayodele Oluwagbemi, "N13.6bn Fraud: Court Adjourns Dasuku's Case Till Oct 21" 5 October 2016. Available at <https://punchng.com/court-adjourns-dasukis-case-till-oct-21/> Accessed 9/1/2024.

<sup>113</sup> Kingsley Obiejesi, "Five Times DSS Refused to Release Dasuki Despite Being Granted Bail By Court" International Centre for Investigative Reporting -ICIR 3 July 2018. Available at...

<sup>114</sup> Ibid

<sup>115</sup> ECW/CCJ/JUD/23/16 cited in Human Rights Case Law Analyzer. Available at.

<https://caselaw.ihrda.org/fr/entity/xg377cv980i?page=14&raw=true> Accessed 9/1/2024

<sup>116</sup> Kingsley Obiejesi, "Five Times DSS Refused to Release Dasuki Despite Being Granted Bail By Court" International Centre for Investigative Reporting -ICIR 3 July 2018. Available at...

<sup>117</sup> Ibid

<sup>118</sup> Ibid

<sup>119</sup> Evelyn Okakwu, "Special Report: How Buhari Administration Serially Disobeys Court Orders" supra 120 Kingsley Obiejesi, "Five Times DSS Refused to Release Dasuki Despite Being Granted Bail By Court" supra 121 Ibid

<sup>122</sup> Onozure Dania, "Buhari Years Revive Ghost of Military Dictorship, Disobedienveto Court Orders" supra



the Federal Government's contention that Dasuki was being kept in custody on the grounds of his alleged threat to national security and his alleged investigation for money laundering did not warrant 'abrogating his right'.<sup>123</sup>

***in April 2017, Justice Baba Yusuf and Justice Ahmed Mohammed, both of the Federal High Court, Abuja, respectively reaffirmed the bail earlier granted to Dasuki in 2015.<sup>120</sup> In effect, the justices further ordered the release of Dasuki from illegal detention. These reaffirmation orders were also disobeyed by the government.***

The government predicated the continued detention of Dasuki on public good. According to the then Attorney-General of the Federation, Abubakar Malami, public good superseded the individual rights of Dasuki.<sup>124</sup> He is reported to have stated thus;

What I want you to know is that issues concerning law and order under Muhammadu Buhari are sacrosanct and obeying court order is compulsory. However you should also know that there is a general consensus world over that where the dispute is only between individuals, then you can consider the issue based on the instant situation. But if the dispute is about an issue that affects an entire nation, then you have to remember that government is about the people not for only an individual.

So you have to look at it from this perspective. If the issue about an individual coincides with that which affects the people of a nation and you are now saying the government did not obey a court order that infringes on a single person's rights. Remember we are talking about a person who was instrumental to the deaths of over one hundred thousand people. Are you saying that the rights of one person is more important than that of 100,000 who lost their lives?

Reports have shown that there was massive mismanagement of funds meant for military hardware which the military could not access and that led to the death of many, embezzlement of the fund and because of that many people have lost their lives. Obeying the court is not the issue per say. Are we going to take the issue of an individual more important than that of the people? The government's main responsibility is for and about the people. The essence of governance is to better the lives of its people. So you have to weigh it based on that; the rights of an individual or the rights of the people.<sup>125</sup>

Reports also show that in 2019, an appellate court awarded N5 million in favour of Dasuki and against the DSS for the illegal detention of Dasuki, which was disobeyed.<sup>126</sup> Dasuki was finally released from DSS custody in December 2019.<sup>127</sup>

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<sup>123</sup> Ibid

<sup>124</sup> Evelyn Okakwu, "Why Nigerian Govt Can't Release Dasuki – Attorney General Malami" Premium Times 19 July 2018. Available at <https://www.premiumtimesng.com/news/headlines/277085-why-nigerian-govt-cant-release-dasuki-attorney-general-malami.html> Accessed 17/1/2024.

<sup>125</sup> Ibid

<sup>126</sup> Theophilus Adedokun, "Major Court Orders Buhari Administration Disobeyed in Eight Years" supra

<sup>127</sup> Ibid

in 2019, an appellate court awarded N5 million in favour of Dasuki and against the DSS for the illegal detention of Dasuki, which was disobeyed.



## 5.5 Nnamdi Kanu<sup>128</sup>

This is a criminal case involving the leader of the Indigenous People of Biafra (IPOB), Mazi Nnamdi Kanu and the DSS. At least two court orders have been violated in respect of this case.

In an original charge, Nnamdi Kanu was accused of various offences, bordering on terrorism after he was unlawfully extradited from Kenya.<sup>129</sup> Upon a preliminary objection questioning the validity of the charges, the trial court struck out 8 of 15 charges and retained only 7. Dissatisfied, both the federal government and Kanu appealed and cross-appealed respectively.<sup>130</sup> Kanu argued that the 7 charges retained by the trial court should be struck out. While the appeals were pending, the federal government re-arraigned Kanu at the trial court on a 7-count amended charge as retained by the trial court.<sup>131</sup>

Upon application for bail, the trial court admitted Kanu to bail, but the DSS refused to release him.<sup>132</sup> According to reports, “the Federal government disobeyed the order of the Federal High Court in Abuja on Kanu’s bail and denied him access by his legal team and family members”.<sup>133</sup>

Meanwhile, in its judgment, the Court of Appeal struck out the 7 charges retained by the trial court and consequently ordered the DSS to release Kanu.<sup>134</sup> As reported, the court per Hanatu Sankey held to the effect that “having illegally and forcefully renditioned [sic] the appellant, the trial court is stripped of jurisdiction to continue to try Kanu.”<sup>135</sup> However, the government did not release Kanu.<sup>136</sup> Instead, the government further appealed to the Supreme Court and obtained an order from the Court of Appeal for a stay of execution of the Court of Appeal's judgment. In December 2023 the Supreme Court reversed the decision of the Court of Appeal and held to the effect that Kanu could be tried for terrorism charges.<sup>137</sup> Kanu is still in federal custody.

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<sup>128</sup> Suit No.FHC/ABJ/CR/383/2015 Cited in Bolanle Olabimtan, FG Files Seven-Count Amended Charge Against Nnamdi Kanu” The Cable 11 November 2022.. Available at <https://www.thecable.ng/fg-files-seven-count-amended-charge-against-nnamdi-kanu/amp> Accessed 11/1/2024

<sup>129</sup> Ibid.

<sup>130</sup> Ibid

<sup>131</sup> Ibid

<sup>132</sup> Theophilus Adedokun, “Major Court Orders Buhari Administration Disobeyed in Eight Years” supra

<sup>133</sup> Bolanle Olabimtan, FG Files Seven-Count Amended Charge Against Nnamdi Kanu” supra

<sup>134</sup> Ibid: Ameh Ejekwoyilo, “Appeal Court Ends Nnamdi Kanu’s Trial, Orders IPOB Leaders Release” Premium Times 13 October 2022. Available at

<sup>135</sup> Ibid

<sup>136</sup> Ibid



Also, in 2022, in another suit, the Abia State High Court found that the Nigerian Army unlawfully invaded Kanu's home in 2017.<sup>138</sup> The court awarded N1 Billion in favour of Kanu and against the federal government. This order has not been obeyed; stated differently, it is being disobeyed.<sup>139</sup>

Cybercrime Act, 2015

## 5.6 Laws and Rights Awareness Initiative v. Federal Republic of Nigeria<sup>140</sup>

This was a civil suit involving the Laws and Rights Initiative (LRAI) and the federal government. One order of court was disobeyed by the government in this case.

In 2015, Nigeria enacted the Cybercrime (Prohibition, Prevention, etc.) Act to combat the menace of cybercrimes in the country. However, Section 24 of the Act which provides for the offence of cyberstalking appears to be vague and imprecise, empowering the government and its agents to rely on it to arbitrarily arrest and prosecute dissenting voices online. LRAI instituted the above suit against the government at the ECOWAS Community Court of Justice praying the Court for numerous declarations and orders, including “[a] DECLARATION that the provisions of Section 24 of Cybercrime (Prohibition and Prevention, etc.) Act, 2015 violate Article 9, paragraphs 1 and 2 of the African Charter on Human and Peoples' Rights, as well as international law” and an “ORDER which obligates the Defendant to eliminate the provisions of Section 24 of the Cybercrime (Prohibition, Prevention, etc.) Act, 2015 from its legislation”.

Section 24 of the Cybercrime Act, which provides for the offence of cyberstalking is worded thus;

24 (1) “Any person who Knowingly or intentionally sends a message or other matter by means of computer system or network that:

(a) Is grossly offensive or phonographic or an indecent obscene or menacing character or causes any such message or matter to be so sent; or

(b) He knows to be false, for the purpose of annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred, ill will or needless anxiety to another or caused such a message to be sent: commits an offence under this act and shall be liable on conviction to fine of not more than N7,000,000.00 or imprisonment.

(2) Any person who knowingly or intentionally transmits or causes the transmission of any communication through a computer system or network-

(a) Bully, threaten or harass another person, where such communication places another person in fear of death, violence or bodily harm or to another person;

(b) containing any threat to kidnap any person or any threat to harm the person of another, any

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<sup>137</sup> Emmanulla Ekele, “Supreme Court Insists Nnamdi Kanu Must Face Trial, Overturns Court Judgment” Channels 15 December 2023. Available at <https://www.channelstv.com/2023/12/15/breaking-supreme-court-insists-nnamdi-kanu-must-face-trial-overturns-acourt-judgement/> Accessed 11/1/2024.

<sup>138</sup> Theophilus Adedokun, “Major Court Orders Buhari Administration Disobeyed in Eight Years” supra

<sup>139</sup> Ibid

<sup>140</sup> Suit No. ECW/CCJ/APP/53/2018; Judgment No. ECW/CCJ/JUD/16/20; cited in African Human Rights Case Law Analyzer, Available at <https://caselaw.ihrda.org/en/entity/s8gzucy29q?page=12> Accessed 13/1/2024; Open Law Africa, Available at <https://new.zambialii.org/akn/aa-au/judgment/ecowascj/2020/6/eng@2020-07-10> Accessed 13/1/2024.

(c) containing any threat to harm the property or reputation of the addressee or of another or the reputation of a deceased person or any threat to accuse the addressee or any other person of a crime, to extort from any person, firm, association or corporation, any money or other thing of value;

Commits an offence under this act and shall be liable on conviction-

- (i) in the case of paragraphs (a) and (b) of this sub-section to imprisonment for a term of ten years and/a minimum fine of N25,000,000.00 and
- (ii) in the case of paragraph (c) and (d) of this subsection, to imprisonment for a term of 5 years and/or a minimum fine of N15,000,000.00.

(3) A Court sentencing or otherwise dealing with a person convicted of an offence under sub sub-section (1) and (2) may also make an order, which may for the purpose of protecting the victim of the offence or any other person mentioned in the order from further conduct which

- (a) Amounts to harassment; or
- (b) Will cause fear of violence, death or bodily harm; prohibit the defendant from doing anything described/specified in the order.

(4) A defendant who does anything which he is prohibited from doing by an order under this section commits an offence and shall be liable on conviction to fine of not more than N10,000,000.00 or imprisonment for a term of not more than 3 years or to both such fine and imprisonment...<sup>141</sup>

In its judgment delivered on 10 July 2020, the court held, inter alia, “[t]hat the Defendant State, by adopting the provisions of Section 24 of Cybercrime (Prohibition, Prevention, etc.) Act, 2015, violates Articles 9 (2) of the African Charter on Human and Peoples' Rights and 19 (3) of the International Covenant on Civil and Political Rights’.<sup>142</sup> The court further held that “[c]onsequently, it orders the Defendant State to repeal or amend Section 24 of the Cybercrime Act 2015, in accordance with its obligation under Article 1 of the African Charter and the International Covenant on Civil and Political Rights’”.<sup>143</sup> This order was disobeyed by the government, which prompted the Socio-Economic Rights and Accountability Project (SERAP) to initiate a similar action in 2019 against the government as will be seen in the discussion under (5.7.10) below.

***In its judgment delivered on 10 July 2020, the court held, inter alia, “[t]hat the Defendant State, by adopting the provisions of Section 24 of Cybercrime (Prohibition, Prevention, etc.) Act, 2015, violates Articles 9 (2) of the African Charter on Human and Peoples' Rights and 19 (3) of the International Covenant on Civil and Political Rights’.<sup>142</sup> The court further held that “[c]onsequently, it orders the Defendant State to repeal or amend Section 24 of the Cybercrime Act 2015, in accordance with its obligation under Article 1 of the African Charter and the International Covenant on Civil and Political Rights’”.<sup>143</sup> This order was disobeyed by the government***

<sup>141</sup> Cybercrime Act, Section 24

<sup>142</sup> Judgment No. ECW/CCJ/JUD/16/20

<sup>143</sup> Ibid

## 5.7 Socio-Economic Rights and Accountability Project (SERAP)

SERAP is one of the leading civil rights organisations in Nigeria working to hold government accountable to respect and ensure the socio-economic rights of the people. In this regard, SERAP has instituted many public interest civil suits against the government and has obtained numerous judgments in its favour. At least 30 orders, including principal and ancillary orders, in favour of SERAP have been or are being disobeyed by the government. Some of these orders, as provided by SERAP are discussed below.<sup>144</sup>



### 5.7.1 SERAP v. Attorney General of the Federation<sup>145</sup>

In the above case, SERAP prayed the Federal High Court to compel the federal government to challenge the legality of state pension laws under which former governors, who are now lawmakers or ministers enjoy former governor's emoluments while also drawing normal salaries and allowances as public servants. In its decision delivered on 26 November 2019, the Federal High Court, per Justice Oluremi Oguntoyinbo, granted the prayer and ordered the federal government to act accordingly. The court held thus;

The Respondent (Attorney General) is hereby directed to urgently institute appropriate legal actions to challenge the legality of states' laws permitting former governors, who are now senators and ministers to enjoy governors' emoluments while drawing normal salaries and allowances in their new political offices and to identify those involved and seek full recovery of public funds from the former governors.<sup>146</sup>

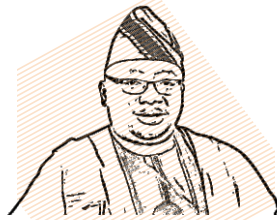
The federal government continues to disobey this order to date.

***The court held thus; The Respondent (Attorney General) is hereby directed to urgently institute appropriate legal actions to challenge the legality of states' laws permitting former governors, who are now senators and ministers to enjoy governors' emoluments while drawing normal salaries and allowances in their new political offices and to identify those involved and seek full recovery of public funds from the former governors.<sup>146</sup> The federal government continues to disobey this order to date.***

<sup>144</sup> Upon an inquiry by Citizens' Gavel via an email dated 6 January 2024, SERAP graciously furnished Citizens' Gavel with some court judgments in their favour, which the government is yet to obey, in a reply dated 9 January 2024. See also Vanguard News, "Obey Court Judgments or Face Contempt Proceedings, SERAP Tells Buhari Government" Vanguard News 8 December 2021. Available at..

<sup>145</sup> Suit No. FHC/L/CS/1497/2017

<sup>146</sup> Ibid



## ■■■■ SERAP v. Minister of Power<sup>147</sup>

In the above suit, SERAP invoked the Freedom of Information Act, 2011 and requested the Federal Government/Ministry of power to provide SERAP with certain documents and information containing the specific names and details of contractors and companies that have been engaged in the power sector by successive governments since 1999, details of specific projects, and the amounts that have been paid to the contractors and companies, and details on the level of implementation of electricity projects and their specific locations across the country. This was refused. SERAP instituted the above action seeking numerous declarations and orders. In its judgment delivered on 4 July 2019, the Federal High Court, per Justice Chuka Austine Obiozor, declared and ordered as follows;

- i. A DECLARATION is hereby made that the failure and/or refusal of the Respondent [Federal Government/Ministry of Power] to provide SERAP with documents and information containing the specific names and details of contractors and companies that have been engaged in the power sector by successive governments since 1999, details, of specific projects and the amounts that have been paid to the contractors and companies, details on the level of implementation of electricity projects and their specific locations across the country, and failure to widely publish it on a dedicated website, any of such information, amounts to a breach of the obligations under the Freedom of Information Act 2011
- ii. A DECLARATION is hereby made that the failure and/or refusal of the Respondent [Federal Government/Ministry of Power] to provide SERAP with specific documents and information containing the specific names and details of contractors and companies that allegedly collected money for electricity projects from successive governments since 1999 but failed to execute any of such projects, and failure to widely publish it on a dedicated website, any of such information, amounts to a breach of the Respondent's responsibility/obligation under the Freedom of Information Act 2011.
- iii. AN ORDER OF MANDAMUS is made directing and compelling the Respondent [Federal Government/Ministry of Power] to urgently compile and make available to SERAP documents and information containing the specific names and details of contractors and companies that have been engaged in the power sector by successive governments since the return of democracy in 1999 to date, details of specific projects and the amounts that have been paid to the contracts and companies, details on the level of implementation of electricity projects and their specific locations across the country and to publish widely including on a dedicated website, any of such information.

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<sup>147</sup> Suit No. FHC/L/CS/105/19

iv. AN ORDER OF MANDAMUS is made directing and compelling the Respondent [Federal Government/Ministry of Power] to urgently compile and make available to SERAP documents and information containing the specific names and details of contractors and companies that allegedly collected money for electricity projects from successive governments since 1999 but failed to execute any projects

v. A DECLARATION is hereby made that the failure and/or refusal of the Respondent [Federal Government/Ministry of Power] to urgently disclose if there is an ongoing investigation or prosecution of allegedly corrupt contractors and companies in the electricity sector, amounts to a breach of the Respondent's responsibility/obligation under the Freedom of Information Act 2011.

***AN ORDER OF MANDAMUS is made directing and compelling the Respondent [Federal Government/Ministry of Power] to urgently compile and make available to SERAP documents and information containing the specific names and details of contractors and companies that allegedly collected money for electricity projects from successive governments since 1999 but failed to execute any projects***

vi. AN ORDER OF MANDAMUS is made directing and compelling the Respondent [Federal Government/Ministry of Power] to urgently disclose if there is an ongoing investigation or prosecution of allegedly corrupt contractors and companies in the electricity sector.<sup>148</sup>

Needless to say, all the above orders were disobeyed by the government/Ministry of Power.

***AN ORDER OF MANDAMUS is made directing and compelling the Respondent [Federal Government/Ministry of Power] to urgently disclose if there is an ongoing investigation or prosecution of allegedly corrupt contractors and companies in the electricity sector.<sup>148</sup> Needless to say, all the above orders were disobeyed by the government/Ministry of Power.***



### **5.7.3 SERAP v. President of the Republic of Nigeria & Anor<sup>149</sup>**

In 2018, SERAP instituted the above action praying the Federal High Court to compel the federal government to, inter alia, investigate the allegations of padding and stealing of the sum of N481 billion from the 2016 budget by some principal officers of the National Assembly, and direct the Attorney

<sup>148</sup> Ibid

<sup>149</sup> Suit No. FHC/L/CS/1821/17

General of the Federation to prosecute indicted officers. Delivering judgment on 28 May 2022, the court, per Justice M.B. Idris held in favour of SERAP as follows;

- AN ORDER of Mandamus directing and or compelling the 1st to do the following
- i. Urgently instruct security and anti-corruption agencies to forward to him reports of their investigations into allegations of padding and stealing of some N481 billion from the 2016 budget by some principal officers of the National Assembly, and to direct the Attorney General of the Federation and Minister of Justice, Abubakar Malami, SAN, and/or appropriate anti-corruption agencies to without delay commence prosecution of indicted officers;
  - ii. Direct the publication of the report of investigations by security and anti-corruption bodies into the alleged padding of the 2016 budget;
  - iii. Urgently halt alleged ongoing attempt by some principal officers of the National Assembly to steal N40 billion of the N100 billion allocated by his government as “zonal intervention”; in the 2017 budget;
  - iv. closely monitor and scrutinize the spending of N131 billion (accrued from increased oil benchmark) allocated for additional non-constituency projects expenditure, to remove the possibility of corruption.<sup>150</sup>

Similarly, all the above orders were disobeyed by the federal government.

*the court, per Justice M.B. Idris held in favour of SERAP as follows;*

*AN ORDER of Mandamus directing and or compelling the 1st to do the following*

*i. Urgently instruct security and anti-corruption agencies to forward to him reports of their investigations into allegations of padding and stealing of some N481 billion from the 2016 budget by some principal officers of the National Assembly, and to direct the Attorney General of the Federation and Minister of Justice, Abubakar Malami, SAN, and/or appropriate anti-corruption agencies to without delay commence prosecution of indicted officers;*

*ii. Direct the publication of the report of investigations by security and anti-corruption bodies into the alleged padding of the 2016 budget;*

*iii. Urgently halt alleged ongoing attempt by some principal officers of the National Assembly to steal N40 billion of the N100 billion allocated by his government as “zonal intervention”; in the 2017 budget;*

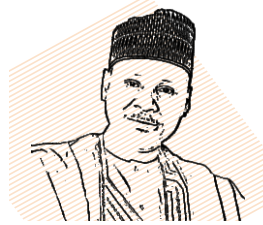
*iv. closely monitor and scrutinize the spending of N131 billion (accrued from increased oil benchmark) allocated for additional non-constituency projects expenditure, to remove the possibility of corruption.<sup>150</sup>*

*Similarly, all the above orders were disobeyed by the federal government.*

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<sup>150</sup> Ibid





## 5.7.4 SERAP v. Minister of Information<sup>151</sup>

In the above suit, by virtue of the Freedom of Information Act, 2011, SERAP requested the Ministry of Information to furnish it with up-to-date information relating to the names of high ranking public officials from whom funds were recovered since May 2015 in the height of former President Buhari's fight against corruption. Upon refusal of this request, SERAP sued. In its judgment delivered on 5 July 2017, the Federal High Court, per Justice R. H. Shagari, held in favor of SERAP thus;

- i. A Declaration that by virtue of Section 4(a) of the FOI Act 2011, the Defendants/Respondents are under a binding legal obligation to provide the Plaintiff/Applicant with up to date information relating to the following: a. information about the names of high-ranking public officials from whom funds were recovered since May 2015;
- ii. The circumstance under which the funds were recovered.<sup>152</sup>

The above orders were discovered by the government /Ministry of Information.

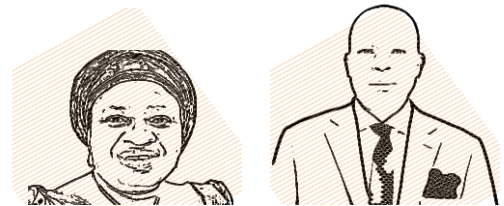
*the Federal High Court, per Justice R. H. Shagari, held in favor of SERAP thus;*

*i. A Declaration that by virtue of Section 4(a) of the FOI Act 2011, the Defendants/ Respondents are under a binding legal obligation to provide the Plaintiff/Applicant with up to date information relating to the following: a. information about the names of high-ranking public officials from whom funds were recovered since May 2015;*

*ii. The circumstance under which the funds were recovered.<sup>152</sup>*

*The above orders were discovered by the government /Ministry of Information.*

## 5.7.5. SERAP v. Accountant General of the Federation & Attorney General of the Federation<sup>153</sup>



In the above case, SERAP sued the AGF/AGF seeking several declarations and an order compelling the respondents to provide SERAP with up-to-date information on recovered stolen funds since the return of civilian rule in 1999, inter alia. In its judgment delivered on 26 February 2016, the Federal High Court, per Hon Justice M.B. Idris, held in favour of SERAP thus;

<sup>151</sup> Suit No. FHC/L/CS/964/2016

<sup>152</sup> Ibid

<sup>153</sup> Suit No. FHC/IKJ/CS/248/11



i. A DECLARATION is hereby made that the failure and/or refusal of the Respondents to individually and/or collectively disclose detailed information about the spending of recovered stolen public funds since the return of civil rule in 1999, and to publish widely such information, including on a dedicated website, amounts to a breach of the fundamental principles of transparency and accountability and violates Articles 9, 21 and 22 of the African Charter on Human and Peoples Rights (Ratification and Enforcement) Act.

ii. A DECLARATION is hereby made that by virtue of the provisions of Section 4(a) of the Freedom of Information Act, 2011, the 1st Defendant is under a binding legal obligation to provide the Plaintiff with up to date information on the spending of recovered stolen funds, including: (i) Detailed information on the total amount of recovered stolen public assets that have so far been recovered by Nigeria; (ii) the amount that has been spent from the recovered stolen public assets and the objects of such spending; (iii) Details of projects on which recovered stolen public assets were spent.

iii. AN ORDER OF MANDAMUS is made directing and or compelling the Defendants to provide the Plaintiff with up to date information on recovered stolen funds since the return of civilian rule in 1999, including (i) Detailed information on the total amount of recovered stolen public assets that have so far been recovered by Nigeria, (ii) The amount that has been spent from the recovered stolen public assets and the objects of such spending.

iv. Details of projects on which recovered stolen public assets were spent.<sup>154</sup>

The government is yet to obey the above orders which are still valid and subsisting.

## 5.7.6. SERAP v. Federal Republic of Nigeria & Universal Basic Education Commission (UBEC)<sup>155</sup>



In 2007 SERAP instituted the above suit at the ECOWAS Community Court of Justice seeking to compel the federal government to enforce the right to education as a legal and human rights. In its judgment delivered on 30 November 2010, the court dismissed the objection of the government and held in favour of SERAP to the effect that “all Nigerians are entitled to education as a legal and human right; the right to education can be enforced before the court and dismissed the objection of the Federal Government that education is a mere directive policy of the government and not an entitlement of the citizens.”<sup>156</sup>

The government continues to be in contempt of this judgment. According to SERAP<sup>157</sup>;

<sup>154</sup> Ibid

<sup>155</sup> Suit No: ECW/CCJ/APP/12/07

<sup>156</sup> Judgment No: ECW/CCJ/JUD/07/10

<sup>157</sup> Adelanke Aremo (Mrs), Senior Legal Adviser, SERAP via an email dated 9 January 2024 in reply to a query on government's disobedience of court orders in favour of SERAP.

With regards to the State's compliance with another ECOWAS Court's decision in the case of SERAP v. Nigeria (delivered in 2009), the ECOWAS Court held that all Nigerians are entitled to education as a legal and human right, and the right to education can be enforced by the court. With regards to this case, the prevalent failure of governments (Federal, State and Local) across Nigeria to see to the protection of the right of education of their citizens and the number of children who are presently out of school, (particularly with regards to basic education) will be tantamount to the State having not complied with the ECOWAS Court's decision.<sup>158</sup>

For some more context, according to UNESCO, there were 20 million out-of-school children in Nigeria as of 2022.<sup>159</sup>

*the court dismissed the objection of the government and held in favour of SERAP to the effect that “all Nigerians are entitled to education as a legal and human right; the right to education can be enforced before the court and dismissed the objection of the Federal Government that education is a mere directive policy of the government and not an entitlement of the citizens.”<sup>156</sup>*

*The government continues to be in contempt of this judgment*



## 5.7.7 SERAP v. Federal Republic of Nigeria

In the above suit, SERAP took the government before the ECOWAS Community Court seeking to compel the federal government to take steps to stem the tide of environmental pollution in the Niger Delta, restore the environment, and hold polluters accountable. In a judgment delivered on 14 December 2012, the ECOWAS Court held in favour of SERAP and ordered the government to:

- i. Take all effective measures, within the shortest possible time, to ensure restoration of the environment of the Niger Delta.
- ii. Take all measures that are necessary to prevent the occurrence of damage to the environment;
- iii. Take all measures to hold the perpetrators of the environmental damage accountable.<sup>161</sup> These orders are yet to be obeyed by the government. According to SERAP,<sup>162</sup>

As regards the State's compliance with the ECOWAS Court's judgements, delivered in favour of SERAP and Nigerian citizens, the federal government has continued to show flagrant disobedience for court judgements of the domestic and regional courts. For instance, in the case of SERAP v. Nigeria (delivered in 2012), the ECOWAS Court held that the Nigerian Government is responsible for abuses caused by the oil companies and the Court made it clear that the government must hold the companies and other perpetrators to account. The Court further affirmed that the government must move swiftly to fully

<sup>158</sup> Ibid

<sup>159</sup> UNESCO, cited in Mojeed Alabi, "Updated: Nigeria Now Has 20 Million Out-of-School children - UNESCO" Premium Times 1 September 2022. Available at <https://www.premiumtimesng.com/news/headlines/551804-breaking-nigeria-now-has-20-million-out-of-school-children-unesco.html> Accessed 17/1/2024

<sup>160</sup> Suit No: ECW/CCJ/APP/08/09; Judgement: ECW/CCJ/JUD/18/12

<sup>161</sup> Ibid

<sup>162</sup> Adelanke Aremo (Mrs), Senior Legal Adviser, SERAP via an email dated 9 January 2024 in reply to a query on government's disobedience of court orders in favour of SERAP.

the judgment and restore the dignity and humanity of the people of the region. It will be safe to state here, going by the perpetual oil pollution suffered by the people of the littoral states in Nigeria, and the suffering caused by the unchecked acts of the International Oil Companies, National Oil Companies and oil pipe Vandals, that the State has certainly failed to comply with the decision of the ECOWAS Court in the matter.<sup>163</sup>

*In a judgment delivered on 14 December 2012, the ECOWAS Court held in favour of SERAP and ordered the government to:*

*i. Take all effective measures, within the shortest possible time, to ensure restoration of the environment of the Niger Delta.*

*ii. Take all measures that are necessary to prevent the occurrence of damage to the environment;*

*iii. Take all measures to hold the perpetrators of the environmental damage accountable.<sup>161</sup> These orders are yet to be obeyed by the government.*

## 5.7.8 SERAP v. Federal Republic of Nigeria & Anor<sup>164</sup>



In the above suit, SERAP instituted an action against the federal government to enforce the fundamental rights of one Agba Jalingo, a journalist who was unlawful arrested and ill-treated by the government. In a judgment delivered on 9 July 2021, the ECOWAS Court found, inter alia, that the rights of Agba Jalingo were violated by the government and awarded a N30 million compensation in his favour. The judgement of the court as reported by SERAP read partly thus;

JUDGMENT: a) Allegation of violation of right to hold opinion, information and freedom of expression contrary to Article 9 of the African Charter & 19 of ICCPR

-Following the foregoing analysis as well as authorities herein referred to, the court holds that the Applicant has failed to discharge the onus of proof required to substantiate its claims that the Respondent, through the initiation of criminal proceeding against Mr. Agba Jalingo, has resorted to provisions of Criminal Code Act and the Terrorism (Prevention Amendment) Act as vehicles to violate right to freedom of expression, information, opinion, privacy and media freedom.

b) Allegation of unlawful arrest and detention

-For the above stated reasons, reflective of the authorities cited, the court finds that, although the arrest of Mr. Jalingo is lawful since it was carried out in pursuance of extant laws of the Respondent on reasonable suspicion of having committed an offence, same cannot be said of his detention for thirty four days without any justification before he was sent to court, which palpably amounts to violation of his right against arbitrary detention.

<sup>154</sup> Ibid

<sup>155</sup> Suit No: ECW/CCJ/APP/12/07

<sup>156</sup> Judgment No: ECW/CCJ/JUD/07/10

<sup>157</sup> Adelanke Aremo (Mrs), Senior Legal Adviser, SERAP via an email dated 9 January 2024 in reply to a query on government's disobedience of court orders in favour of SERAP.

c) Allegation of torture

- In the opinion of the court, the act of handcuffing Mr. Jalingo to a deep freezer for thirty four days was capable of causing and indeed did cause severe pain and suffering with grave restriction of movement and the attendant discomfort, pain and suffering to Mr Jalingo tantamount to tortuous treatment in the contemplation of CAT. In the circumstances, the court holds that the Applicant's allegation of torture contrary to Article 5 of the African Charter stands proven, particularly in the absence of any denial from the Respondent.

d) Reparations

- The court observes that detaining Mr Agba Jalingo for thirty four days without trial was tortuous enough to cause both moral and psychological trauma with all the attendant inconveniences which have been duly taken into account in awarding him a total of N30,000,000) as compensation.<sup>165</sup>

The government continues to be in contempt of the order for reparation.<sup>166</sup>

*The court observes that detaining Mr Agba Jalingo for thirty four days without trial was tortuous enough to cause both moral and psychological trauma with all the attendant inconveniences which have been duly taken into account in awarding him a total of N30,000,000) as compensation.*

*The government continues to be in contempt of the order for reparation*

## 5.7.9 SERAP & 3 Ors v. Federal Republic of Nigeria & Anor<sup>167</sup>



### Consolidated Twitter Ban Case

Following the ban on Twitter in 2021 by the federal government, SERAP sued the government at the ECOWAS Community Court to enforce the fundamental rights of affected Nigerians. In a judgment delivered on 14 July 2022, the court found that it had jurisdiction to determine the suit and further held, inter alia, to the effect that that the act of the Respondents (federal government) in suspending the operations of Twitter violates the Applicant's rights to the enjoyment of freedom of expression, access to information and the media contrary to the provisions of Article 9 of the African Charter on Human and Peoples Rights (ACHPR) and Article 19 of the International Convention on Civil and Political Rights (ICCPR) the same having been violated.<sup>168</sup> The court ordered the respondent to lift the suspension of Twitter, the same having being in contravention of Article 9 of the ACHPR and Article 19 of the ICCPR, and to take necessary steps to align its policies and other measure to give effects to the rights and freedom enshrined in the ACHPR and ICCPR.<sup>169</sup> This order was immediately disobeyed by the government.

<sup>165</sup> Judgement No: ECW/CCJ/JUD/27/21

<sup>166</sup> Vanguard News, "Obey Court Judgments or Face Contempt Proceedings, SERAP Tells Buhari Government" *supra*

<sup>167</sup> Suit No. ECW/CCJ/APP/23/21;24;26 &29/21; Judgment No: ECW/CCJ/JUD/40/22

<sup>168</sup> Judgment No: ECW/CCJ/JUD/40/22

<sup>169</sup> Ibid

**The court ordered the respondent to lift the suspension of Twitter, the same having being in contravention of Article 9 of the ACHPR and Article 19 of the ICCPR, and to take necessary steps to align its policies and other measure to give effects to the rights and freedom enshrined in the ACHPR and ICCPR.<sup>169</sup> This order was immediately disobeyed by the government.**

## **5.7.10. SERAP v. Federal Republic of Nigeria<sup>170</sup>**



### Cybercrime Act Case

In 2019, SERAP instituted the above suit against the federal government, contesting the legality and compatibility of the provisions of the Cybercrimes Act, 2015, particularly, Section 24 thereof as against the guarantees of the rights to freedom of expression and information in the ACHPR and ICCPR. SERAP argued that;

since the passage of the cyber crimes Act, the Respondent and its agents have used the provisions of this Act to harass, intimidate, arbitrary arrest and detain and unfairly prosecute users of the social media, human rights defenders, activists, journalists, broadcasters and bloggers who expressed their views perceived to be critical of the Government both at the Federal and State levels.<sup>171</sup>

The Applicant further argued that “the definition of 'Cyberstalking' in Section 58 as 'a course of conduct, directed at a specific person to that would cause a reasonable person to feel fear' is quite vague and open to interpretation that is inimical to the rights of persons.”<sup>172</sup> The applicant prayed the court for various declarations and orders, including “an order directing the Respondent to amend and/or repeal the Cybercrimes Act in line with Articles 1 of the ACHPR and ICCPR”.<sup>173</sup>

In its judgment delivered on 25 March 2022, holding that “When the State Parties impose restrictions on the exercise of freedom of if expression, they should not undermine the right itself, the court, inter alia, ordered the federal government to amend Section 24 of the Cybercrimes Act in accordance with its obligations under Article 1 of the ACHPR.”<sup>174</sup> The judgment of the court read partly thus;

Yet, it must be further emphasised that “the law” in the instant case (which is the Cybercrime Act) denotes terms aforementioned which are vague and arbitrary due to the fact that it does not define the parameters or elements of the crime that it typifies. It can not pass the test of legality since by its nature, it will be arbitrary. Therefore, the court finds that Section 24 of the Cybercrime Act is not in accordance with Article 9 of the of the ACHPR and Article 19 of the ICCPR.

Furthermore, the Court is persuaded by its decision in a similar case where the same Section 24 of the Cybercrime Act was contested for being in consistent with Article 9 of the ACHPR and Article 19 of the ICCPR and it held therein that “... the provisions of the Section 24 of the Cybercrime,

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<sup>170</sup> Suit No. ECW/CCJ/APP/09/19; Judgment No. ECW/CCJ/JUD/12/22

<sup>171</sup> Judgment No. ECW/CCJ/JUD/12/22

<sup>172</sup> Ibid

<sup>173</sup> Ibid

<sup>174</sup> Ibid

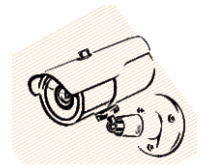
(Prohibition, Prevention, etc.) Act 2015 are shown to be in violation of Article 9(2) of the ACHPR and Article 19 of the ICCPR. (Incorporated Trustees of Laws and Rights Awareness Initiative v. Federal Republic of Nigeria)

For the reasons stated above, the court... declared that Section 24 of the Cybercrime (Prohibition, Prevention, etc.) Act 2015 arbitrary, vague and expressive and therefore, is in contravention of Article 9 of the ACHPR and Article 19 of the ICCPR [and] orders the Respondent to amend Section 24 of the Cybercrime Act in accordance with its obligations under Article 1 of the ACHPR.<sup>175</sup>

To date, the federal government remains in contempt of this order and continues to arbitrarily arrest, detain, and prosecute suspects for the offence of cyberstalking under Section 24 of the Cybercrime Act 2015. One of the recent cases is that of Charles Ogbonna, a human rights lawyer who was arrested for posting articles criticizing Governor Ikpeazu-led government in Abia state on his social media page. Reports show that he was arraigned alongside one other person at a Magistrate Court in Umuahia for alleged cyberstalking, and allegedly publishing false and threatening messages through the internet against the then Governor of Abia estate, Okezie. Ikpeazu.<sup>176</sup> Another recent example is that of Chike Ibezim who is currently under trial for cyberstalking.<sup>177</sup>

**To date, the federal government remains in contempt of this order and continues to arbitrarily arrest, detain, and prosecute suspects for the offence of cyberstalking under Section 24 of the Cybercrime Act 2015.**

### **5.7.11. SERAP v. Minister of Finance & Minister of Police Affairs<sup>178</sup>** (CCTV Chinese Loan Case)



In 2019 and under the Freedom of Information Act of 2011, SERAP approached the 1st Respondent requesting information in respect of “the total amount of money paid to contractors, with specific details of names of companies’ local contractors involved, from the \$460 Million loan obtained in 2010 from China by the Federal Government of Nigeria to fund the Abuja Closed Circuit Television [CCTV] Contract”.<sup>179</sup> This request was refused prompting SERAP to institute the above action at the Federal High Court, praying the court to, inter alia, compel the 1st Respondent to do so.

In a judgment delivered on 15 May 2023, the court, per Justice Emeka Nwite, held in favour of SERAP, making several orders. The judgment of the court as summarised by SERAP is thus;

i. An order of mandamus is hereby made directing and compelling the 1st Respondent to provide

<sup>175</sup> Ibid

<sup>176</sup> Olanrewaju Oyediji, Analysis: How Disobedience of Court Orders Weaken Rule of Law, Human Rights in Nigeria” Ripples Nigeria August 30, 2021. Available at <https://www.ripplesnigeria.com/analysis-how-disobedience-of-court-orders-weaken-rule-of-law-human-rights-in-nigeria/> Accessed 15/12/2023

<sup>177</sup> Chike Ibezim v. Inspector General of Police & 2 Ors Cited in Premium Times, “Again, Court Orders Police to Release or Charge Man Detained for Allegedly Defaming Fashola” Premium Times 11 September 2023

<sup>178</sup> Suit No. FHC/ABJ/CS/1447/2019

<sup>179</sup> Ibid



with specific details of names of companies' local contractors involved, from the \$460 Million loan obtained in 2010 from China by the Federal Government of Nigeria to fund the Abuja Closed Circuit Television [CCTV] Contract.

ii. An Order of Mandamus is hereby made directing and compelling the 1st Respondent to provide the details of the local companies the 1st of Respondent to provide the details of the local companies and Chinese contractors that have received funds from the \$460 Million loan for the finance of the Abuja CCTV Contract as well as details of the status implementation of the project.

iii. An Order of mandamus is hereby made directing and compelling the 1st Respondent to provide detail clarifying whether the sum of N1.5 Billion Naira Mobilization fee reportedly paid to the contractors for the construction of the Headquarters of the Code of Conduct Bureau in Abuja was part of another loan from China.<sup>180</sup>

The federal government continued to hold the above orders in contempt.

*on 15 May 2023, the court, per Justice Emeka Nwite, held in favour of SERAP, making several orders. The judgment of the court as summarised by SERAP is thus;*

*i. An order of mandamus is hereby made directing and compelling the 1st Respondent to provide and make available to the Applicant information on the total amount of money paid to contractor, with specific details of names of companies' local contractors involved, from the \$460 Million loan obtained in 2010 from China by the Federal Government of Nigeria to fund the Abuja Closed Circuit Television [CCTV] Contract.*

*ii. An Order of Mandamus is hereby made directing and compelling the 1st Respondent to provide the details of the local companies the 1st of Respondent to provide the details of the local companies and Chinese contractors that have received funds from the \$460 Million loan for the finance of the Abuja CCTV Contract as well as details of the status implementation of the project.*

*iii. An Order of mandamus is hereby made directing and compelling the 1st Respondent to provide detail clarifying whether the sum of N1.5 Billion Naira Mobilization fee reportedly paid to the contractors for the construction of the Headquarters of the Code of Conduct Bureau in Abuja was part of another loan from China.<sup>180</sup>*

## **5.7.12. SERAP v. Minister of Finance & Attorney General of the Federation<sup>181</sup>**

### **(Abacha Loot Case)**



In 2020 and under Section 7 of the Freedom of Information Act, 2011, SERAP approached the 1st Respondent requesting information on the specific amount of recovered Abacha loot and how it was spent from 1999-2015. The 1st Respondent refused the request and never communicated to the

<sup>180</sup> Ibid

<sup>181</sup> Suit No. FHC/ABJ/CS/407/2020; See also, SERAP, "Court Orders Obasanjo, Yar'Adua, Jonathan, Buhari Govts to Account for \$5B Abacha Loot" SERAP July 9, 2020. Available at...



Applicant. Hence, the Applicant brought this suit at the Federal High Court, praying the court to compel the 1st Respondent to furnish it with the information requested. In a judgement delivered on 3 July 2023, the court, per Justice J. K. Omotosho held that it was unlawful for the 1st Respondent to withhold such information from the Applicant and ordered the 1st Respondent to “furnish the Applicant with the full details of the information it seeks within 7 days of the judgment.”<sup>182</sup> The judgment of the court as summarised by SERAP is thus;

The effect of the provisions of section 7 is that once a request is made, the public institution has to respond to the request even if it intends to deny the Applicant the said information, it must write to the Applicant and state its reasons for the denial. Where this is not done, the Public Institution is in breach of the Act and has denied access to information of the Applicant which according to section 7[5] of the Act is an offence. The excuse of the Respondent is that it searched its records and the information on the exact amount of public funds stolen by Abacha and how recovered loot was spent from 1999-2015 is not held by the Respondent.

The excuse has no leg to stand in view of section 7 of the Act. The failure of the Respondent to write to the Applicant informing where the said information exists or transfer the request to the public office who has custody of such information is fatal to their case under section 5 of the Freedom of Information Act. The 1st respondent cannot use a blanket statement that it was in possession of the said record requested for by the Applicant. The 1st Respondent also did not provide details of the project executed with the recovered funds within the period it identified. It also failed to provide locations of the projects and the names of the companies and contractors that carried or carrying out the projects.

I therefore hold that by the clear wordings of section 7 of the Freedom of Information Act, 2011, access to information was denied the Applicant by the 1st Respondent.

In final analysis, the application by the Applicant is meritorious and 1st Respondent is hereby ordered to furnish the Applicant with the full details of the information it seeks within 7 days of the judgement.<sup>183</sup>

The above order of court was and is still being disobeyed by the federal government.

### 5.7.13. SERAP v. Universal Basic Education (UBEC), & 2 Ors<sup>184</sup>

In 2019, under Section 7 of the Freedom of Information Act, SERAP approached the Respondents requesting details of disbursement and administration of Universal Basic Education Commission [UBEC] funds between 2005-2019 to Delta State. Upon refusal to act on the request, SERAP instituted this action at the Federal High Court praying the court to, inter alia, compel the Respondents to act on

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<sup>182</sup> Ibid

<sup>183</sup> Ibid

<sup>184</sup> Suit No. FHC/L/CS/803/2019

the request. In its judgment, delivered on 17 July 2023, the court, per Justice D. E. Osiagor granted the prayer of SERAP when it held thus;

Issue One: When the Act was enacted in 2011, there was no other State Freedom of Information Law. Thus, the National Assembly exercised its legislative duties under section 4 of the constitution of the Federal Republic of Nigeria, 1999 as amended to legislate on this subject matter. National Assembly legislative powers, is for peace, order and good government of Nigeria.

Thus, there was only one piece of legislation applying to Delta State [the Freedom of Information Act] prior to the filing of this suit by the doctrine of covering field.

I am not unmindful of the concurrent powers of legislation between the Federal and State legislatures. There is therefore no feature depriving this court of jurisdiction. Besides, the Delta State Procedural step is inapplicable as it was not in existence when this cause of action arose.

I therefore hold that the Applicant has effectively triggered the application of the Freedom of Information Act by their letters of April 2019 placing demands for information from the Delta State Government.

***In 2019, under Section 7 of the Freedom of Information Act, SERAP approached the Respondents requesting details of disbursement and administration of Universal Basic Education Commission [UBEC] funds between 2005-2019 to Delta State.***

***per Justice D. E. Osiagor granted the prayer of SERAP when it held thus;***

***I therefore hold that the Applicant has effectively triggered the application of the Freedom of Information Act by their letters of April 2019 placing demands for information from the Delta State Government.***

Issue two:

The applicant in this case, is an NGO, has cognizable legal right to inquire and know the way and manner public institutions manage public funds. I must say, that every citizen has a duty to demand transparency and accountability in governance of public institutions.

Why should a request for details of disbursement and administration of Universal Basic Education Commission [UBEC] funds between years 2005-2019 to Delta State be a cause of litigation for four years? The public officials are fast developing a state of anomie and cold feet when confronted with request for audit report of public duties and budgets. This application cures so much disinformation in the public space.

For all I have been herein postulating. I find merit in the application and grant all the reliefs sought.

The above order was disobeyed by the government. There were at least 4 other orders granted in favour of SERAP in respect of various suits that were all disobeyed by the government.<sup>185</sup>

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<sup>185</sup> See for instance SERAP & 7 Ors. v. Federal Republic of Nigeria Suit No. ECW/CCJ/APP/39/17; SERAP & 10 Ors. v. Federal Republic of Nigeria & 4 Ors Suit No. ECW/CCJ/APP/O2/14 SUPP; SERAP & 10 Ors. v. Federal Republic of Nigeria & 4 Ors Suit No. ECW/CCJ/APP/10/10; SERAP v. Federal Republic of Nigeria Suit No. ECW/CCJ/APP/26/11

For all I have been herein postulating. I find merit in the application and grant all the reliefs sought.



## 5.8. Omoyele Sowore<sup>186</sup>

This was a criminal case involving Omoyele Sowore and DSS. At least 3 orders of court were disobeyed in connection with this case.

Following the 2019 presidential election, which returned former President Muhammadu Buhari as the winner of the election, one of the presidential candidates, Omoyele Sowore planned to lead a nationwide protest tagged #RevolutionNow on 5 August 2019. However, before the date of the planned protest, on 3 August 2019, he was arrested by DSS, and his phone and cash of N10,000 were confiscated. He was eventually charged with treasonable felony, among other offences, after 50 days in detention. On 24 September 2019, upon a bail application, Justice Taiwo Taiwo of the Federal High Court admitted Sowore to bail on the sole condition that he deposited his international passport with the Registrar of court.<sup>187</sup>

However, despite meeting the bail conditions, DSS disobeyed the order of court and refused to release Sowore on bail pending his trial.<sup>188</sup> Instead, DSS subjected the order to its own executive preconditions, review, or oversight.<sup>189</sup> This prompted Sowore to file a contempt proceeding (Form 48) against DSS in accordance with Section 72 of the Sheriff and Civil Process Act, 2004, which read in part thus; "Take notice that unless you obey the direction contained in the order of the Federal High Court of Justice, Abuja, delivered on September 24, 2019, which ordered you to release the applicant in suit number FHC/ABJ/CS/915/2019 forthwith, you will be guilty of contempt of court and will be liable to be committed to prison".<sup>190</sup>

Meanwhile, in another foreign case involving Nigeria and Process & Industrial Development (P&ID) in London, the federal government obeyed an order of a London court. A commercial court in London had awarded the sum of \$9.6 Billion against Nigeria in favour of P&ID. An application for stay of execution was granted upon a deposit \$200 million, which Nigeria complied with.<sup>191</sup> Lamenting the blatant disregard of national court orders vis-vis foreign court orders, Falana was reported to have stated thus;

It is however disturbing to note notwithstanding such deference to the courts of its former colonial master the federal government has continued to disobey the valid and subsisting orders of Nigerian

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<sup>186</sup> Suit No. FHC/ABJ/CS/915/2019

<sup>187</sup> Oluchi, "Alleged Treason: Sowore Files Contempt Proceedings Against DSS" Channels 26 September 2019. Available at <https://www.channelstv.com/2019/09/26/alleged-treason-sowore-files-contempt-proceedings-against-dss/> Accessed 13/1/2024.

<sup>188</sup> Oluchi, "Despite Meeting Bail Conditions, DSS Yet to Release Sowore, Says Falana" Channels 25 September 2019. Available at <https://www.channelstv.com/2019/09/25/despite-meeting-bail-conditions-dss-yet-to-release-sowore-says-falana/> Accessed 13/1/2024.

<sup>189</sup> Taiwo Adebulu, "Falana: FG Complies with London Court Orders But Disobeys Nigerian Judges" supra 190 Oluchi, "Alleged Treason: Sowore Files Contempt Proceedings Against DSS" supra

<sup>191</sup> Taiwo Adebulu, "Falana: FG Complies with London Court Orders But Disobeys Nigerian Judges" The Cable December 1, 2019. Available at (order 5)

courts and the court of justice of the Economic Court of West African States including orders for the release of political detainees and criminal suspects from unlawful custody.

For instance, the State Security Service has continued to detain our clients, Messrs Omoyele Sowore and Olawale Bakare, in defiance of the order of the federal high court which has admitted them to bail pending trial.

In treating the court order with provocative contempt the State Security Service has insisted on approving the sureties of our clients after they have been verified by the federal high court. From the information at our disposal, there is no precedent whatsoever for the illegal demand.<sup>192</sup>

***On 24 September 2019, upon a bail application, Justice Taiwo Taiwo of the Federal High Court admitted Sowore to bail on the sole condition that he deposited his international passport with the Registrar of court.***

***DSS disobeyed the order of court and refused to release Sowore on bail pending his trial.***

Meanwhile, it was reported that in a separate action, the Federal High Court, per Anwuli Chikere, “ordered the Department of State Services (DSS) to pay Sahara Reporters publisher, Omoyele Sowore, N2 million over the unlawful seizure of his mobile phone in 2019 at the point of his arrest”.<sup>193</sup>The court also “ordered the DSS to immediately release the iPhone and a cash of N10,000, which were alleged to have been forcibly taken away from him without court warrant”<sup>194</sup>.These orders were immediately disobeyed.

***the Federal High Court, per Anwuli Chikere, “ordered the Department of State Services (DSS) to pay Sahara Reporters publisher, Omoyele Sowore, N2 million over the unlawful seizure of his mobile phone in 2019 at the point of his arrest”.<sup>193</sup>The court also “ordered the DSS to immediately release the iPhone and a cash of N10,000, which were alleged to have been forcibly taken away from him without court warrant”<sup>194</sup>.These orders were immediately disobeyed.***

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<sup>192</sup> Ibid

<sup>193</sup> Guardian, “Courts Awards N2m Fine Against DSS Over Seizure of Sowore's Phone” Guardian Nigeria 9 December 2021. Available at [https://guardian.ng/news/court-awards-n2m-fine-against-dss-over-seizure-of-sowores phone/](https://guardian.ng/news/court-awards-n2m-fine-against-dss-over-seizure-of-sowores-phone/) Accessed 13/1/2024.

<sup>194</sup> Ibid



## 5.9. Peter Odili v. Nigerian Immigration Service<sup>195</sup>

This was a civil case involving the former Governor of Rivers State, Peter Odili and the Nigerian Immigration Service (NIS). At least 3 orders of court were disobeyed in this case.

On 20 June 2021, the NIS seized the international passport of Peter Odili upon his arrival at the Nnamdi Azikiwe International Airport, which NIS claimed was based on a request by the EFCC.<sup>196</sup> Mr. Odili challenged this action by instituting a Fundamental Rights Enforcement suit against NIS at the Federal High Court. On 18 October 2021, having found that the seizure of the international passport was “illegal, unconstitutional, and an infringement of his fundamental rights,” the court per Inyang Ekwo ordered NIS to immediately release Mr. Odili's passport to him, and tender an apology to him.<sup>197</sup>

***the court per Inyang Ekwo ordered NIS to immediately release Mr. Odili's passport to him, and tender an apology to him.***<sup>197</sup>

However, this order was immediately disobeyed. Reports also show that after 38 days of holding onto Odili's passport, the court again issued another order and directed NIS to release the passport as initially ordered.<sup>198</sup> Mr. Odili's passport was finally released to him in December 2021.<sup>199</sup> In fact, it would seem the NIS reluctantly did so as the passport was collect by another Judge and Mr. Odili's daughter, Justice Njideka Nwosu-Iheme for her father<sup>200</sup> As it was reported, “NIS' lawyer, Jimoh Adamu told a Federal High Court in Abuja that Odili's daughter, Njideka Nwosu-Iheme, a serving judge of the High Court of the Federal Capital Territory, collected the passport for her father on December 20 last year at the Immigration headquarters in Abuja”.<sup>201</sup>

***However, this order was immediately disobeyed.***



## 5.10. The Labinjos

The case of the Labinjos involve a mix of civil suits and criminal suit that they instituted against government agencies – the Nigerian Navy and EFCC – and that was instituted against them respectfully. At the end of this series of long-drawn suits, at least 4 court orders were disobeyed by the government agencies.

<sup>195</sup> Suit No. FHC/ABJ/CS/965/2021 cited in Agency Report, “Passport Seizure: Observe of NIS Stalls Odioi's Suit” Premium Times 29 September 2021. Available at <https://www.premiumtimesng.com/news/top-news/487259-passport-seizure-absence-of-nis-stalls-odilis-suit.html?tztc=1> Accessed 13/1/2024.

<sup>196</sup> Theophilus Adedokun, “Major Court Orders Buhari Administration Disobeyed in Eight Years” supra

<sup>197</sup> Agency Report, “Immigration releases Peter Odili's Passport Months After Court Order” Agency Report 7 February 2022. Available at <https://punchng.com/immigration-releases-peter-odilis-passport-months-after-court-order/> Accessed 11/3/2024

<sup>198</sup> Onazure Dania, “Buhari Years Revive Ghost of Military Dictatorship, Disobedience to Court Orders” supra

<sup>199</sup> Theophilus Adedokun, “Major Court Orders Buhari Administration Disobeyed in Eight Years” supra

<sup>200</sup> Agency Report, “Immigration releases Peter Odili's Passport Months After Court Order” supra

<sup>201</sup> Ibid

Reports show that the traverse of the Labinjos all started in 1997 when Mr. Labinjo's wife, Sherifat Ibe-Lamberts, a Lieutenant-Commander in the Nigerian Navy at the time, was charged with certain offences.<sup>202</sup> She was tried, convicted and sentenced to 2 years loss of seniority by the court martial, which upon ratification was upgraded to compulsory retirement in 1998. Dissatisfied, she filed a suit against the Nigerian Navy, whereupon the trial court reversed the judgment of the court martial. Dissatisfied, the Nigerian Navy appealed up to Supreme court, which like the Court of Appeal dismissed the appeal in September 2007.<sup>203</sup> The Nigerian Navy disobeyed the judgment of the trial court which was affirmed by the Supreme Court.

Similarly, in 2001, Mr. Labinjo who was then a navy captain was charged with certain offences and sentenced to six years imprisonment with a recommendation of dismissal by the court martial.<sup>204</sup> On 3 May 2004, the Federal High Court set aside the judgment of the court martial on grounds of “gross irregularities and breach of the fundamental human rights of the respondent” and further ordered that “Labinjo should be restored to his pre-trial position in the navy with payment of arrears of salaries and allowances”.<sup>205</sup> The Nigerian Navy's appeal to the Court of Appeal and further appeal to the Supreme Court were both dismissed in 2008 and 2012 respectively.<sup>206</sup>

***She was tried, convicted and sentenced to 2 years loss of seniority by the court martial, which upon ratification was upgraded to compulsory retirement in 1998. Dissatisfied, she filed a suit against the Nigerian Navy, whereupon the trial court reversed the judgment of the court martial. Dissatisfied, the Nigerian Navy appealed up to Supreme court, which like the Court of Appeal dismissed the appeal in September 2007.<sup>203</sup> The Nigerian Navy disobeyed the judgment of the trial court which was affirmed by the Supreme Court.***

However, the Nigerian Navy disobeyed both judgments reinstating the Labinjos until April 11, 2017 when they received a letter from the Nigerian Navy purporting to reinstate them.<sup>207</sup> Even then, there promotions and entitlements were denied them. Hence, in effect, the Nigerian Navy remained in contempt of the order.<sup>208</sup> It is trite law that the effect of reinstatement is that an employee should be restored to the status of full time employment with all emoluments accruing thereto.<sup>209</sup>

***On 3 May 2004, the Federal High Court set aside the judgment of the court martial on grounds of “gross irregularities and breach of the fundamental human rights of the respondent” and further ordered that “Labinjo should be restored to his pre-trial position in the navy with payment of arrears of salaries and allowances”.<sup>205</sup> The Nigerian Navy's appeal to the Court of Appeal and further appeal to the Supreme Court were both dismissed in 2008 and 2012 respectively.<sup>206</sup>***

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<sup>202</sup> Atodele Oluwafemi, “Unlawful Dismissal: Navy Yet to Fully Reinstates Labinjo, Wife – Despite Supreme Court Verdict” The Cable 20 February 2022. Available at <https://www.thecable.ng/unlawful-dismissal-navy-yet-to-fully-reinstate-labinjo-wife-despite-scourt-verdict/amp> Accessed 13/1/2023.

<sup>203</sup> Ibid

<sup>204</sup> Ibid

<sup>205</sup> Ibid

<sup>206</sup> Ibid

<sup>207</sup> Ibid

<sup>208</sup> Ibid

<sup>209</sup> Shitta-Bey v. Federal Public Service Commission (1981) LPELR-3056(SC) at 38-39




## **However, the Nigerian Navy disobeyed both judgments**

The Supreme Court, per Justice Chukwunwike Idigbe, succinctly state the effect of reinstatement in the case of *Shitta-Bey v. Federal Public Service Commission*,<sup>210</sup> thus;

The judgment of Bada, J., impliedly confers on the appellant a right to be placed de facto in his original position i.e a right to be reinstated; for, although his termination and retirement were declared "invalid null and void" and so, in law, he was never legally terminated or retired from his employment, there had been a de facto termination or removal from office. In the words of Tucker, J., "reinstatement involves putting the specified person back in law and in fact in the same position as he occupied in the undertaking before the employer terminated his employment" (see: *Hodge v. Ultra Electric Ltd.* (1943) 1 KB 462 at 466); and "the natural and primary meaning of to 'reinstatement' as applied to a man who has been dismissed (ex hypothesi without justification) is to replace him in the position from which he was dismissed, and so to restore the status quo ante the dismissal" (see: *William Dixon Ltd. v. Patterson* (1943) SC (J) 78 per Lord Copper at 85) Emphasis attached by me). In the event, I hold the view that the appellant has right of reinstatement to his former position and the respondent has the correlative duty by the combined operation of Section 147 of Act 20 of 1963 and Section 11 of Act No. 1 of 1964 to replace the appellant in the position he occupied before events which culminated in Exhibit "D" aforesaid, and so to restore the status quo ante his purported retirement.

On September 13 and 14, 2018, while still in contempt of the above court orders, the Nigerian Navy arrested Mr. Labinjo and Mrs. Labinjo respectively on suspicion of "conspiracy and unlawful dealing in petroleum products".<sup>211</sup> The couples spent 15 months in an underground detention centre before been handed over to the EFCC for prosecution.<sup>212</sup>

On 8 August 2019, in a fundamental rights enforcement suit, Justice Chuka Obiozor, held to the effect that it was unconstitutional for the Nigerian Navy to continue to detain Mr. Labinjo without charge, and ordered that he be released from detention and his phone returned to him.<sup>213</sup> The Nigerian Navy disobeyed this order.<sup>214</sup> Report shows that "[d]espite two court orders for the authorities to release Labinjo, the navy would deny knowing his whereabouts".<sup>215</sup>

 **On 8 August 2019, in a fundamental rights enforcement suit, Justice Chuka Obiozor, held to the effect that it was unconstitutional for the Nigerian Navy to continue to detain Mr. Labinjo without charge, and ordered that he be released from detention and his phone returned to him.<sup>213</sup> The Nigerian Navy disobeyed this order.**

<sup>210</sup> Ibid

<sup>211</sup> Ibid

<sup>212</sup> Olamide Felipe, "EFCC to Arraign Detained Naval. Captain" *Premium Times* 2 December 2019. Available at <https://www.premiumtimesng.com/news/more-news/366111-efcc-to-arraign-detained-naval-captain-labinjo-in-court.html> Accessed 13/1/2024.

<sup>213</sup> Ibid

<sup>214</sup> Ibid

<sup>215</sup> Femi Owolabi, "After A Year, Navy Releases Labinjo From 'Underground Cell' to EFCC" *The Cable* December 1 2019. Available at <https://www.thecable.ng/after-a-year-navy-releases-capt-labinjo-from-underground-cell-to-efcc/amp> Accessed 14/1/2024.



## 5.11. Patrick Okoli: Suit No. FHC/ABJ/CS/637/2009<sup>216</sup>

This was a civil suit involving CSP Patrick Okoli and the Nigerian police. At least 3 orders of court, including two principal orders and one reaffirmation order were disobeyed in connection with this case.

In June 1992, Mr. Okoli was compulsory retired from the Police Force.<sup>217</sup> In 2009, Mr. Okoli, sued the Inspector General of Police, alleging wrongful dismissal. On 21 October 2011, the court gave judgment in favour of Mr. Okoli and ordered his reinstatement into the police force.<sup>218</sup> Also, the court “ordered the payment of N10million to the applicant, being special and general damages for the unlawful, illegal and unconstitutional denial of his rights and privileges as a Senior Officer of the Nigeria Police Force from 1993 till date”.<sup>219</sup>

Despite the reaffirmation of the orders of court by the Federal High Court upon the Police Service Commission (PSC) recommending Okoli’s reinstatement into the Police in 2015, the then Inspector General of Police, Usman Bala, continued to disobey the order.<sup>220</sup> This prompted a contempt proceeding whereby Usman Bala was convicted and sentenced to 3 months imprisonment until he complied with the order of October 21, 2011.<sup>221</sup> The court in its judgment frowned at the blatant disregard of its order by the IGP. The court, per Justice Mobolaji Olajuwon, is reported to have stated thus;

***On 21 October 2011, the court gave judgment in favour of Mr. Okoli and ordered his reinstatement into the police force.<sup>218</sup> Also, the court “ordered the payment of N10million to the applicant, being special and general damages for the unlawful, illegal and unconstitutional denial of his rights and privileges as a Senior Officer of the Nigeria Police Force from 1993 till date”.<sup>219</sup>***

It is unfortunate that the chief enforcer of the law is one who has deliberately refused to comply with the same law. It is important to state that obedience to orders of the court is fundamental to the good order, peace and stability of a nation.

It is a duty which every citizen, who believes in peace and stability of the Nigerian state, owes the nation and the court has a duty to commit the individual who has failed to carry out the order of the court for contempt, so as to prevent the authority and administration of law from being brought to

<sup>216</sup> Kehinde Osaona & Ahmid Lawal, “30 Years After CSP Okopi’s Sack: Judge Slams 3-Month Jail Term on IGP, Police Not Aware of Court Order” blueprint 30 November 2022. Available at <https://blueprint.ng/30-years-after-csp-okolis-sack-court-slams-3-month-jail-term-on-igp-police-reveal-next-plan/> Accessed 14/1/2024; Abiodun Blessing, et al, “PSC Directed to Reinstate Officer – Police” Punch 3 September 2022. Available at <https://punchng.com/psc-directed-to-reinstate-officer-police/> Accessed 13/1/2024.

<sup>217</sup> Ibid; see also Abiodun Blessing, et al, “PSC Directed to Reinstate Officer – Police” Punch 3 September 2022. Available at <https://punchng.com/psc-directed-to-reinstate-officer-police/> Accessed 13/1/2024.

<sup>218</sup> Ibid

<sup>219</sup> Ibid

<sup>220</sup> Ibid

<sup>221</sup> Ibid; see also Punch Editorial, “Defiance of Court Orders Threaten Democracy” Punch 15 December 2022. Available at <https://punchng.com/defiance-of-court-orders-threatens-democracy/> Accessed 16/12/2024.

disrespect and to protect the dignity of the court,” the court averred.

If at the end of the three months, the contemnor remains recalcitrant and still refuses to purge his contempt, he shall be committed for another period until he purges his contempt.<sup>222</sup>



## 5.12. Adamu Makama v. Governor of Niger State<sup>223</sup>

This is a civil suit between Adamu Makama and the Government of Niger State. At least one court order was disobeyed in this case.

On 12 October 2022, the court made an order in connection with the above suit which was disobeyed by the Chief of Army Staff.<sup>224</sup> This prompted a contempt proceeding where the Chief of Army Staff, Faruk Yahaya, and Olugbenga Olabanji, Commandant of the Training and Doctrine Command, Minna were convicted for contempt of court. In its ruling, the court per Halima Abdulmalik, is reported to have stated thus;

An order is made committing the Nigerian army chief of staff general Farouk Yahaya and the commander training and doctrine command (TRADOC) Minna i.e 6th &7th respondents into the custody of the correctional centre for contempt of the order of this honourable court made on the 12/10/2022. They shall remain in the custody of the correctional centre until they purge themselves of the contempt.<sup>225</sup>

***On 12 October 2022, the court made an order in connection with the above suit which was disobeyed by the Chief of Army Staff.<sup>224</sup>***

***An order is made committing the Nigerian army chief of staff general Farouk Yahaya and the commander training and doctrine command (TRADOC) Minna i.e 6th &7th respondents into the custody of the correctional centre for contempt of the order of this honourable court made on the 12/10/2022. They shall remain in the custody of the correctional centre until they purge themselves of the contempt.<sup>225</sup>***

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<sup>222</sup> Ibid

<sup>223</sup> NSHC/225/2019 cities in Bolanle Olabitan, “Cour Orders Arrest of Army Chief – 3 High Profile Contempt Ruling in Weeks” The Cable December 1, 2022. Available at <https://www.thecable.ng/court-orders-arrest-of-army-chief-3rd-high-profile-contempt-ruling-in-weeks/amp> Accessed 13/1/2024

<sup>224</sup> Ibid

<sup>225</sup> Ibid



### 5.13. Adeniyi Ojuawo v. FRN<sup>226</sup>

This is a civil suit between Adeniyi Ojuawo and the federal government. At least one court order was disobeyed in this suit.

In the above suit, Mr. Ojuawo obtained judgment in his favour in which the court orders the EFCC “to return a Range Rover and the sum of N40 million to Ojuawo”.<sup>227</sup> This order was disobeyed. This prompted a contempt proceeding where the court, per Chizoba Oji, committed the Chairman of EFCC, Abdulrasheed Bawa to remand.<sup>228</sup> Although the order was later set aside, it underscores the scourge of contempt of court orders in Nigeria.<sup>229</sup>

*In the above suit, Mr. Ojuawo obtained judgment in his favour in which the court orders the EFCC “to return a Range Rover and the sum of N40 million to Ojuawo”.<sup>227</sup> This order was disobeyed. This prompted a contempt proceeding where the court, per Chizoba Oji, committed the Chairman of EFCC, Abdulrasheed Bawa to remand.<sup>228</sup>*

### 5.14. Center for Social Justice v. The President of the Federal Republic of Nigeria & 4 Ors<sup>230</sup> (The Debt Limitation Case)



This is a civil suit between the Center for Social Justice and federal government. At least one court order was disobeyed in this suit.

In 2013 the Center for Social Justice sued the federal government at the Federal High Court, praying the court for several declarations and orders, including “[a]n Order directing the 1st, 2nd, 3rd, 4th and 5th Respondents to ensure that the overall limits for the amounts of consolidated debt of the Federal, State and Local Governments in Nigeria is set, approved and enforced in line with Section 42 (1) of the Fiscal Responsibility Act 2007.”<sup>231</sup> The federal government argued inter alia that “compliance with the provision of Section 42 (1) of the Fiscal Responsibility Act will be difficult and it is a process that takes a lot of time as it will involve the computation of the Gross Domestic Product of States and the reconstruction of their domestic debt data”.<sup>232</sup>

<sup>226</sup> FCT/HC/M/52/2021 Cited in Bolanle Olabimtan, “Hijab, Kanu's Release, Contempt in High Places –the Major Judgments of 2022. Available at <https://www.thecable.ng/hijab-verdict-kanus-release-contempt-in-high-places-all-the-major-judgments-of-2022/amp> Accessed 13/1/2024.

<sup>227</sup> Ibid


<sup>228</sup> Ibid

<sup>229</sup> Ibid

<sup>230</sup> Suit No. FHC/ABJ/CS/302/2013, Cited in Eze Onyekpere, “The Debt Limitation Case” Center for Social Justice March 2018. Available at <https://csj-ng.org/the-debt-limitation-case/> Accessed 13/1/2024.

<sup>231</sup> Ibid

<sup>232</sup> Ibid



***Order directing the 1st, 2nd, 3rd, 4th and 5th Respondents to ensure that the overall limits for the amounts of consolidated debt of the Federal, State and Local Governments in Nigeria is set, approved and enforced in line with Section 42 (1) of the Fiscal Responsibility Act 2007.***

In its judgment, delivered in February 2018, the Federal High Court, per G. O. Kolawole, held in favour of the plaintiff, ordering the federal government to set limits for the consolidated debt of federal, state and local governments.<sup>233</sup> The judgment of the court read partly thus;

Having regard to the answers given to the two (2) questions based on my interpretation of the provision of section 42 (1) of the Fiscal Responsibility Act, supra, that it is mandatory, it is my decision that the reliefs being sought ought to succeed, and they are granted as pleaded. In relation to relief (4) in the Plaintiff's "Originating Summons", in the exercise of my inherent jurisdiction pursuant to the provision of Order 56 Rule 1 of the Federal High Court (Civil Procedure) Rules, 2009, the 1st and 4th Defendants shall within 90 days from today, comply with and execute the provision of Section 42 (1) of the Fiscal Responsibility Act, 2007. In the event that they were unable to conclude with the process which the 1st and 5th Defendants' counsel has argued was already on its way within the said period, the 1st and 4th Defendants shall be at liberty through the 5th Defendant to apply to a Court of competent jurisdiction to extend the period within which the mandatory provision of Section 42 (1) of the Fiscal Responsibility Act, supra can be fully complied by a presentation made by the 1st Defendant on the advice of the 4th Defendant to the 2nd and 3rd Defendants.

The Plaintiff who is enabled by the provision of Section 51 of the Act, ought to be commended as its action was intended to jolt the 1<sup>st</sup>, 4<sup>th</sup> and 5<sup>th</sup> Defendants to do that which is necessary in order to give the Federal Government of Nigeria's current policy on anti corruption a necessary boost within the ambits of the law which has largely been obeyed by refusal of successive administration to execute the provision in Section 42 (1) of the Fiscal Responsibility Act, supra.<sup>234</sup>

The government remains in contempt of this order.<sup>235</sup>



***The government remains in contempt of this order.***<sup>235</sup>

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<sup>233</sup> Ibid; see also Theophilus Adedokun, "Major Court Orders Buhari Administration Disobeyed in Eight Years" supra

<sup>234</sup> Ibid

<sup>235</sup> Theophilus Adedokun, "Major Court Orders Buhari Administration Disobeyed in Eight Years" supra



## 5.15. Five Buhari-Must-Go Activists<sup>236</sup>

This is a civil suit involving five young persons Ben Manasseh, Anene Udoka, Henry Nwodo, Samuel Larry and Samuel Gabriel and DSS and others. At least 2 court orders were disobeyed in this case.

In July 2021, the five men in protest wore T-shirts with the inscription, “Buhari-Must-Go” at Dunamis Church, Abuja. They were eventually arrested by DSS and kept in prolonged detention without charge.<sup>237</sup> Consequently, they separately filed a fundamental rights enforcement suit against DSS and also applied to the court for bail.<sup>238</sup> On 26 July 2021, the court, per Justice Obiora Egwuatu, found that their fundamental rights was been violated and admitted them to bail, ordering DSS to immediately release them unconditionally.<sup>239</sup>

DSS disobeyed the court order and instead proceeded to arraign the five men before a Magistrate, where they were also admitted to bail in the sum of N500,000 each and sureties in the like sum.<sup>240</sup> Upon the ruling of the court admitting them to bail, DSS quickly whisked them away, foreclosing any early opportunity for the perfection of their bail conditions. Although they were finally released in August 2021,<sup>241</sup> this was not until a contempt proceeding was initiated against the Director-General of DSS, Yusuf Bichi.<sup>242</sup>

***On 26 July 2021, the court, per Justice Obiora Egwuatu, found that their fundamental rights was been violated and admitted them to bail, ordering DSS to immediately release them unconditionally.<sup>239</sup> DSS ‘ disobeyed the court order and instead proceeded to arraign the five men before a Magistrate, where they were also admitted to bail in the sum of N500,000 each and sureties in the like sum.<sup>240</sup> Upon the ruling of the court admitting them to bail***

<sup>236</sup> Suit No. FHC/ABJ/CS/631/2021; Suit No. FHC/ABJ/CS/636/2021; Suit No. FHC/ABJ/CS/637/2021; Suit No. FHC/ABJ/CS/638/2021; Suit No. FHC/ABJ/CS/639/2021; Cited in Ameh Ejekwonyilo, “Court Orders Release of Five ‘Buhari-Must-Go’ Protesters Arrested at Dunamis Church By DSS” Premium Times July 26 2021. Available at <https://www.premiumtimesng.com/news/top-news/475821-court-orders-release-of-five-buhari-must-go-protesters-arrested-at-dunamis-church-by-sss.html?tztc=1> Accessed 13/1/2024.

<sup>237</sup> Ibid

<sup>238</sup> Ibid; see also Sahara Reporters, “Five #BuhariMustGo Protesters Drag Department of State Services, Dunamis Church to Court Over Illegal Detention” Sahara Reporters July 9, 2021. Available at <https://saharareporters.com/2021/07/09/five-buharimustgo-protesters-drag-department-state-services-dunamis-church-court-over> Accessed 13/1/2024.

<sup>239</sup> Sahara Reporters, “Breaking: Lawless Department of State Services Finally Bows to Pressure, Release 5 #BuhariMustGo Activists Arrested at Dunamis Church” Sahara Reporters August 3, 2021. Available at <https://saharareporters.com/2021/08/03/breaking-lawless-department-state-services-finally-bows-pressure-releases-5-buharimustgo?id=582> Accessed 14/1/2024.

<sup>240</sup> Ibid

<sup>241</sup> Adeyemi Adesemoju, “SSS Releases Five Buhari Must Go Protesters After Disobeying Court Order” Premium times August 4, 2021. Available at <https://www.premiumtimesng.com/news/top-news/477409-sss-releases-five-buhari-must-go-protesters-after-disobeying-court-order.html> Accessed 13/1/2024; Sahara Reporters, “Breaking: Lawless Department of State Services Finally Bows to Pressure, Release 5 #BuhariMustGo Activists Arrested at Dunamis Church” supra

<sup>242</sup> Olanrewaju Oyedeji, Analysis: How Disobedience of Court Orders Weaken Rule of Law, Human Rights in Nigeria” supra; see also Sahara Reporters, “Breaking: Lawless Department of State Services Finally Bows to Pressure, Release 5 #BuhariMustGo Activists Arrested at Dunamis Church” supra



## 5.16. The ALSCON Case<sup>243</sup>



This was a civil suit involving the Federal Republic of Nigeria, the Bureau of Public Enterprises and United Company RUSAL. At least 3 principal orders of court have been disobeyed by the federal government in this case. Due to its long-drawn nature and complexity, the discussion hereunder is the report of the Premium Times, verbatim ad literatim.

In July 2016, the Supreme Court gave an order reaffirming the nullification of the 2006 controversial transfer of the Aluminium Smelter Company of Nigeria, ALSCON, to a Russian firm, the United Company RUSAL.

The violation of the ruling of Nigeria's apex court on the matter did not however, start with the Buhari administration. The 2016 ruling was the third by the Supreme Court since the questionable sale of the aluminium plant to the Russians by the Bureau of Public Enterprises, BPE in 2004.

In June 2004, the Nigerian-American consortium, Bancorp Financial Investment Group Divino Corporation BFIG, led by Reuben Jaja, was declared winner of the bid for the plant organised by the National Council for Privatization, NCP. But, the BPE cancelled the outcome of the bid and disqualified the consortium in controversial circumstances, accusing it of failure to meet the deadline for the payment of 10 per cent of the bid price it offered in line with stipulated guidelines.

***In July 2016, the Supreme Court gave an order reaffirming the nullification of the 2006 controversial transfer of the Aluminium Smelter Company of Nigeria, ALSCON, to a Russian firm, the United Company RUSAL.***

BFIG took the matter to court seeking the enforcement of its right in line with the terms of agreement reached in the pre-bid technical conference by all bid parties. For over eight years, the matter dragged in various courts in Nigeria, till the Supreme Court, on July 6, 2012, in a unanimous verdict, annulled the handing over of ALSCON to UC RUSAL.

The court, which declared as illegal, null and void, BPE's decision on the basis of the agreement purportedly reached at their negotiations in 2006, reinstated BFIG as the authentic winner of the bid. The BPE, defiantly dismissed the ruling as an error, encouraging Dayson Holdings Limited, the Nigerian affiliate of UC RUSAL in Nigeria, to file an appeal.

In its application, Dayson Holding sought a review of the July 6, 2012 judgement annulling the 2006 handing over of ALSCON to UC RUSAL by BPE. The privatisation agency also declared its support for the continued ownership of the multi-billion-dollar plant. Consequently, BFIG returned to the court with another application in 2014 seeking the interpretation and enforcement of the subsisting order against UC RUSAL.

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<sup>243</sup> Suit No. FHC/ABJ/.CS/901/2013 Supreme Court Appeal No.SC12/2008. Cited in Bassey Udo,"Court Ruling on ALSCON an Error" Premium Times 15 October 2014. Available at <https://www.premiumtimesng.com/business/169561-court-ruling-on-alscon-an-error-bpe.html> Accessed 13/1/2024.

Despite BPE, which joined UC RUSAL, to oppose the application, the Supreme Court in its September 2014 ruling reaffirmed its previous verdict and directed BPE to “fully enforce and give effect to the meaning and intendment of the judgment of the Supreme Court of July 6, 2012. Again, the Russians ignored the directive and proceeded to file an application in November 2015 to demand the Supreme Court to, not only review its July 6, 2012 judgment, but also set it aside altogether, and confirm UC RUSAL as the owner of ALSCON. But, on July 11, 2016, the Supreme Court again, in a unanimous ruling by a five-member panel led by Justice Olabode Rhodes-Vivour, dismissed the application as incompetent and without merit.

In flagrant disregard to the Supreme Court ruling, the Minister of Mines & Steel Development, Kayode Fayemi, in April 2017 undertook an inspection visit to ALSCON. During the visit, Mr. Fayemi was received and shown around the plant by Dimitriy Zaviyalov, the managing director of UC RUSAL, the same firm the Supreme Court repeatedly sacked. The minister not only promised to work with the Russian firm to reactivate ALSCON, but also assured Mr. Zaviyalov, that government would “encourage the Supreme Court to expedite action on the ruling, to free the complex of any encumbrances. Contrary to Mr. Fayemi’s claim, however, the Supreme Court already ruled.<sup>244</sup>

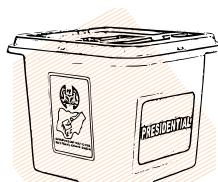
In the above case, the federal government remains in contempt of three Supreme Court orders delivered on July 6, 2012, September 2014, and July 11, 2016 in favour of Bancorp Financial Investment Group Divino Corporation BFIG.

***In the above case, the federal government remains in contempt of three Supreme Court orders delivered on July 6, 2012, September 2014, and July 11, 2016 in favour of Bancorp Financial Investment Group Divino Corporation BFIG.***



## **5.17 Attorney General of the Federation**

It was reported that the Attorney General of the Federation defied an Abuja Federal High Court Order to hand over the soldiers who were allegedly responsible for killing three police men in Taraba state in August 2019.<sup>245</sup>



## **5.18 Election Petitions**

Election matters have witnessed a fair share of contempt of court orders by parties, particularly INEC. This usually consist of orders of the court to produce certified true copies of electoral documents.

One such recent instance is the case of Peter Obi v Tinubu,<sup>246</sup> one of the 2023 presidential election disputes.

<sup>244</sup> Evelyn Okakwu, “Special Report: How Buhari Administration Serially Disobeys Court Orders” supra

<sup>245</sup> Olanrewaju Oyediji, Analysis: How Disobedience of Court Orders Weaken Rule of Law, Human Rights in Nigeria” supra

Despite a valid and subsisting order of the Presidential Election Petition Tribunal, INEC initially refused to release certified copies of the results of the presidential election to the Labour Party and its presidential candidate and later did so belatedly even going as far as certifying blurry and blank documents.<sup>247</sup> Needless to say, this constitutes contempt of a valid and subsisting order of the court.

***Despite a valid and subsisting order of the Presidential Election Petition Tribunal, INEC initially refused to release certified copies of the results of the presidential election to the Labour Party***

### **5.19. John Eche Okpe<sup>248</sup>**

This is a civil suit involving John Eche Okpe, a legal practitioner, and the Federal Republic of Nigeria. At least 2 orders of courts were disobeyed in connection with this case, that is, the principal order in the original suit, and another other arising from a garnishee proceeding aimed at enforcing the original order.

Mr. Okpe had obtained a judgment in his favour against the federal government which was disobeyed.<sup>249</sup> To enforce the judgment, Mr. Okpe filed a garnishee proceeding, attaching the account of the federal government with the Central Bank of Nigeria (CBN). Reports show that [t]he garnishee order nisi to the tune of N10 million was made absolute by Justice N.D. Shaseet of the Plateau State High Court of Justice on November 1, 2023".<sup>250</sup> Similarly, this order was disobeyed by CBN, prompting a contempt proceeding, which on 14 December 2023, resulted in the issuance of a warrant of arrest against one Makama to compel his appearance before the court to show cause why he should not be committed to prison.<sup>251</sup>

***Mr. Okpe had obtained a judgment in his favour against the federal government which was disobeyed.<sup>249</sup> To enforce the judgment, Mr. Okpe filed a garnishee proceeding, attaching the account of the federal government with the Central Bank of Nigeria (CBN). Reports show that [t]he garnishee order nisi to the tune of N10 million was made absolute by Justice N.D. Shaseet of the Plateau State High Court of Justice on November 1, 2023".<sup>250</sup> Similarly, this order was disobeyed by CBN***

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<sup>247</sup> Alex Enumah, "Court Admits Blurred INEC Certified IReV Report as Exhibit in Obi's Petition" This Day Available at <https://www.thisdaylive.com/index.php/2023/06/13/court-admits-blurred-inec-certified-irev-report-as-exhibits-in-obis-petition-against-tinubu> Accessed 17/12/2023.

<sup>248</sup> PLD/J397/m/2023 Cited in Agabus Pwangba, "Court Issues Arrest Warrant Against CBN Controller" Daily Post 15 December 2023. Available at <https://dailypost.ng/2023/12/15/court-issues-arrest-warrant-against-cbn-controller/> Accessed 13/1/2024.

<sup>249</sup> Ibid

<sup>250</sup> Ibid

<sup>251</sup> Ibid



## 5.20. Chike Ibezim v. Inspector General of Police & 2 Ors<sup>252</sup>

This was a fundamental rights enforcement suit involving Chike Ibezim and the police. At least 2 orders of court were disobeyed by the police in this case, including an order admitting Mr. Ibezim to bail in the original suit and a reaffirmation order in a later suit.

As reported by the Premium Times, on August 10, 2023, the police arrested Chike Ibezim on reasonable suspicion of malicious publication on his X account against Mr. Fashola.<sup>253</sup> The police detained him for a month without charge. Mr. Ibezim instituted a suit against the police at the Federal High Court, praying the court, inter alia, to order his release from police custody.<sup>254</sup> On 30 August 2023, the court, per Olueymisi Adelaja, granted the application, ordering the police to either immediately release Chike Ibezim or charge him to court.<sup>255</sup> However, the police disobeyed the order by varying the terms therein.<sup>256</sup>

On 9 September 2023, the court issued another order reaffirming and reinstating the initial order. Frowning at the action of the police, the court stated thus;

The order dated 30 August 2023 is explicit; it is unambiguous and very clear in its terms. The said bail conditions [as varied by the police] are therefore unacceptable to this court, the orders of this court are for either the immediate release of the applicant from custody or for the respondent to charge the applicant to court for any offence disclosed against him.<sup>257</sup>

***On 30 August 2023, the court, per Olueymisi Adelaja, granted the application, ordering the police to either immediately release Chike Ibezim or charge him to court.<sup>255</sup> However, the police disobeyed the order by varying the terms therein.<sup>256</sup>***

***On 9 September 2023, the court issued another order reaffirming and reinstating the initial order. Frowning at the action of the police***

Again, police disobeyed this reaffirmation order on the pretext that “the police investigation had established a prima facie case of malicious publication, cyberbullying, and other related offences against the suspect”.<sup>258</sup> Instead of obeying the court order, the police doubled down on its contempt by stating that the alleged malicious publication (that Fashola participated in the drafting of the judgment of the Presidential Election Tribunal in respect of the 2023 presidential election) by Chike Ibezim; cast aspersion on the person of the former Minister [fashola], contrary to Section 24 of the

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<sup>252</sup> Cited in Premium Times, “Again, Court Orders Police to Release or Charge Man Detained for Allegedly Defaming Fashola” supra

<sup>253</sup> Ibid

<sup>254</sup> Ibid

<sup>255</sup> Ibid

<sup>256</sup> Ibid

<sup>257</sup> Ibid

(Prohibition, Prevention) Act, 2015, which has the potential to cause harm, distress, and damage to his reputation, as well as posing great threats to national security and stability of our dear country.<sup>259</sup>



## 5.21. Justice Oyebola Ojo<sup>260</sup>

Even a serving Justice was not spared the punishing effect of disobedience of court orders by the government. This was a civil case involving the Chief Judge of Osun State, Justice Oyebola Ojo and the Governor of Osun State, Ademola Adeleke. At least 4 orders of court were disobeyed in this case.

Justice Ojo instituted a fundamental rights enforcement suit against Governor Adeleke at the National Industrial Court.<sup>261</sup> By way of an ex parte motion, Justice Ojo prayed the court, inter alia, to restrain the governor from removing her from the office of the Chief Judge of the state pending the hearing and determination of the substantive suit.<sup>262</sup> In its ruling delivered on November 16, 2023, the Court, per Justice Dele Peters, granted the application as prayed.<sup>263</sup> Restraining Governor Adeleke from removing Justice Ojo as the Chief Judge of the Osun state, the court issued four orders thus;

An order of interim injunction is issued restraining the defendants by themselves or their agents or privies howsoever so-called from interfering with removing, reversing or terminating the appointment and conditions of service of the Applicant as the Hon. Chief Judge of Osun State including but not limited to salaries and other pecuniary benefits pending the determination of the interlocutory application.

An order is here issued mandatory for the 4th defendants (accountant-general) to continue to pay the salary, entitlements, emoluments and other benefits and money the applicant is entitled to as the Hon. chief judge of Osun state pending the determination of the interlocutory application.

### **Justice Ojo instituted a fundamental rights enforcement suit against Governor Adeleke at the National Industrial Court.**

Taking cognisance of the gender of the Applicant as a wife, a mother and a grandmother, the first defendant as the Chief Security Officer of Osun State with keys to all security apparatus is ordered and directed to ensure adequate protection to the Applicant from all forms of harassment and from all quarters pending the hearing and determination of the originating summons.

Finally, it is directed that the 2nd Defendant (Attorney-General) as the Chief Law Officer of Osun State will appropriately advise the Defendants in general and the 1st Defendant in particular on the

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<sup>259</sup> Ibid

<sup>260</sup> Suit No. NICN/IB/61/2023 Cited in Bolanle Olabitan, Adelekw Defies Court Order, Suspends Osun Chief Judge” The Cable November 16 2023. Available at <https://www.thecable.ng/adeleke-defies-court-order-suspends-osun-chief-judge/amp> Accessed 13/2/2024.

<sup>261</sup> Ibid; see also Sahara Reporters, “Osun Governor Adeleke Defies Court Order, Appoints Afolabi Acting Chief Judge After Suspending Oyebola Ojo” Sahara Reporters 16 November 2024. Available at <https://saharareporters.com/2023/11/16/osun-governor-adeleke-defies-court-order-appoints-afolabi-acting-chief-judge-after> Accessed 13/2/2024.

<sup>262</sup> Ibid

<sup>263</sup> Ibid

imperative of complying fully with the orders of this Court.<sup>264</sup>

All the four orders above were disobeyed as Governor Adeleke went ahead to suspend Justice Ojo as the Chief Judge of the state, and appointed Justice Olayinka David Afolabi as the Acting Chief Judge of the state.<sup>265</sup>

One wonders why despite the blatant disregard of the orders of the court, the newly appointed Justice accepted the appointment. Wouldn't it have served as a deterrent to contempt of court orders if no other Justice in the state accepted the role given the circumstances? Alas, the judiciary is more or less complicit in the disobedience of its own orders.

***All the four orders above were disobeyed as Governor Adeleke went ahead to suspend Justice Ojo as the Chief Judge of the state, and appointed Justice Olayinka David Afolabi as the Acting Chief Judge of the state.***



## **5.22. Shangisha Landlord Association<sup>266</sup>**

This is a civil suit involving the Shangisha Landlord Association and the government of Lagos State. At least 2 court orders have been disobeyed by the Lagos state government in this case.

Reports show that it all started in 1984 when “Lagos land officials cajoled the then military governor of the state to demolish their properties with the hope that the land would be used for public purposes”.<sup>267</sup> But instead of using the property for the public good, the government officials distributed it among themselves.<sup>268</sup> In June 1988, the land owners sued Lagos government and obtained judgment in their favour.<sup>269</sup> Dissatisfied, the Lagos State government appealed to the Court of appeal, which was dismissed.<sup>270</sup> A further appeal to the Supreme Court was similarly dismissed.<sup>271</sup> Affirming the judgement of the lower courts, the Supreme Court in a unanimous judgment on 10 February 2012 ordered the Lagos State government “to allocate 549 plots to the plaintiffs in the Shangisha village scheme” and “awarded N50,000 costs against the defendants [Lagos State government]”.<sup>272</sup> In its

<sup>264</sup> Ibid

<sup>265</sup> Ibid

<sup>266</sup> Suit Nos. ID795/88; CAL 225/96; SC112/02 Cited in Joseph Onyekwere, “Lawyer, Others Decry Recurring Executive Disobedience to Valid Court orders” Guardian 19 October 2021. Available at <https://guardian.ng/features/lawyer-others-decry-recurring-executive-disobedience-to-valid-court-orders/> Accessed 16/12/2023.

<sup>267</sup> Ibid

<sup>268</sup> Ibid

<sup>269</sup> Ibid

<sup>270</sup> Ibid

<sup>271</sup> Ibid

<sup>272</sup> Ibid



judgment, the Supreme Court, per Justice Olufunlola Adekeye, held inter alia, thus;

A declaration that members of the Shangisha Landlords Association whose lands and or buildings at Shangisha village were demolished by the Lagos State Government and/or its servants or agents during the period of June 1984 to May 1985 are entitled to the first choice preferential treatment by the Lagos State Government (before any other persons) in the allocation or re-allocation of plots in Shangisha village and I make the order against the 1st, 2nd, 3rd and 4th defendants (particularly the Lagos State Government and land use and allocation committee) as agreed in the meeting held on October 16, 1984, with the ministry of Lands, Housing and Development matters, Lagos.<sup>273</sup>

However, for almost 40 years, the Lagos state government has remained in contempt of the above orders.<sup>274</sup>

**However, for almost 40 years, the Lagos state government has remained in contempt of the above orders.**



### **5.23. Inhabitants of Otodo-Gbame**<sup>275</sup>

This is a civil suit involving the inhabitants of Otodo-Gbame, a riverine community in Lekki, Lagos, and the government of Lagos State regarding illegal demolition of the former's property. At least 2 court orders were disobeyed by the Lagos state government in connection with this case.

In 2017, the government of Lagos state disclosed its intention to evict riverine communities in the state.<sup>276</sup> Whereupon the inhabitants of Otodo-Gbame obtained an interim order of court restraining the government from demolishing their community and evicting them. However, despite the valid and subsisting injunction, the Lagos state government went ahead to demolish the property and evicted them. A contempt proceeding instituted against the governor of Lagos state was dismissed on the ground that the governor has executive immunity against prosecution.<sup>277</sup>

Also, reports show that “successive governments in Lagos are yet to obey the court order requesting it to provide accommodation for the remaining 8,000 former house owners of Maroko, Lagos”.<sup>278</sup>

<sup>273</sup> Ibid

<sup>274</sup> Ibid

<sup>275</sup> Suit No. LD/4232MFHR/2016..AKAKPO & 38 ORS vs. AG L/S & 3 ORS Cited in Jemilat Nasiru, “We Demolished Houses in Riverine Community to Forestall Disaster, Says Lagos State” Cable Available at <https://www.thecable.ng/demolished-houses-riverine-community-forestall-disaster-says-lagos-govt/amp> Accessed 15/1/2024.

<sup>276</sup> Ibid; see also Joseph Onyekwere, “Lawyer, Others Decry Recurring Executive Disobedience to Valid Court orders” supra

<sup>277</sup> Onozure Dania & Monsur Olowoapejo, “Otodo Gbame: Court Rejects Residents' Plea to Jail Ambide, CP, Others” Vanguard April 13, 2017. Available at <https://www.vanguardngr.com/2017/04/otodo-gbame-court-rejects-displaced-residents-plea-jail-ambode-cp-others/> Accessed 15/1/2024.

<sup>278</sup> Joseph Onyekwere, “Lawyer, Others Decry Recurring Executive Disobedience to Valid Court orders” 279 Suit Nos. FCT/HC/M/8903/2022; FCT/HC/CV/2133/2022 Cited in Yejide Ggbenga-Ogundare, “Ibadan Circular Road: Court Restrains Oyo Govt, Orders From Disturbing Activities of ENL Consortium Ltd” Tribune Online July 7, 2022. Available at <https://tribuneonlineng.com/ibadan-circular-road-court-restrains-oyo-govt-others-from-disturbing-activities-of-enl-consortium-ltd/> Accessed 15/1/2024.

**The inhabitants of Otodo-Gbame obtained an interim order of court restraining the government from demolishing their community and evicting them. However, despite the valid and subsisting injunction, the Lagos state government went ahead to demolish the property and evicted them.**

## **5.24. ENL Consortium<sup>279</sup>**

This was a civil suit involving the ENL Consortium and the Craneburg Construction Company Ltd, Fadi Khalil, Mohammed Abdul, the Oyo State Government and the Attorney General and Commissioner for Justice in Oyo State. At least one court order was disobeyed by the government in this case.

Reports show that during the governorship of Late Abiola Ajimobi, and by an Agreement dated 25 August 2017, the Ibadan Circular Road project was contracted to ENL Consortium Ltd, which began work onsite.<sup>280</sup> However, the current Governor of Oyo State, Seyi Makinde, terminated the contract and purported to award the same to Craneburg Construction Company Ltd.<sup>281</sup>

Consequently, ENL Consortium sued the Oyo State government and the other parties aforementioned at the Federal High Court,<sup>282</sup> and further brought a motion ex parte,<sup>283</sup> praying the court for several declarations and orders, including thus;

an order of Interim Injunction restraining the defendants from acting either by themselves or through their servants, agents, officials, staff, representatives or any other person(s) connected to them from further interference, disturbance, trespassing, or any other action or conduct in like manner with the business of the claimant in respect of a subsisting self financing Concessionaire of the 32-kilometer East End Wing of the kilometre proposed The Ibadan Ring Road (the Ibadan Circular Road) under the terms of the Concession Agreement dated 25th August 2017 with Oyo State Government pending the hearing and determination of the Motion on Notice in this suit.<sup>284</sup>

In its ruling delivered on 4 July 2022, the Federal High Court, per Justice Enobie Obanor, granted the order as prayed.<sup>285</sup> However, the order was disobeyed as the Respondents disturbed the Applicant onsite, which prompted ENL Consortium to further institute a contempt proceeding against the Governor of Oyo State, Seyi Makinde.<sup>286</sup>

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<sup>279</sup> Suit Nos. FCT/HC/M/8903/2022; FCT/HC/CV/2133/2022 Cited in Yejide Ggbenga-Ogundare, "Ibadan Circular Road: Court Restrains Oyo Govt, Orders From Disturbing Activities of ENL Consortium Ltd" Tribune Online July 7, 2022. Available at <https://tribuneonlineng.com/ibadan-circular-road-court-restrains-oyo-govt-others-from-disturbing-activities-of-enl-consortium-ltd/> Accessed 15/1/2024.

<sup>280</sup> Ibid

<sup>281</sup> Ibid

<sup>282</sup> Suit No. FCT/HC/CV/2133/2022

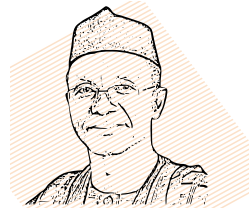
<sup>283</sup> Suit No. FCT/HC/M/8903/2022

<sup>284</sup> Ibid

<sup>285</sup> Ibid

<sup>286</sup> Alex Enumah, "Firm Wants Makinde, AG, Others Jailed for Disobeying Court Order" This Day Available at <https://www.thisdaylive.com/index.php/2022/09/22/firm-wants-makinde-ag-others-jailed-for-disobeying-court-order> Accessed 13/12/2023.

On 4 July 2022, the Federal High Court, per Justice Enobie Obanor, granted the order as prayed.<sup>285</sup> However, the order was disobeyed as the Respondents disturbed the Applicant onsite, which prompted ENL Consortium to further institute a contempt proceeding against the Governor of Oyo State, Seyi Makinde.<sup>286</sup>



## 5.25. Nasir El-Rufai

Nasir El-Rufai was recently the former governor of Kaduna state between 2015 and 2023. During this period, El-Rufai cumulatively disobeyed at least 14 valid and subsisting orders of the court, including all orders concerning the payment of adequate compensation to victims/judgment creditors.<sup>287</sup> As a result of his penchant for contempt to court orders, including in respect of a case involving a lawyer, the Late Alhaji Inuwa Abdulkadir, he was removed as a guest speaker in the 2020 Nigerian Bar Association (NBA) Annual National Conference.<sup>288</sup> Some of the court orders disobeyed by El-Rufai and his government are hereunder briefly discussed.

*El-Rufai cumulatively disobeyed at least 14 valid and subsisting orders of the court, including all orders concerning the payment of adequate compensation to victims/judgment creditors.*

### 5.25.1. Kaduna Market (Kasuwan Barci)<sup>289</sup>



This was a class civil suit between 4,600 traders at Kasuwan Barci, Kaduna state, Nasir El-Rufai, and the Kaduna state government. At least 3 court orders were disobeyed by El-Rufai in connection with this case.

In 2017, the government of Kaduna state under the former Governor, Nasir El-Rufai, indicated an interest in displacing traders at the Kasuwan Barci and demolish the market. On 9 May 2017, the traders at the Kasuwan Barci and demolish the market. On 9 May 2017, the traders instituted a class action against the Kaduna state government and El-Rufai before the Kaduna State High Court, praying the Court, inter alia, to interpret the constitutionality of the intended demolition by the Kaduna state

<sup>287</sup> Lere Olayinka, "Elrufai and Disregard for Court Orders" Politics Arena 22 August 2020. Available at <https://www.google.com/url?q=https://m.facebook.com/1257922684352467/posts/elrufai-and-disregard-for-court-orders-1he-evicted-kaduna-civil-servants-from-th/2181801911964535/&sa=U&ved=2ahUKEwiw2ZyKrfSDAxXKaEEAHR5EDXYQFnoECAkQAg&usq=AOwAw3SsJsv8IDdiumM8syVDFj1> Accessed 20/1/2024.

<sup>288</sup> Ben Ezeamalu, "NBA Withdraws El-Rufai as Speaker at lawyers' Conference" Premium times August 20, 2020. Available at <https://www.premiumtimesng.com/news/top-news/409961-nba-withdraws-el-rufai-as-speaker-at-lawyers-conference.html> Accessed 27/1/2024.

<sup>289</sup> Muhammad Sabiu "Coirt Directs El-Rufia to Reinstate 4,600 Traders to Kasuwar Barci Market" Nigerian Tribune 9 October 2022. Available at <https://tribuneonlineng.com/court-directs-el-rufai-to-reinstate-4600-traders-to-kasuwar-barci-market/> Accessed 26/1/2024;

it was/is the local government that has the vires or competence over issues concerning markets under the Constitution.<sup>290</sup> The traders also brought an interlocutory application, praying the court for an interim injunction restraining the government from demolishing the market pending the hearing and determination of the substantive suit.<sup>291</sup> The interim injunction was granted by the Court.<sup>292</sup> However, instead of obeying the interim order, the government gave the traders a 10-day notice to vacate their shops and proceeded to demolish the market against the court order.<sup>293</sup>

***The traders also brought an interlocutory application, praying the court for an interim injunction restraining the government from demolishing the market pending the hearing and determination of the substantive suit.<sup>291</sup> The interim injunction was granted by the Court.<sup>292</sup> However, instead of obeying the interim order, the government gave the traders a 10-day notice to vacate their shops and proceeded to demolish the market against the court order.<sup>293</sup>***

Justice Edward Andow ruled that the Kaduna State government breached the constitutional provision vesting the creation and operation of markets in the local govts [sic: governments] usurping and arrogating to itself the clear powers and function of the local governments. Andow maintained the state government lacks the powers to do what it did, saying, “the state government should immediately reinstate the 4,600 shop owners back to their shops and pay adequate compensation to them for their losses”.<sup>295</sup>

These final orders were also disobeyed by the government of El-Rufai.<sup>296</sup>

***These final orders were also disobeyed by the government of El-Rufai.<sup>296</sup>***

## **5.25.2. Alhaji Mohammed Abacha: Suit No. KDH/KAD/51/2020<sup>297</sup>**

(The Durbar Hotel Case)

This was a civil suit involving the Durbar Hotel, Alhaji Mohammed Abacha, and the government of Kaduna state under the governorship of Nasir El-Rufai, the Attorney-General and Commissioner for Justice of Kaduna State, the Kaduna State Urban Planning and Development Agency, and the Kaduna State Geographic and Information Service. At least 2 court orders were disobeyed in this case.

On 24 January 2020, during the pendency of a suit before the Kaduna State High Court against the impending illegal demolition of Durbar Hotel by the Kaduna state government, the government proceeded to demolish the Hotel and revoked the Certificate of Occupancy (C of O) of the Plaintiffs.<sup>298</sup>

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<sup>290</sup> Ibid

<sup>291</sup> Ibid

<sup>292</sup> Ibid

<sup>293</sup> Ibid

<sup>294</sup> Ibid; Saxone Akhaine “Shops Demolition: Pandemonium as Court Orders El-Rufai to Pay Compensation” Guardian 11 October 2022. Available at <https://guardian.ng/news/shops-demolition-pandemonium-as-court-orders-el-rufai-to-pay-compensation/> Accessed 20/1/2024/

<sup>295</sup> Ibid

<sup>296</sup> Ibid

<sup>297</sup> Cited in Samuel Bolaji, “Court Nullifies El-Rufai’s Revocation of Durbar Hotel’s C of O” Punch 24 April 2023. Available at <https://punchng.com/court-nullifies-el-rufais-revocation-of-durbar-hotels-c-of-o/> Accessed 24/1/2024.

<sup>298</sup> Ibid

Upon the demolition of the Hotel, the applicants brought an interlocutory motion praying the court to set aside the revocation of their C of O, *inter alia*, thus;

Motion on Notice brought pursuant to Order 15 Rules 1 of the Kaduna State High Court (Civil Procedure) Rules 2007 and under the inherent jurisdiction of the Honourable Court dated and filed on 17 December, 2020 prayed for an order setting aside and or nullifying the purported Notice of revocation of Certificate of Occupancy No. 177789 in respect of Durbar Hotel addressed to Alhaji Mohammed Abacha during the pendency of the suit.<sup>299</sup>

The Applicants also prayed for an “an order to maintain status quo antebellum prior to the commencement of this action, and for such further order(s) as the Honourable Court may deem fit to make in the present circumstances which came up for hearing on 30/03/2023 before the presiding Judge.”<sup>300</sup>

The Court, per Hannatu Balagun, held in favor of the applicant. One report stated the Court to have held partly thus;

[H]aving heard both Counsel, the oral application to stay hearing of the motion dated 17/12/2020 and filed on the same date cannot be granted because the matter in the Court of Appeal is an appeal against the grant of leave to amend the Plaintiffs’ processes. There is currently no stay of proceedings in this court, and the defendants appear not to be diligent in prosecuting their appeal while at the same time, they continue to disobey the orders of this court and also are trying to do acts that will prejudice the other side. The duty of this Court is to ensure that there is a level playing ground for all parties.

In the circumstance, the application to stay proceedings or adjourning this matter cannot be granted in the interest of justice and fairness. It is accordingly refused, and the business of the day shall proceed. I have considered the application to adjourn this matter made again after the motion has been moved, and I agree with the Plaintiffs’ counsel that the defendants have not shown bona fide. They have not denied the fact that there is tampering of the rest by them or others at their instance.

In the circumstance, since the application has bearing on the rest and the defendants have not deemed it fit to respond to the motion for over two years, there is nothing to show that the interest of justice will be achieved by an adjournment of this matter. The application for adjournment is accordingly refused. Having considered the Plaintiffs motion of 17/12/2020 which is uncontested, I am of the view that the application has merit in view of the grounds of the application, the unchallenged affidavit and the exhibits annexed.

The Supreme Court and in deed all courts of the land have decried the use of self-help by litigants. It is the duty of the courts to provide a level playing field for all parties and not allow any side to use the judicial system side by side with self-help to the disadvantage of the other.

On the whole, I grant the Plaintiff’s motion dated 17/12/2020 and nullify the purported Notice of revocation of Certificate of Occupancy No. 177789 in respect of Durbar Hotel and nullifying the

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<sup>299</sup> Ibid

<sup>300</sup> Ibid



of the Plaintiff's title made on the 24/01/2020 and received on the 29/1/2020 during the pendency of this action. The status quo antebellum i.e. prior to commencement of this action shall be maintained by all parties.<sup>301</sup>

However, El-Rufai and his government disregarded the court orders and even proceeded to reallocate the said property to the Nigerian Air Force (NAF) and the Federal Road Safety Commission (FRSC).<sup>302</sup>

***El-Rufai and his government disregarded the court orders and even proceeded to reallocate the said property to the Nigerian Air Force (NAF) and the Federal Road Safety Commission (FRSC).***<sup>302</sup>

### **5.25.3. Residents of Matagi Community**<sup>303</sup>



This was a case between the residents of Matagi Community in Chikun Local Government Area of Kaduna and the government of Kaduna state. Reports show that at least 2 court orders were disobeyed by the Kaduna state government and its agencies in this case.

In 2022, the Kaduna state government indicated that it was going to demolish certain houses in the Matagi Community “perceived to be built without permit from the Kaduna Urban Planning and Development Agency (KASUPDA)”.<sup>304</sup> The residents of the community instituted an action against the Kaduna state government seeking to stop the demolition. The matter went up to the Court of Appeal.<sup>305</sup>

In April 2022, the Court of Appeal gave judgment in favour of the Matagi Community, restraining the Kaduna state government from displacing the community.<sup>306</sup> Recognising the rights of the residents to the land, the court further ordered the Kaduna state government to issue Certificates of Occupancy to them.<sup>307</sup> However, despite the orders of the court, the Kaduna state government refused to issue C of O to the residents of the Matagi Community and proceeded to demolish 11 houses in the community, rendering about 30 persons homeless.<sup>308</sup>

***In April 2022, the Court of Appeal gave judgment in favour of the Matagi Community, restraining the Kaduna state government from displacing the community.<sup>306</sup> Recognising the rights of the residents to the land, the court further ordered the Kaduna state government to issue Certificates of Occupancy to them.<sup>307</sup> However, despite the orders of the court, the Kaduna state government refused to issue C of O to the residents of the Matagi Community and proceeded to demolish 11 houses in the community, rendering about 30 persons homeless.***<sup>308</sup>

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<sup>301</sup> Abu Bakar Ahmadu Maishanu, “Court Voids El-Rufai's Revocation of C of O of Property Belonging to Abacha's Family” Premium Times 26 April 2023. Available at <https://www.premiumtimesng.com/news/top-news/595195-court-voids-el-rufais-revocation-of-c-of-o-of-property-belonging-to-abachas-family.html> Accessed 24/1/2024.

<sup>302</sup> Umar Audu, “After Ignoring Court Order to Demolish Abacha's Durbar Hotel, El-Rufai Allegedly Allocates Land To NAF, FRSC” Daily Nigerian 11 May 2023. Available at <https://dailynigerian.com/after-ignoring-court-order/> Accessed 23/1/2024.

<sup>303</sup> Cited in Mohammed Yaba, “Land Tussle: Kaduna Community Decries Demolition Despite Court Order” Daily Trust 2 August 2023. Available at <https://dailytrust.com/land-tussle-kaduna-community-decries-demolition-despite-court-order/> Accessed 26/1/2024.

<sup>304</sup> Ibid

<sup>305</sup> Ibid

<sup>306</sup> Ibid

<sup>307</sup> Ibid

<sup>308</sup> Ibid



#### 5.25.4. Linda Kuswan<sup>309</sup>

This was a case involving Linda Kuswan, a civil servant in Kaduna state, and the Kaduna state government. At least one court order was disobeyed in this case.

The Kaduna state government evicted some civil servants from government quarters on allegations that they were illegally occupying the buildings. Reports show that at least one of them, Linda Kuswan had “obtained a court judgment dated August 7, 2020, on violation of her rights and to stop the government from evicting her from the house”.<sup>310</sup> However, in disobedience of the court order, the Kaduna state government evicted her from her house.<sup>311</sup>

***Kuswan had “obtained a court judgment dated August 7, 2020, on violation of her rights and to stop the government from evicting her from the house”.<sup>310</sup> However, in disobedience of the court order, the Kaduna state government evicted her from her house.<sup>311</sup>***

#### 5.25.5. Alhaji Inuwa Abdulkadir<sup>310</sup>

This was a case involving the Late Alhaji Inuwa Abdulkadir the North West Zonal Vice Chairman of the All Progressives Congress (APC), and the Kaduna State Government. At least one court order was disobeyed by the government in this case.

Following a perceived witch-hunting, the Kaduna state government indicated an interest to demolish the house of Alhaji Inuwa Abdulkadir in Kaduna state. Consequently, Abdulkadir instituted an action against the government seeking “to stop the Kaduna State Urban Development Agency (KASUPDA) and the Kaduna State Government from demolishing his property”.<sup>313</sup> He further sought an interim order restraining the government from interfering with the property pending the hearing and determination of the substantive suit. In the substantive suit, Abdulkadir's claim was for “N3 million and an injunction and order compelling them [the Kaduna state government] to carry out their statutory duty of issuing approval for the building plan”.<sup>314</sup>

However, despite the interim order was granted by the court, the government proceeded to demolish Abdulkadir's property contrary to the court order.<sup>315</sup> This prompted Abdulkadir to withdraw his earlier suit and institute another against the government for compensation.<sup>316</sup>

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<sup>309</sup> Chimezie Enyiocha, “Kaduna Evicts 'Illegal' Occupants of Govt Residential Houses, Victims Kick” Channels 22 August 2020. Available at <https://www.channelstv.com/2020/08/22/kaduna-evicts-illegal-occupants-of-govt-residential-houses-victims-kick/> Accessed 27/1/2024.

<sup>310</sup> Ibid

<sup>311</sup> Ibid

<sup>312</sup> Cited in Andrew Agbase, “Demolition: APC Chieftain Sues El-Rufai For N500m Damages” Daily Trust 15 May 2017. Available at <https://dailytrust.com/demolition-apc-chieftain-sues-el-rufai-for-n500m-damages/> Accessed 27/1/2024

<sup>313</sup> Ibid

<sup>314</sup> Ibid

<sup>315</sup> Ibid

<sup>316</sup> Ibid

## 5.25.6. Kaduna Teachers



This was a case involving the National Union of Teachers (NUT) and the Kaduna state government. At least three court orders were disobeyed by the government in connection with this case.

In 2017, the government of Kaduna state indicated that it was going to conduct a competency test for primary school teachers.<sup>317</sup> The NUT perceived this as a ploy to sack teachers and instructed its members not to participate in the test.<sup>318</sup> Hence, it obtained an interim order from the court, restraining the government from conducting the competency test.<sup>319</sup> However, the government went ahead to conduct the test and sacked the Kaduna State Chairman of the Nigeria Union of Teachers, Ibrahim Dalhatu, and 2,356 other teachers who refused to participate in the test.<sup>320</sup>

Meanwhile, having conducted the competency test against a valid and subsisting order of the court, the government indicated that it was going to sack teachers who failed the test.<sup>321</sup> Consequently, the teachers instituted an action against the Kaduna state government and obtained an interim injunction restraining the government from sacking any teacher based on the competency test.<sup>322</sup> This order was also disobeyed by the government.

*The NUT perceived this as a ploy to sack teachers and instructed its members not to participate in the test.<sup>318</sup> Hence, it obtained an interim order from the court, restraining the government from conducting the competency test.<sup>319</sup> However, the government went ahead to conduct the test and sacked the Kaduna State Chairman of the Nigeria Union of Teachers, Ibrahim Dalhatu, and 2,356 other teachers who refused to participate in the test.<sup>320</sup>*

Although in February 2018, the National Industrial Court dismissed the case of NUT for lacking in merit,<sup>323</sup> an order of court to compensate the sacked teachers with their due entitlements was also disobeyed.<sup>324</sup>

*The teachers instituted an action against the Kaduna state government and obtained an interim injunction restraining the government from sacking any teacher based on the competency test.<sup>322</sup> This order was also disobeyed by the government.*

*An order of court to compensate the sacked teachers with their due entitlements was also disobeyed.<sup>324</sup>*

<sup>317</sup> Godwin Isenyo, "NUT Fumes as Kaduna Sacks Union Boss, 2,536 Others" punch 20 Juje 2022. Available at <https://punchng.com/nut-fumes-as-kaduna-sacks-union-boss-2356-others/> Accessed 27/1/2024.

<sup>318</sup> Ibid

<sup>319</sup> Ibid

<sup>320</sup> Ibid

<sup>321</sup> Fikayo Oowolagba, "Court Stops El-Rufai From Sacking 21,000 Kaduna Teachers" Daily Post 15 December 2017. Available at <https://dailypost.ng/2017/12/15/court-stops-el-rufai-sacking-21000-kaduna-teachers/> Accessed 27/1/2024.

<sup>322</sup> Ibid

<sup>323</sup> Ibrahim Hassan Wuyo, "Teachers Sack: Court Dismisses NUT's Suit Against El-Rufai" Vanguard February 27, 2021. Available at <https://www.vanguardngr.com/2021/02/teachers-sack-court-dismisses-nuts-suit-against-el-rufai/> Accessed 27/1/2024.

<sup>324</sup> Godwin Isenyo, "Karuna NLC Asks El-Rufai to Pay Sacked Teachers' Entitlements" punch May 1, 2018. Available at <https://punchng.com/kaduna-nlc-asks-el-rufai-to-pay-sacked-teachers-entitlements/> Accessed 27/1/2024.

## 5.25.7. Senator Suleiman Hunkuyi: suit No: KDH/KAD207/2018<sup>325</sup>



This was a case involving Senator Suleiman Hunkuyi, a chieftain of APC, and the Kaduna state government and its agencies. At least 2 court orders were disobeyed by the Kaduna state government in connection with this case.

In 2018, the Kaduna state government, through the Kaduna State Geographic Information System (KADGIS), issued a one-month ultimatum to Hunkuyi to pay the sum of N31,467,861.60k in settlement for an alleged debt of ground rent owed to the Kaduna state government over ten years.<sup>326</sup> Consequently, Hunkuyi instituted an action against the government seeking to stop the demolition of his house in alleged violation of the payment of the alleged ground rent.<sup>327</sup> Meanwhile, the court granted an interim order in “suit No: KDH/KAD207/2018 restraining the [Kaduna] state government and its agents from any action on the property in question, pending the determination of the substantive suit in court”.<sup>328</sup>

***The court granted an interim order in “suit No: KDH/KAD207/2018 restraining the [Kaduna] state government and its agents from any action on the property in question, pending the determination of the substantive suit in court”.<sup>328</sup>***

However, in disobedience of the court order, “Hunkuyi’s Guest House at No 11B, Sambo Road, serving as the state secretariat of a faction of the All Progressives Congress (APC) was demolished on February 21, on the order of the state government for alleged default of 10 years ground rent”.<sup>329</sup> The Kaduna state government also revoked the C of O concerning the property and reallocated the land to the Kaduna State Urban Planning and Development Agency (KASUPDA) to construct a children’s amusement park.<sup>330</sup>

Again, the Kaduna state High Court issued a fresh order restraining the KASUPDA from building on the property. “The court on March 15 gave an interim order restraining KADGIS and their agents from taking further actions on the property, including doing any harm to the boys’ quarters that survived the February 20 demolition”.<sup>331</sup> This order was also disobeyed.

***However, in disobedience of the court order, “Hunkuyi’s Guest House at No 11B, Sambo Road, serving as the state secretariat of a faction of the All Progressives Congress (APC) was demolished on February 21, on the order of the state government for alleged default of 10 years ground rent”.<sup>329</sup> The Kaduna state government also revoked the C of O concerning the property and reallocated the land to the Kaduna State Urban Planning and Development Agency (KASUPDA) to construct a children’s amusement park.<sup>330</sup>***

<sup>325</sup> Cited in Ibrahim Ahmadu, “Court to El-Rufai: You Risk Contempt If You Demolish Hunkuyi’s House” Freedom Online June 7, 2018. Available at <https://freedomonline.com.ng/court-to-el-rufai-you-risk-contempt-if-you-demolish-hunkuyis-house/?amp=1> Accessed 27/1/2014.

<sup>326</sup> Ibid

<sup>327</sup> Ibid

<sup>328</sup> Ibid

<sup>329</sup> Ibid

<sup>330</sup> Agency Report, “Court Stops Kaduna Govt from Building on Senator’s Land” Premium Times August 1, 2018. Available at <https://www.premiumtimesng.com/regional/nwest/278593-court-stops-kaduna-govt-from-building-on-senators-land.html> Accessed 27/1/2024.

<sup>331</sup> Ibid

## 6. Patterns and/or Trends in the Disobedience of Court Orders

The generality of the discussion above may reveal “common” patterns and/or trends in the disobedience of court orders by the government. This is critical to understanding systemic issues and the dynamics of contempt of court orders in Nigeria.

Generally, there may not be a definitive “common” pattern of disobedience of valid and subsisting orders of court by the government, but at least there appears to show an irregular pattern, cutting across both the state and federal, civil and criminal cases, numerous sectors, and involving high ranking public officials, and enforcement agencies of the government. If there should be a determinate “common” pattern, perhaps it would be that the DSS and the EFCC, in first and second order, appear to be the agencies most involved in the disobedience of court orders.<sup>332</sup> This may be understandable given the slapdash and mostly cosmetic fight against the crimes of corruption, terrorism, money laundry, and cyberstalking by the government where it has now become easier for one to be indicted with trumped up charges in respect of the above offences than it is for water to flow through the ocean. Nevertheless, an attempt is hereby made to underscore certain trends in the disobedience of court orders.

### 6.1. Convenient Obedience

One trend that may be noticed is that disobedience of court orders by government is both in form of outright disobedience and usually in form of convenient obedience. Often, the government and its agencies disobey court orders only to obey or purport to obey them later. But when it comes to obedience to court orders, isn't partial obedience a complete disobedience? Perhaps the reason for the prevalence of convenient obedience to court orders by the government could lie in what I call punitive disobedience. In any case, justice delayed is justice denied.<sup>333</sup>

### 6.2. Punitive Disobedience

This suggests that there is a trend of the government disobeying court orders, especially in criminal cases, as a form of extrajudicial punishment to the suspects. This is not to say that those genuinely indicted for crimes should not be tried – however, any such trial should be in accordance with the law.<sup>334</sup> In any case, the question is why does the government delay in obeying court orders admitting suspects to bail in some cases even though it eventually obeys them? My guess is that the usual immediate disobedience of court orders by the government only serves to punish and prolong the traverse of the suspects. Indeed, this may be supported by evidence. Currently, the former CBN governor, Godwin Emefiele, is still being held in detention by the government despite an order of court admitting him to bail pending trial.<sup>335</sup> Emefiele's traverse is widely believed to be in connection with his

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<sup>332</sup> Adejumo Kabir, “Analysis: SSS: Nigeria's Security Agency Most Notorious for Disobeying Court Orders” Premium Times 29 September 2019. Available at <https://www.premiumtimesng.com/news/headlines/355037-analysis-sss-nigerias-security-agency-notorious-for-disobeying-court-orders.html?tztc=1> Accessed 17/1/2024.

<sup>333</sup> *Obasi v. State* (2020) LPELR-51080; *Danladi v Dangiri* (2014) LPELR-240-20; *Ogli Oko Memorial Farms Ltd v. NACB Ltd* (2008) LPELR-2306

<sup>334</sup> Femi Falana, *Nigerian Court Lacks Power to Detain Sowore, Dasuki Against Court Orders by Femi Falana* supra

<sup>335</sup> Kayode Oyero, “Emefiele: NBA Slams DSS, Correctional Service, Seeks Punishment for Officers” supra; Abiodun Sanusi, “EFCC Detains Emefiele After DSS Frees Ex-Gov” supra

role in the 2023 failed Naira Swap saga, which President Bola Ahmed Tinubu said was initiated solely to target him and truncate his presidential campaign.<sup>336</sup>

Before President Tinubu, there was former President Muhammadu Buhari under whose administration Col. Sambo Dasuki (Rtd) suffered similar fate as Godwin Emefiele.<sup>337</sup> Although there are overlapping and conflicting reports, one to the effect that Dasuki (then an Army General) facilitated and financed the coup that brought Buhari to power in 1983 as the Military Head of State,<sup>338</sup> another to the effect that it was Col. Abdulummini Aminu (Rtd) that led the team that arrested Buhari in a counter coup which overthrew him as the Head of State in 1985,<sup>339</sup> there is yet another report that it was Dasuki who arrested Buhari in the counter coup of 1985.<sup>340</sup> Some believe that Dasuki's traverse was not unconnected to this role. Whatever the case, the vitriol with which the administration of former President Buhari went after Dasuki might have lent some credence to the assumption that the disobedience of the many orders admitting Dasuki to bail was, in fact, to punish him and prolong his suffering.<sup>341</sup>

### 6.3. National, Regional Court Orders vis-à-vis International Court Orders

It appears there is a trend to disobey national and regional orders of court in comparison with international court orders. For the national courts, the government has gone as far as subjecting valid and submitting orders of local courts to executive preconditions and/or variations as was exemplified in the case of Omoyele Sowore and Chike Ibezim.<sup>342</sup> To reiterate the words of Kolawole Olaniyan, "it is only an independent and impartial tribunal that has the authority to correct any perceived errors of law of lower courts, not the Attorney General [or government or government agencies]."<sup>343</sup>

For the ECOWAS Community Court of Justice, it would appear the government rarely obeys its orders. It is as though judgments of the ECOWAS Court are merely symbolic with no binding force or legal effect whatsoever. In fact, the former Attorney General of the Federation, Abubakar Malami, is on record to have posited that the Nigerian government "was not under compulsion to respect" the judgment of the ECOWAS Court.<sup>344</sup> This is not supported in law as the judgments of the ECOWAS Court are binding, perforce, on the State Parties, which Nigeria is one.<sup>345</sup>

On the contrary, the government appears to show more obedience to international court orders. The case of Process & Industrial Development (P&ID) is a good example. To effect a stay of execution of a judgment debt of \$9.6 Billion awarded against it by a commercial court in London, the federal government immediately deposited the sum of \$200 million as ordered by the court, while being in contempt of local and regional court orders.<sup>346</sup>

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<sup>336</sup> Ameh Ejekwoyilo, "Timeline: Naira Redesign Policy From Inception to Supreme Court Judgement" supra

<sup>337</sup> Evelyn Okakwu, "Special Report: How Buhari Administration Serially Disobeys Court Orders" supra

<sup>338</sup> Premium Times, "1983 Coup: Dasuki Facilitated Putsch That Brought Buhari to Power" Premium Times 2/3 April 2018. Available at <https://www.premiumtimesng.com/news/top-news/263887-1983-coup-dasuki-facilitated-putsch-that-brought-buhari-to-power-jokolo.html?tztc=1> Accessed 16/1/2024.

<sup>339</sup> Sani Tukur, "How We Arrested Buhari During 1985 Coup - Abdulummini Amuni" Premium Times 9 August 2015. Available at

<https://www.premiumtimesng.com/news/top-news/188069-how-we-arrested-buhari-during-1985-coup-abdulummini-aminu.html> Accessed 16/1/2024

<sup>340</sup> Ducor Handel, "Why is Buhari After Dasuki?" Guardian 19 September 2015. Available at <https://guardian.ng/opinion/why-is-buhari-after-dasuki/> Accessed 16/1/2024.

<sup>341</sup> Ibid

<sup>342</sup> Taiwo Adebulu, "Falana: FG Complies with London Court Orders But Disobeys Nigerian Judges" Supra; see also Premium Times, "Again, Court Orders Police to Release or Charge Man Detained for Allegedly Defaming Fashola" Supra

<sup>343</sup> Kolawole Olaniyan, "Buhari is Ignoring Nigerian Judges - We must Not Let Him Get Away With It" SERAP Blog" Available at <https://serap-nigeria.org/2019/11/20/buhari-is-ignoring-nigerian-judges-we-must-not-let-him-get-away-with-it/>

<sup>344</sup> Evelyn Okakwu, "Special Report: How Buhari Administration Serially Disobeys Court Orders" supra

<sup>345</sup> ECOWAS Community Court of Justice, Available at <https://co-guide.info/mechanism/ecowas-community-court-justice> Accessed 17/1/2024.

<sup>346</sup> Taiwo Adebulu, "Falana: FG Complies with London Court Orders But Disobeys



## 6.4. Cosmetic or Symbolic Punishment

In terms of consequences of disobedience to court orders by the government, another identifiable trend is cosmetic or symbolic punishment. Punishment appears to have worked more with denial of audience in court for the erring party. Other than that, it would appear committal to prison has not been very effective.

Although there were a series of contempt proceedings against high-profile individuals and/or public officials in 2022, including high-profile convictions such as the cases of former EFCC Chairman, Abdulrasheed Bawa, the Inspector-General of Police, Usman Baba, the Chief of Army Staff, Lt.-Gen. Faruk Yahaya,<sup>347</sup> incidents of disobedience of court orders by the government, government, or its agencies are rarely effectively punished. Most of the contempt proceedings or threats thereof do not reach a logical legal conclusion and in a few instances where there are actual convictions and remand or committal to prison, such as the case of Usman Baba, the sentences are not effectively enforced as they are vacated by the trial court or upon appeal.<sup>348</sup> Hence, offenders do not effectively serve punishment but for the symbolism it connotes. In fact, in the case of Usman Baba referenced above, the trial Federal High Court had to vacate an order of committal to 3-month imprisonment because he had shown “substantial compliance with the order of the court and the assurance of ensuring full compliance”.<sup>349</sup>

## 6.5. Implicit Complicity of the Judiciary

Another trend identified in the disobedience of court orders is the implicit complicity of judicial officers. Dispute acting in contempt of court orders, judicial officers rarely reject appointments into the offices or positions of fellow judicial officers as a form of judicial discipline. One recent example is the case of former Chief Judge of Osun state, Justice Oyebola Ojo, who was unlawfully suspended from office by the Governor of the state, Ademola Adeleke, despite a valid and subsisting interim court injunction against her removal.<sup>350</sup> The Governor subsequently appointed Justice Olayinka David Afolabi as the Acting Justice of the state, an appointment which the Justice accepted.<sup>351</sup> Wouldn't it have amounted to a form of judicial discipline if Justice Afolabi rejected the appointment and no other justice in the state agreed to take up the position unless the order of court was complied with? This would have been an effective way to check the disobedience of the court order in this case. But the judiciary is often implicitly complicit in the disobedience of its own orders.

Also, as noted above, courts often vacate orders of committal to prison, especially when high profile individuals are involved, such as the case of Usman Baba. The court can go as far as regarding partial disobedience as partial/completed obedience. For instance, in vacating the order committing Usman Baba to 3-month imprisonment for contempt of court order, the Federal High Court held thus;

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<sup>347</sup> Punch Editorial, “Defiance of Court Orders Threaten Democracy” supra

<sup>348</sup> Abiodun Blessing, et al, “PSC Directed to Reinstate Officer – Police” Punch 3 September 2022. Available at <https://punchng.com/psc-directed-to-reinstate-officer-police/> Accessed 13/1/2024; Taiye Agbaje, “Court Vacated Order Sentencing I-G Baba to 3-Month Imprisonment” PM News 14 December 2022. Available at <https://pmnewsnigeria.com/2022/12/14/court-vacates-order-sentencing-i-g-baba-to-3-month-imprisonment/> Accessed 16/1.2024

<sup>349</sup> Taiye Agbaje, “Court Vacated Order Sentencing I-G Baba to 3-Month Imprisonment” Supra

<sup>350</sup> Suit No. NICN/IB/61/2023 Cited in Bolanle Olabitan, Adelekw Defies Court Order, Suspends Osun Chief Judge”

supra

<sup>351</sup> Ibid



“[i]n view of the substantial compliance with the order of the court and the assurance of ensuring full compliance, the order committing the applicant, Inspector-General of Police, Usman Alkali Baba, is hereby set aside.”<sup>352</sup> But an incomplete obedience to a court order is disobedience nonetheless. Orders of court should be obeyed completely, absolutely, and with the immediacy required thereunder. In the final analysis, although as one of the three arms of government, the role of the judiciary is to interpret the law,<sup>353</sup> “a sound judiciary is key to enforcement of laws”.<sup>354</sup> Akinlade puts it even more succinctly thus; “[j]udicial independence is not just a question of the structural independence of the judiciary within the governmental system but also of the behavioral independence of individual judges.”<sup>355</sup>

## 6.6. Freedom of Request for Information, But Not Freedom of Information

There appears to be a trend of dishonouring requests for information under the Freedom of Information Act, 2011 (FOIA). The discussion shows that the government is always reluctant or rarely provide information requested from it under the FOIA on critical national issues. And where a court order is made to compel it to do so, the government at all levels often disobeys the order.

Of the more than 30 orders in favour of SERAP to which the government or its agencies is yet to comply with, or otherwise hold in contempt, many are valid requests under the FOIA. Hence, one may rightly argue, that the trend of disobedience of court orders in this instance shows that in Nigeria, the people have freedom to request for public information, but not the freedom to be provided with public information.

## 6.7. Disobedience of Court Orders in High Places

Another trend identified is that disobedience of court orders seems to be more prevalent in government and more vitriolic in political and criminal cases. As Akinlade pointed out, and rightly so, “[t]hose who flout court orders the most are the government itself”.<sup>356</sup>

## 7. Punishment of Contempt of Court Orders

Writing particularly in respect of lower courts, Akinlade<sup>357</sup> asserted that court orders are disobeyed for the following reasons: (a) Lack of enforcement powers, (b) public ignorance and perception of the lower courts (but even Supreme Court orders are disobeyed); (c) all judgments of lower courts are appealable and contestable (but even Supreme Court judgments that are not appealable or contestable are disobeyed); and (d) inadequate and weak consequences. Also, implicit complicity of the judiciary encourages disobedience of court orders.

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<sup>352</sup> Taiye Agbaje, “Court Vacated Order Sentencing I-G Baba to 3-Month Imprisonment” PM News supra

<sup>353</sup> Constitution, Section 6; Agbakoba v. A-G Federation & Anor (2021) LPELR55906 (CA); Cotechna Int'l Ltd. v. Ivory Merchant Bank Ltd (2006) LPELR-896(SC)

<sup>354</sup> Adebayo Akinlade, “Disobedience to Judgements and Orders of the Lower Court: Implications for the Rule of Law in Nigeria”, p. 2

<sup>355</sup> Adebayo Akinlade, “Disobedience to Judgements and Orders of the Lower Court: Implications for the Rule of Law in Nigeria” supra 3

<sup>356</sup> Ibid p. 5

<sup>357</sup> Ibid pp. 5-6

It is imperative to note that there are consequences to disobedience of court orders. Hence, the importance of identifying potential legal repercussions for individuals or entities consistently disobeying court orders which could serve as a basis for disciplinary actions or legal proceedings. Apart from denial of audience in court for the erring parties, and undoing an action already taken by an erring party, one of the critical consequence of disobedience to an order of court is to cite the erring party for contempt, or in other words, institute contempt proceedings against the erring party.

## 7.1. Purports of Contempt Proceedings

A contempt proceedings or committal to prison proceeding is a judicial process by which individuals or parties who disobey court orders can be held accountable. The essence is to punish the contemnor until they purge themselves of the contempt. Contempt proceedings may be *in facie curiae* (where it is committed in the face of the court) in which case it is usually a civil contempt that can be tried summarily by the court, or *ex facie curiae* (where it is committed outside the court), in which case it is usually a criminal contempt.<sup>358</sup> Whether civil or criminal, contempt of court should be proved beyond reasonable doubt since it is quasi-criminal in nature.<sup>359</sup> Disobedience of a valid and subsisting order of court is usually said to be a civil contempt.<sup>360</sup>

The procedure to initiate a contempt proceeding depends on the nature of the contempt.<sup>361</sup> For the purpose of this discuss, that is contempt proceeding for disobedience of court order, the acceptable way to initiate the proceeding, is by the issuance of Forms 48 and 49 as provided in Section 72 of the Sheriffs and Civil Process Act, 2004, and Order 9, Rule 13 of the Judgment (Enforcement) Rules, made pursuant to the Sheriffs and Civil Process Act.<sup>362</sup>

These forms summon the contemnor to appear before the court to show cause why they should not be cited for contempt in consonance with fair hearing.<sup>363</sup> Once summoned, there is a full trial, and if found guilty as charged, the contemnor is convicted and sentenced.<sup>364</sup> The punishment for contempt of court usually consists of a term of imprisonment (which varies depending on the type of contempt) and/or an apology by the contemnor until they purge themselves of the contempt.<sup>365</sup> It should however, be noted that “[c]ontempt of Court is an offence purely *sui generis* and its punishment involves, in most cases, an exceptional interference with the liberty of the citizen by a method or process which would in no other case be permissible or tolerated”.<sup>366</sup>

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<sup>358</sup> *Onowu v. Ogboko & Ors* (2016) LPELR-40074(CA); *Odungweru v. Iheanacho* (2023) LPELR-59520 (CA); *Omoijahe v. Umoru* (1999) LPELR-2645 (SC)

<sup>359</sup> *Ibid*

<sup>360</sup> *Oria v. Sure* (2022) LPELR-56786 (CA)

<sup>361</sup> *Onowu v. Ogboko*, *supra*

<sup>362</sup> *Ibid*

<sup>363</sup> *Okafor v. Oranu* (2017) LPELR-42778

<sup>364</sup> *Odungweru v. Iheanacho* (2023) LPELR-59520 (CA)

<sup>365</sup> *Nwawka v. Ohazurike* (2014) LPELR-22558(CA)

<sup>366</sup> *Ibid*

In the case of *Onowu v. Ogboko & Ors*,<sup>367</sup> the Court of Appeal, per Justice Ita Mbaba, summarised the procedure for commencement of contempt proceedings generally thus;

On how to commence contempt proceedings, this Court in the case of *Nwawka Vs Adilkamkwu* (2015) ALL FWLR (pt.804) 2064 held 6, spelt out the ways of commencing contempt proceedings, thus: "There is not only one way of commencing contempt proceedings and the category of contempt being prosecuted determines the manner of commencement of the proceedings. (a) Where the contempt consists solely of disobedience of an order of Court, the only acceptable procedure for commencing the proceeding is as provided in Section 72 of the Sheriffs and Civil Process Act and Order 9, Rule 13 of the Judgment (Enforcement) Rules, made pursuant to the Sheriffs and Civil Process Act, i.e. by issuance of Forms 48 and 49. (b) Where the contempt consists of disobedience of a Court process or obstruction of an official of Court in the carrying out of his lawful duties, it is commenced by the procedure provided for in the High Court Rules, e.g. Order 42 of the High Court of Kano State (Civil Procedure) Rules, 1988. (c) Where it is contempt committed in the immediate view and presence of the Court, such as insulting language or acts of violence or same near the presence of the Court as to obstruct or interrupt the due and orderly course of proceedings i.e. in *facie curiae*, it is dealt with by the Court, summarily. The offending party will be asked to go into the dock and a charge would be prepared by the Court and the offence of the offending party would be specifically and distinctly stated to him and he would be asked to show cause from the dock why he should not be punished for contempt. (d) Where the insulting language or acts of violence occur outside the view of the Court, i.e. *ex-facie curiae*, the proceedings may be begun by the presentation of criminal charges against the offender by the office of the Attorney-General under the provisions of the Criminal or Penal Code."<sup>368</sup>

Given the quasi-criminal nature of contempt proceedings, it is pertinent to adhere strictly to the procedure, otherwise the whole process will be vitiated.<sup>369</sup> In the case of *INEC v. Oguebego*,<sup>370</sup> the Supreme Court, per Justice Chima Centus Nweze, buttressed this point thus;

It is even settled that contempt or committal proceeding no doubt is quasi-criminal proceeding which has the likelihood of affecting the liberty of a citizen. Against this background therefore, the person setting up contempt proceedings must therefore ensure that every step that is necessary is taken and the entire requirements are complied with strictly.<sup>371</sup>

In the final analysis, as already pointed out, punishment of contempt of court orders in Nigeria, especially by government/public officials and high-ranking individuals, has been far and between and largely symbolic rather than genuine commitment to punish contemnors. As Akinlade<sup>372</sup> rightly pointed out, "[e]ven though the law prescribes for contempt proceedings and other penalties for disobeying court orders, the procedure for activating the proceedings also take time and subject to the

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<sup>367</sup> (2016) LPELR-40074(CA)

<sup>368</sup> *Ibid* pp.19-21

<sup>369</sup> *INEC v. Oguebego* (2017) LPELR-42609

<sup>370</sup> *Ibid*

<sup>371</sup> *Ibid*

<sup>372</sup> Adebayo Akinlade, "Disobedience to Judgements and Orders of the Lower Court: Implications for the Rule of Law in Nigeria"

whims of enforcement agencies as the courts do not have its own internal enforcement mechanisms.”<sup>373</sup> Contempt and comital orders are more or less cosmetic or at best symbolic, as most of the convicted persons do not actually serve the jail terms. In fact, some times, the contempt or committal orders are also disobeyed by duty bearers.<sup>374</sup> For instance, twice, the former EFCC Chairman, Abdurashed Bawa was committed to prison for contempt of court orders, and the Inspector General of Police was similarly ordered to enforce the order of committal to prison for 14 days.<sup>375</sup> This order was disobeyed.

## 8. Recommendations

The following recommendations are proffered:

1. Effective punishment for contempt of court orders: Ensuring effective punishment for contemnors, especially heads of government agencies that disobey court orders would serve as a deterrent for potential offenders and help curb the menace.<sup>376</sup>
2. Comprehensive and creative judicial reform towards full and effective autonomy for the judiciary, particularly ensuring that the judiciary has its own independent enforcement mechanisms.<sup>377</sup> This would ensure that the judiciary would be able to enforce its own orders without unnecessary encumbrances from the Executive. The reform should be creative enough to sustain the critical democratic principle of separation of powers.
3. Reform in judicial appointments to ensure that certain percentage (90%) of appointments to the higher bench are from lower courts.<sup>378</sup> This would enhance public perception of lower courts and help curb contempt of lower court orders.
4. The government or its agencies should enforce all outstanding or pending orders of courts against it. This is because “[j]udicial independence is not just a question of the structural independence of the judiciary within the governmental system, but also of the behavioral independence of individual judges.”<sup>379</sup>
5. Judicial discipline: the judiciary should extend judicial discipline to rejecting appointments from the Executive to fill judicial positions where such appointments are made in contempt of valid and subsisting court orders. By maintaining professional judicial discipline in the face of executive rascality, judicial implicit complicity would be eliminated, and contempt of court orders by the Executive would likely be mitigated.

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<sup>373</sup> Ibid p.6

<sup>374</sup> Premium Times, “Court Jails EFCC Chair Bawa for Contempt” Premium Times February 6, 2023. Available at <https://www.premiumtimesng.com/news/top-news/580321-court-jails-efcc-chair-bawa-for-contempt.html> Accessed 17/1/2024.

<sup>375</sup> Ibid

<sup>376</sup> Awosusi Kehinde in Olanrewaju Oyedeji, Analysis: How Disobedience of Court Orders Weaken Rule of Law, Human Rights in Nigeria” supra

<sup>377</sup> Adebayo Akinlade, “Disobedience to Judgements and Orders of the Lower Court: Implications for the Rule of Law in Nigeria”, p.8

<sup>378</sup> Ibid

<sup>379</sup> Adebayo Akinlade, “Disobedience to Judgements and Orders of the Lower Court: Implications for the Rule of Law in Nigeria” p.8aq

6. Increased Awareness-raising: the brazen disobedience of court orders in recent times has decreased public confidence in the judiciary. There is a need for increased awareness-raising towards rebooting and enhancing public confidence in the judiciary. This task should be consciously undertaken by the Ministry of Information, particularly the National Orientation Agency.

## 9. Conclusion

Obedience to valid and subsisting orders of the court is critical to the rule of law. The prevalence of disobedience of court orders in the Fourth Republic threatens societal cohesion and increases the risk of descent into chaos and anarchy, which must be avoided. It does not lie in the hands of the government and its agencies to cherry-pick which orders of the court to obey or disobey. Valid and subsisting orders of the court are absolute and unless varied, stayed, or vacated should be obeyed completely and immediately. Disobedience of court orders truncates progressive and transformative democracy and undermines the certainty of the judicial process. Judicial transparency and accountability should be maintained at all times. It may, therefore, be validly argued that a judicial process does not end indeed until the order(s) of the court thereof is obeyed or acted upon to the letter.

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<sup>373</sup> Ibid p.6

<sup>374</sup> Premium Times, "Court Jails EFCC Chair Bawa for Contempt" Premium Times February 6, 2023. Available at <https://www.premiumtimesng.com/news/top-news/580321-court-jails-efcc-chair-bawa-for-contempt.html> Accessed 17/1/2024.

<sup>375</sup> Ibid

<sup>376</sup> Awosusi Kehinde in Olanrewaju Oyedeji, Analysis: How Disobedience of Court Orders Weaken Rule of Law, Human Rights in Nigeria" supra

<sup>377</sup> Adebayo Akinlade, "Disobedience to Judgements and Orders of the Lower Court: Implications for the Rule of Law in Nigeria", p.8

<sup>378</sup> Ibid

<sup>379</sup> Adebayo Akinlade, "Disobedience to Judgements and Orders of the Lower Court: Implications for the Rule of Law in Nigeria" p.8aq

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