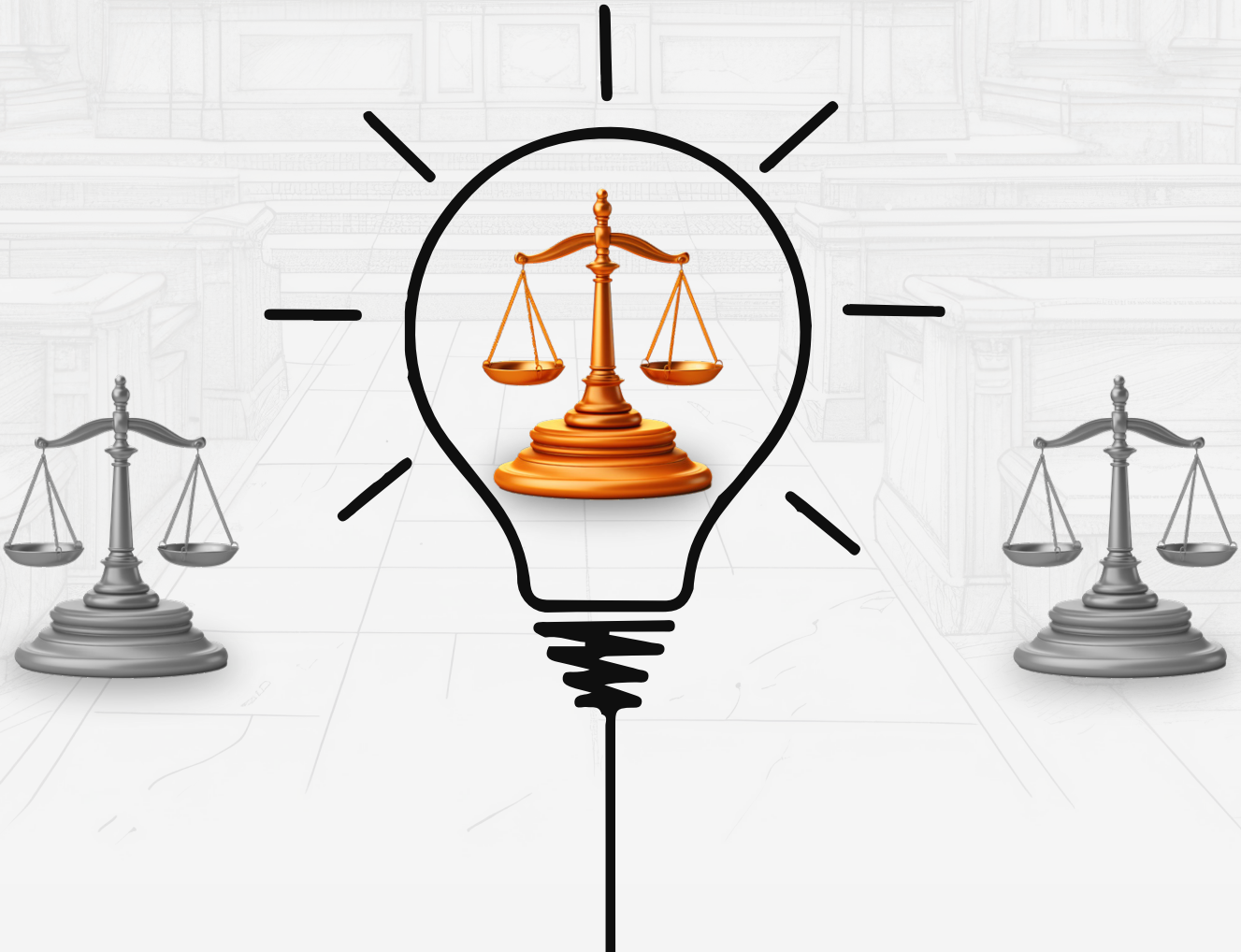
GAVEL.

# OUTSTANDING COURT JUDGEMENTS

LANDMARK JUDGMENTS IN NIGERIA:
SOCIETAL IMPLICATIONS
AND JUDICIAL LEGACY



# OUTSTANDING COURT JUDGEMENTS

GAVEL.

**ABU AROME V. CBN &**
**3 ORS (UNREPORTED)**
SUIT NO: FHC/ABJ/CS/25/2023
DELIVERED ON JULY 19 2024

HIS LORDSHIP,
**HON. JUSTICE OBIORA A. EGWUATU**

## SUMMARY OF FACTS

**The Money Laundering (Prevention and Prohibition) Act, 2022** was passed by the National Assembly on March 16, 2022, and assented to on May 12, 2022. This Act introduced significant changes:

- **Abolition of Legal Professional Privileges:** Legal professional privileges and client confidentiality were abolished for transactions involving property, business, client money, securities, and the management of trusts and companies.
- **Re-categorization of Legal Firms:** Legal firms are now classified as designated non-financial businesses and professionals, requiring registration with the Special Control Unit Against Money Laundering (SCUML).

On September 27, 2022, the 3rd Defendant restricted the accounts of the Plaintiff's law firm, "The Counsel Legal Practice," based on a circular from the 1st Defendant, preventing access to client funds. The Plaintiff sought redress from the Federal High Court in Abuja.

## LEGAL ISSUES

The Court was asked to determine whether **sections 6, 7, 8, 9, 11, and 30 of the Money Laundering (Prevention and Prohibition) Act, 2022** are unconstitutional, null, and void as they relate to legal practitioners. This question was considered in light of:

- The decision in Central Bank of Nigeria v. Registered Trustees of the Nigerian Bar Association (2021).
- Sections 20 and 21 of the Legal Practitioners Act 1962.
- Section 192 of the Evidence Act 2011.
- Rule 19(1) of the Rules of Professional Conduct for Legal Practitioners.

> The Court was asked to determine whether sections 6, 7, 8, 9, 11, and 30 of the Money Laundering (Prevention and Prohibition) Act, 2022 are unconstitutional, null, and void as they relate to legal practitioners.

ABU AROME V. CBN & 3 ORS (UNREPORTED)
SUIT NO: FHC/ABJ/CS/25/2023
DELIVERED ON JULY 19 2024

**BY HIS LORDSHIP, HON. JUSTICE OBIORA ATUGWU EGWUATU**

## COURT DECISIONS

The Court decided that the Plaintiff's case was not to declare the entire Money Laundering (Prevention and Prohibition) Act, 2022 unconstitutional, but rather to declare specific sections unconstitutional as they relate to legal practitioners. The Court agreed with the Plaintiff and declared:

- Sections 6, 7, 8, 9, 11, and 30 of the Act, insofar as they apply to legal practitioners, are unconstitutional, null, and void.
- The inclusion of "Legal Practitioners and Notaries" as designated non-financial businesses under section 30 undermines the confidentiality obligations lawyers owe their clients under section 192 of the Evidence Act 2011 and Rule 19(1) of the Rules of Professional Conduct for Legal Practitioners.
- The exclusion of legal professional privileges and client confidentiality in transactions involving property, business, client money, securities, and the management of trusts and companies under section 11(4) is unconstitutional, null, and void.

## LEGAL AND SOCIETAL IMPLICATIONS

This case re-enforces inter alia, the sacred doctrine of client-attorney confidentiality and privilege and will boost the confidence of clients in entrusting their legitimate funds to their lawyers knowing that neither the EFCC nor financial institutions can place restriction on accounts maintained by legal practitioners for their clients without lawful justification. The judgment of **Justice EGWUATU** is also a huge win for the legal profession as legal practitioners in particular are no longer obligated to register with the Special Control Unit Against Money Laundering (SCUML) which would have otherwise entitled operatives of the EFCC to breathe down the necks of legal practitioners at every given opportunity.

> The judgment of **Justice EGWUATU** is a huge win for the legal profession

# OUTSTANDING COURT JUDGEMENTS

GAVEL.

**A.G OF KADUNA STATE & ORS V. A.G OF THE FEDERATION & ORS**
**(2023)LPELR-59936(SC)**
DELIVERED ON MARCH 3, 2023

HIS LORDSHIP,
**HON. JUSTICE EMMANUEL A. AGIM, J.S.C**

## SUMMARY OF FACTS

**On October 26, 2022**, the then Governor of the Central Bank of Nigeria (CBN), **Godwin Emefiele,** announced during a special press briefing that the President of the Federal Republic of Nigeria had approved the redesign, production, release, and circulation of new N200, N500, and N1000 banknotes. The plan included withdrawing the existing banknotes of the same denominations from circulation. The new currency was scheduled to begin circulating from **December 15, 2022**, after its launch by the President and both the new and old currencies were to remain legal tender until **December 31, 2023** when the old notes would cease to be legal tender. Despite these assurances, the new naira notes were not available by the expected date. Many people had deposited their old notes in anticipation of receiving the new ones by mid-December 2022, but their expectations were unmet due to the scarcity of the new notes.

> As a result, aggrieved parties filed a lawsuit **(Suit No. SC/CV/162/2023)** on **February 3, 2023,** before the Supreme Court.

## LEGAL ISSUES

Amongst the issues submitted for the court's determination were:

- **Constitutional Consistency:** Whether the President's directive to withdraw the old N200, N500, and N1000 notes aligns with the provisions of the Constitution of the Federal Republic of Nigeria 1999 (as amended), which outline the Executive Powers of the President and the relevant laws on the subject matter.
- **Notice Period:** Whether the 3-month notice period for implementing the demonetization policy meets the requirements of Section 20(3) of the CBN Act 2007.
- **Unilateral Directive:** Whether the President can unilaterally issue the demonetization directive under Section 20(3) of the CBN Act 2007, considering Nigeria's fiscal federalism, the economic interests of the Federation's constituents, and without consulting or advising the plaintiffs, the National Council of States, the National Economic Council, the Cabinet, the National Security Council, and other stakeholders.

A.G OF KADUNA STATE & ORS V.
A.G OF THE FEDERATION &
ORS (2023) LPELR-59936(SC)
DELIVERED ON MARCH 3, 2023
**BY HIS LORDSHIP, HON. JUSTICE EMMANUEL AKOMAYE AGIM, J.S.C**

GAVEL.

## COURT DECISIONS

- **Constitutional Bodies:** Democratic governance requires wide consultations and consensus through constitutionally established bodies. These include the Federal Executive Council and the National Economic Council, which must have representatives from all 36 states and the CBN Governor, chaired by the Vice-President.
- **Invalid Directive:** The court found that failing to provide valid notice, as required by statute, invalidates the resulting act. Therefore, the President's directive to withdraw existing naira notes and introduce redesigned ones without proper notice to the federation's constituents was deemed invalid.
- **Interim Order:** Former President Buhari's refusal to comply with the Supreme Court's interim order of February 8, 2023, to circulate both new and old naira notes as legal tender until the pending application for an interlocutory injunction was resolved.

> **The Supreme Court, per Agim J.S.C noted that the President refused to obey its order, as evidenced by his national broadcast on February 16, 2023, where he directed only the old N200 notes to be recirculated. This directive was not implemented. The court agreed with the 9th plaintiff that the President should not be heard by the court if he disrespects its authority. The court emphasized that disobedience to court orders undermines the rule of law and democratic governance, leading to autocracy or dictatorship.**

**In the end, the Court upheld the arguments of the Plaintiffs and declared inter alia:**

- The directive to withdraw old N200, N500, and N1000 notes is not consistent with the provisions of the Constitution of the Federal Republic of Nigeria 1999 (as amended) which make provision for the Executive Powers of the President of the Federation and the extant laws on the subject matter.
- The 3-month notice period for implementing the demonetization policy does not meet the requirements of Section 20(3) of the CBN Act, 2007.
- The President cannot unilaterally issue the demonetization directive under Section 20(3) of the CBN Act, 2007, without consulting and advising the plaintiffs, the National Council of States, the National Economic Council, the Cabinet, the National Security Council, and other stakeholders, considering Nigeria's fiscal federalism and the economic interests of the Federation's constituents.

## LEGAL AND SOCIETAL IMPLICATIONS

The National Bureau of Statistics had estimated that Nigeria has lost between N10 to 15 Trillion of national productivity in the first quarter of 2023 as a result of the difficulties created by the CBN naira redesign policy. This monumental loss to the country however, cannot compare to the human fatality recorded within the period. Thus, by weighing in on the matter, the apex Court not only saved Nigeria's economy from further collapse but actually prevented further loss of lives as a result of the hardship created by the failed CBN naira redesign policy. Additionally, the intervention of the apex court was a clear demonstration of its role as a watchdog over activities of the other arms of government. The Court in fact, demonstrated this more clearly when it openly knocked the former President for disobeying its interim order of 8/2/2023.

> Nigeria has lost between **N10 to 15 Trillion** of national productivity in the first quarter of 2023

# OUTSTANDING COURT JUDGEMENTS

GAVEL.

**PILLARS (NIG) LTD V. DESBORDES & ANOR (2021)**
**LPELR- 55200(SC)**
DELIVERED ON FEBRUARY 5, 2021

HIS LORDSHIP,
**HON. JUSTICE HELEN M. OGUNWUMIJU**

## SUMMARY OF FACTS

The cause of action in this appeal is the contract of lease for a plot of land at plot B, Sabiu Ajose Crescent, Surulere Lagos. The contract of lease was completed on 24/10/1977 when the Respondent as lessor entered into a 26-year developer's lease to erect a building within two years on or before 1979 on payment of annual rent payable in advance. The suit was initiated by the Respondents as lessor in 1993 at the High Court of Lagos state to recover the property due to non-compliance with leasing terms of erecting a building on the land. In its judgment, the High Court found that the Appellant breached the terms of the lease and entered judgment against the Appellant. Dissatisfied, the Appellant appealed to the Court of Appeal which affirmed the decision of the High Court. Further dissatisfied, the Appellant appealed to the Supreme Court.

## LEGAL ISSUES

One of the issues submitted by the parties for the determination of the apex court was whether the Court of Appeal was right in affirming the decision of the trial Court that the Respondents pleaded and proved service of statutory " **Notice of Breach of Covenant " (Exhibit E) and "Notice of Quit" (Exhibit G) as required by the law**.

## COURT DECISIONS

The justice of this case is very clear. The Appellant has held on to property regarding which it had breached the lease agreement from day one. It had continued to pursue spurious appeals through all hierarchy of Courts to frustrate the judgment of the trial Court delivered on 8/2/2000 about 20 yeas ago. After all, even if the initial notice to quit was irregular, the minute the writ of summons dated 13/5/1993 for repossession was served on the appellant, it served as adequate notice. The ruse of faulty notice used by tenants to perpetuate possession in a house or property which the landlord had slaved to build and relies on for means of sustenance cannot be sustained in any just society under the guise of adherence to any technical rule.

PILLARS (NIG) LTD V. DESBORDES &
ANOR (2021) LPELR- 55200(SC)
DELIVERED ON FEBRUARY 5, 2021

**BY HIS LORDSHIP, HON. JUSTICE HELEN MORONKEJI OGUNWUMIJU**

## COURT DECISIONS

Equity demands that wherever and whenever there is controversy on when or how notice of forfeiture or notice to quit is disputed by the parties, or even where there is irregularity in giving notice to quit, the filing of an action by the landlord to regain possession of the property has to be suff cient notice on the tenant that he is required to yield up possession. I am not saying here that statutory and proper notice to quit should not be given. Whatever form the periodic tenancy is whether weekly, monthly, quarterly, yearly etc., immediately a writ is filed to regain possession, the irregularity of the notice if any is cured. Time to give notice should start to run from the date the writ is served. If for example, a yearly tenant, six months after the writ is served and so on. All the dance drama around the issue of the irregularity of the notice ends. The Court would only be required to settle other issues if any between the parties."

## LEGAL AND SOCIETAL IMPLICATIONS

This sound judgment of the apex court effectively put an end to the practice by some tenants who would mischievously try to perpetuate their stay on other people's property in the guise of not being served with valid statutory notices. In the past, such excuse is tenable and in fact, capable of rendering a suit incompetent. By the instant decision of the apex court however, any such defect in the statutory notices is automatically cured upon service of the writ to recov- er possession on such tenant.

**the apex court effectively put an end to the practice by some tenants who would mischievously try to perpetuate their stay on other people's property**

# OUTSTANDING COURT JUDGEMENTS

GAVEL.

**RUTH REUBEN VS REUBEN IBRAHIM UCCG/CV/24/2023**
DELIVERED ON JANUARY 10, 2024

HIS WORSHIP,
**EMMANUEL J. SAMAILA**

## SUMMARY OF FACTS

The petitioner sued the respondent seeking the dissolution of their marriage which was contracted in 2015 in accordance with the Gwantu custom. They have one child named Rachel. The respondent's reply to the petition was that it is either the petitioner remains as his wife or refunds his bride price in accordance with the Kagoma custom. The parties were given time to explore reconciliation. However, the matter was heard after reconciliation was reported to have failed. The petitioner testified as PW1 and called her father, Joseph Galadima, as PW2. In his defence, the respondent gave evidence alone as RW1. The nub of the petitioner's case was that she and the respondent are married and have one child which she is willing to take custody of in accordance with the Gwantu marriage custom if she has to refund her bride price to the respondent. Conversely, the pith of the respondent's evidence was that the petitioner should either remain as his wife or return his bride price in accordance with the Kagoma custom.

## LEGAL ISSUES

The court nominated two issues for the resolution of the petition as follows:

> **Has the petitioner established that a valid marriage in accordance with Gwantu custom exists between the parties?**

> **Has the respondent successfully proved the existence of a right to the refund of his bride price under Kagoma custom?**

## COURT DECISIONS

The Court answered the first and second questions in the affirmative and proceeded to dissolve the marriage having concluded that same has broken down irretrievably. But having found as a fact that the Respondent was entitled to a refund of his bride price in accordance with the Kagoma custom, the Court proceeded to subject the custom to the repugnancy test and concluded that:

RUTH REUBEN VS REUBEN
IBRAHIM UCCG/CV/24/2023
DELIVERED ON JANUARY 10, 2024
**BY HIS WORSHIP,**
**EMMANUEL J. SAMAILA**

> **We are of the view that, in the instant case, the Kagoma marriage custom requiring the refund of bride price as a condition for validating a divorce, fits into the class of causes described by Uwaifo, JSC in Mojekwu v. Iwuchukwu (2004) 11 NWLR (Pt. 883) 196 as "obviously outrageous or needlessly discriminatory**

In declaring the Kagoma marriage custom as repugnant to natural justice, equity and good conscience therefore, the Court held that:

> **Considering the evidence of the parties vis-à-vis the applicable Kagoma marriage custom, we answer the second question in the affirmative. We find that the respondent is entitled to a refund of his bride price under Kagoma marriage custom. And we so hold. However, the custom is u enforceable because the Kagoma marriage custom requiring a woman to refund the token paid as her bride price, as a validation of the divorce she initiated to terminate a union which has broken down irretrievably, is incompatible with the 1999 Constitution (as amended), particularly Sections 1(3), 17(2)(b), 21(a) and 34(1)(a). It erodes the dignity of a woman married under Kagoma custom by reducing her to the status of a mere property whose value is determinable and recoverable at anytime if she dares to opt out of a broken marriage, even after years of lawful cohabitation and all its concomitants including child bearing.**

## LEGAL AND SOCIETAL IMPLICATIONS

This groundbreaking decision of the Upper Customary Court of Kaduna State, **per SAMAILA,** spotlighted the ordeals women face in customary marriages unlike their counterparts in statutory marriages. The Court's decision underscored the need to treat women as humans and not as chattels to be used and dumped at will. The judgment of the court reinforces the trite principle that any custom which is repugnant to natural justice, equity and good conscience will not be given any force by the law courts.

> **The Court's decision underscored the need to treat women as humans and not as chattels to be used and dumped at will.**

# OUTSTANDING COURT JUDGEMENTS

GAVEL.

**INCORPORATED TRUSTEES OF DIGITAL RIGHTS LAWYERS INITIATIVE & ORS V. NIMC (2021) LPELR-55623(CA)**
DELIVERED ON SEPT. 24, 2024

HIS LORDSHIP,
**HON. JUSTICE ABBA BELLO MOHAMMED, JCA**

## SUMMARY OF FACTS

The brief facts of the case as presented by the Appellant before the trial Court was that The

- 2nd Appellant registered with the Respondent for a National Identity Card but received a National Identification Number Slip with an incorrect month of birth.
- When the 2nd Appellant requested a correction, the Respondent demanded a fee of N15,000.00, in accordance with its official policy.
- The 2nd Appellant objected to this fee, claiming it violated his fundamental right to private and family life under Section 37 of the Nigerian Constitution.
- He filed an action in the lower court, which was struck out. Dissatisfied, he appealed to the Court of Appeal.

## LEGAL ISSUES

One of the issues resolved by the appellate court in disposing of the appeal was whether or not by the construction of Section 37 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), the Respondent's act of demanding for payment for rectification/correction of personal data is likely to interfere with the Applicant's right to private and family life?

## COURT DECISIONS

The appellate court answered the issue for determination in the negative but however agreed with the Applicants on the relationship between the NDPR, 2019 and Section 37 of the CFRN, 1999 as follows:

> **It is pertinent for me to state that the CFRN, 1999 makes provisions in Chapter IV guaranteeing the various fundamental rights of the citizens. But as I stated earlier, the nature and scope of those rights and even their limitations, are in most instances furthered by other statutes, regulations or other legal instruments. It is in this instance that the NDPR, 2019 must be construed as providing one of such legal instruments that protects or safeguards the right to "privacy of citizens" as it relates to the protection of their personal information or data, which the trial Court had rightly adjudged at page 89 of the Record to be part of the privacy right guaranteed by Section 37 of the CFRN, 1999.**

## LEGAL AND SOCIETAL IMPLICATIONS

The appellate court's decision, **per MOHAMMED, JCA,** implies that a person whose legally protected data is injured or suffers damage can bring an action under section 37 of the 1999 Constitution for redress. In order words, a breach of a statutory instrument such as the NDPR 2019 which aims to advance citizens' right to privacy will be deemed to be a breach of section 37 of the 1999 Constitution for which the party concerned can approach any high court in the state to seek redress.

> **A person whose legally protected data is injured or suffers damage can bring an action under section 37 of the 1999 Constitution for redress**

# OUTSTANDING COURT JUDGEMENTS

GAVEL.

**CHARLES V. STATE OF LAGOS**
**(2023) LPELR-60632(SC)**
DELIVERED ON MARCH 31, 2023

HIS LORDSHIP,
**HON. JUSTICE HELEN M. OGUNWUMIJU**

## SUMMARY OF FACTS

The appellant was tried before the High Court of Lagos State for conspiracy to commit armed robbery and armed robbery. He was linked to an armed robbery that took place on 9th September, 2011 at about 9pm at Globus Supermarket, Ago Palace Way, Isolo, Lagos State. The Respondent alleged that the Appellant, who was a sales-boy at the supermarket, was heard discussing the alleged robbery with his co-defendant over the phone.

The Appellant was reported by his colleague to the General Manager of the supermarket, who then handed him over to the Police. The trial Court convicted the appellant and sentenced him to death. The Appellant's appeal to the Court of Appeal was dismissed. He further appealed to the Supreme Court where one issue was raised for the determination of the appeal.

## LEGAL ISSUES

Although the appeal was determined on the question whether the learned Justices of the Court of Appeal were right to have affirmed the Appellant's conviction, when the Prosecution failed to prove the offences of conspiracy to commit armed robbery and armed robbery against him beyond reasonable doubt, one of the contention of the Appellant was on the effect of failure to comply with Section 9(3) of the Administration of Criminal Justice Law of Lagos State 2011 in the process of taking his confessional statement.

CHARLES V. STATE OF LAGOS
(2023) LPELR-60632(SC)
DELIVERED ON MARCH 31, 2023
**BY HIS LORDSHIP, HON. JUSTICE HELEN MORONKEJI OGUNWUMIJU**

## COURT DECISIONS

> **The mischief sought to be curbed by the law includes such unsavory situations as where an alleged confession is extracted by torture and duress imposed on a defendant which led to the confession, to avoid miscarriage of justice and to reduce to the barest minimum the incidents of retractions and time consumed by trial within trial proceedings. Section 9(3) ACJL is a mandatory procedural law against infractions on the constitutional rights of a defendant as enshrined in Section 35(2) of the CFRN (as altered). Any purported confessional statement recorded in breach of the said provision is of no effect. It is impotent and worthless.**

## LEGAL AND SOCIETAL IMPLICATIONS

By settling this thorny issue once and for all, the fears of citizens who are suspected of committing crimes are now allayed as law enforcement agencies can no longer torture or force suspects to confess to crimes they didn't commit. Even if they do, the suspect's legal practitioner who is required by law to be present at the time of taking the statement can always raise alarm against any act of oppression. But even if the suspect's lawyer is not available, the law mandates the arresting officer to tender a video recording of the interrogation exercise along with the confessional statement of the suspect. This way, the trial court can decide for itself if the confession was obtained in a manner that renders it unreliable and therefore, inadmissible. This landmark decision of the apex court, **per OGUNWUMIJU**, is a welcomed one particularly for criminal defence lawyers.

**law enforcement agencies can no longer torture or force suspects to confess to crimes they didn't commit.**

# OUTSTANDING COURT JUDGEMENTS

GAVEL.

**OBIJIAKU v. OBIJIAKU & ORS (2022) LPELR-61024(SC)**
DELIVERED ON JUNE 10, 202

HIS LORDSHIP,
**HON. JUSTICE JOHN INYANG OKORO J.S.C**

## SUMMARY OF FACTS

The Respondents , **Chief Joe Obijiaku, Daniel Obijiaku and Mrs. Catherine Obijiaku, as complainants,** initiated a private complaint in complaint **No: NMC/339c/2016** dated **23rd June, 2016** against the Appellant at the Magistrate Court of Anambra State, Nnewi Coram V. I. Udedike, Esq., alleging that the Appellant published defamatory statement which was likely to injure their reputation.

- The Appellant who was summoned to appear before the Court on 29th July, 2016 was absent from court
- The Appellant counsel, Ike Obeta Esq, raised objection to the appearance of G. Eneghalu (counsel for the Respondent) on the ground that he being a private legal practitioner, he lacked the locus to prosecute a criminal matter without the fiat of the Attorney General of Anambra State.
- The Court in a considered ruling overruled the objection and proceeded to order a bench warrant against the Appellant.
- The Appellant's appeal to the High Court and Court of Appeal were dismissed. Peeved, the Appellant further appealed to the Supreme Court.

## LEGAL ISSUES

One of the issues for determination of the Supreme Court was whether a private legal practitioner who has not been issued with the fiat of the Attorney General of Anambra State can prosecute a charge in the State.

OBIJIAKU v. OBIJIAKU &
ORS (2022) LPELR-61024(SC)
delivered on June 10, 202

**BY HIS LORDSHIP, HON. JUSTICE JOHN INYANG OKORO J.S.C**

## COURT DECISIONS

Answering the issue in the affirmative, the apex court held that

> **"I believe that the drafter of the law had envisaged prosecution of private criminal complaint without the fiat of the Attorney General. In that circumstance, the provision of Section 301 (1) of the ACJL operates to fill the lacuna. I do not think that Section 301 (1) of the ACJL is in any way contradictory or inconsistent with the provision of Section 211 of the Constitution; rather it is complementary to the constitution. The said Section provides as follows:- "Both the complainant and the defendant shall be entitled to conduct their respective cases in person or by a legal practitioner**

The apex court therefore, resolved the issue against the Appellant.

## LEGAL AND SOCIETAL IMPLICATIONS

This decision of the apex court is particularly laudable because:

- Victims of crimes can now approach the courts directly to lay their complaints and to also prosecute same in person, if they wish to
- The practice by law enforcement agencies of demanding for money before they investigate or charge reported crimes to court is now a thing of the past since the victims now have direct access to the court.
- The practice where prosecutors collect money from defendants with the promise to frustrate or refuse to prosecute the case of the victim diligently is now a thing of the past since the victim can approach the court directly or engage a lawyer of his choice to prosecute the case on his behalf.

# OUTSTANDING COURT JUDGEMENTS

GAVEL.

**SOCIO-ECONOMIC RIGHTS AND ACCOUNTABILITY PROJECT (SERAP) V. MINISTER OF FINANCE & ANOR (UNREPORTED)**
SUIT NO. FHC/ABJ/CS/1447/2019
DELIVERED ON MAY 15, 2023

HIS LORDSHIP,
**HON. JUSTICE EMEKA NWITE**

## SUMMARY OF FACTS

The case of the Applicant was that it sought from the 1st Respondent information with respect to providing and making available information with specific details on the total amount of money paid to contractors and companies from the $460 million loan obtained in 2010 from China by the Federal Government of Nigeria to fund the ill-fated Abuja Closed-Circuit Television (CCTV) contract, and to clarify details whether the sum of N1.5 Billion paid in 2010 for the failed contract meant to construct the headquarters of the Code of Conduct Bureau (CCB) was part of another loan obtained from China. The applicant's complaint before the court thus was that since the receipt of its letter dated October 25, 2019 and January 30, 2020 the Respondents failed, refused and/or neglected to respond or grant the Applicant's request pursuant to its right to the information sought under section 1(1) and (2) of the Freedom of Information Act 2011.

## LEGAL ISSUES

One of the issues for the resolution of the court was whether the Applicant's application for judicial review ought to be granted. Court's decision

## COURT DECISIONS

> **"The 1st Respondent who is therefore in charge of the finance of the Nigeria country cannot by any stretch of imagination be oblivious of the amount of money paid to the contractors for the Abuja Closed Circuit Television contract as well as the sum of money meant for the construction of the headquarters of the Code of Conduct Bureau (CCB)**

SOCIO-ECONOMIC RIGHTS AND ACCOUNTABILITY PROJECT (SERAP) V. MINISTER OF FINANCE & ANOR (UNREPORTED)
SUIT NO. FHC/ABJ/CS/1447/2019
DELIVERED ON MAY 15, 2023
**BY HIS LORDSHIP, HON. JUSTICE EMEKA NWITE**

GAVEL.

> **The denial of the information by the 1st Respondent on the grounds stated in her counter affidavit cannot be reasonable in view of the fact that the information by the Applicant is in the interest of the public and also in view of the Applicant's core objectives which is to promote human right transparency and accountability and anti-corruption in Nigeria. Therefore, it will be inimical for the court to refuse the Applicant's application for judicial review of the 1st Respondent's action.**

## LEGAL AND SOCIETAL IMPLICATIONS

By this bold decision of the Federal High Court, the right of citizens to demand transparency and to hold their government accountable through the enforcement of their right to information under the Freedom of Information Act, 2011 is entrenched and reinforced.

> **Citizens have right to information under the Freedom of Information Act, 2011**

# OUTSTANDING COURT JUDGEMENTS

GAVEL.

**ATTORNEY GENERAL OF THE FEDERATION V. ATTORNEY GENERAL OF ABIA STATE & ORS (UNREPORTED)**
SUIT NO. SC/CV/343/2024
DELIVERED ON JULY 11, 2024

HIS LORDSHIP,
**HON. JUSTICE EMMANUEL A. AGIM, J.S.C**

## SUMMARY OF FACTS

In this case, the contention of the plaintiff before the apex court was that the 1999 Constitution recognizes three tiers of government namely the Federal, State and Local governments and that the three tiers of government draw funds for their operation and functioning from the Federation Account. The grouse of the Plaintiff in particular, was that notwithstanding the clear provisions of the Constitution on the point, the Defendants (the 36 State Governors) have failed, refused and or neglected to ensure a democratically elected local government system is put in place in their respective states in compliance with relevant provisions of the Constitution. The plaintiff also contended that the State Governors have failed to pay to the local government councils allocations to local governments from the Federation Account after receiving the money from the Federation Account for the benefit of the local government councils contrary to S. 162(5) and (6) of the 1999 Constitution.

## LEGAL ISSUES

One of the question that was resolved by the apex court was whether the Federal government can validly pay to local government councils the money standing to the credit of the local governments in the Federation Account since State Governors have persistently refused to do so in violation of section 162(4), (5) and (6) of the 1999 Constitution

## COURT DECISIONS

the apex court held that the Federation can pay Local government allocations from the Federation Account to Local government councils directly or pay to them through the States. The apex court noted however that since paying them through states has not worked, the justice of the case demanded that the local government council allocations from the Federation Account should henceforth be paid directly to the local government councils.

ATTORNEY GENERAL OF THE FEDERATION V.
ATTORNEY GENERAL OF ABIA STATE & ORS (UNREPORTED)
SUIT NO. SC/CV/343/2024
DELIVERED ON JULY 11, 2024

**BY HIS LORDSHIP, HON. JUSTICE EMMANUEL AKOMAYE AGIM**

## COURT DECISIONS

> **The Constitution could not have intended by those provisions that States should retain money distributed by the Constitution to the third tier of government and use same for their benefit. This is because if the states retain and use the money and do not pay to the local government council concerned, it would defeat the Constitutional provision in 162(3) that money in the Federation Account be distributed to each of the three tiers of government. The states retention and use of the money belonging to the local government council truncates the distribution of the money to the local government.**

## LEGAL AND SOCIETAL IMPLICATIONS

The implication of this landmark decision of the apex court is that State Governors can no longer remove democratically elected local government chairmen or councilors or install caretaker committees in their stead at will. Similarly, State Governors are by the Court's decision forbidden from receiving monies standing to the credit of the local government councils on behalf of the councils even as the Federation is now empowered to pay the councils' money directly from the Federation Account to the councils. This effectively entrenched political as well as financial autonomies for the third tier of government in Nigeria.

**State Governors can no longer remove democratically elected local government chairmen or councilors or install caretaker committees in their stead at will**

# OUTSTANDING COURT JUDGEMENTS

GAVEL.

**SOCIO-ECONOMIC RIGHTS AND ACCOUNTABILITY PROJECT (SERAP) V. INEC (UNREPORTED)**
SUIT NO. FHC/ABJ/CS/583/2023
DELIVERED ON JULY 18, 2024

HIS LORDSHIP,
**HON. JUSTICE OBIORA A. EGWUATU**

## SUMMARY OF FACTS

The substance of SERAP's complaint before the Federal High Court was on the violence associated with elections in Nigeria which often prevent citizens from exercising their franchise during elections, thus preventing credible election and in the long run credible leaders. By way of an application for judicial review therefore, SERAP brought the instance suit praying inter alia that INEC should be compelled to prosecute all arrested offenders in the 2023 general elections in the custody of the Nigeria Police Force, Economic and Financial Crimes Commission (EFCC) Independent Corrupt Practices and Other Related Offences Commission and other law enforcement agencies.

## LEGAL ISSUES

The issue nominated for the determination of the Court was whether the Court ought to grant the relief of judicial review and orders of mandamus sought by SERAP

## COURT DECISIONS

In granting SERAP's reliefs therefore, the Court ordered INEC to swiftly prosecute all arrested offenders in the 2023 general elections in the custody of the Nigeria Police Force, Economic and Financial Crimes Commission (EFCC) Independent Corrupt Practices and Other Related Offences Commission and other law enforcement agencies.
In the end, the court resolved the issue in favour of SERAP and particularly held that:

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## COURT DECISIONS

> **"Being citizens of this great country, SERAP and its members have the legal interest whose enjoyment or enforcement directly or substantially depends on the performance of public duty by INEC.In requesting the performance of the public duty imposed on the electoral body, SERAP has demonstrated a great zeal of patriotism**

## LEGAL AND SOCIETAL IMPLICATIONS

This laudable judgment of the Federal High court will drastically reduce the incidence of electoral violence and by extension, boost the confidence of electorates to go out to exercise their franchise during elections. The further directive of the Court to INEC to swiftly prosecute all arrested offenders of the 2023 general elections is an affirmation of the trite principle that time does not run against crimes.