

## Title

# Corona virus disease 2019 (COVID-19) pandemic and the Nigerian legal system: a blessing in disguise?

## Author/s

ADEDOKUN, Kareem (Ph.D), Department of Business & Private Law, Kwara State University, Malete, Nigeria  
RAJI, Abdullateef (Ph.D), RAJI, Khalid Olatunji, MUHAMMED, Abubakar Yinusa (Ph.D), Department of Sociology, University of Ilorin, Ilorin, Kwara State, Nigeria, E-mail: rajikhalid90@gmail.com

## Abstract

As the world came to terms with the reality of the coronavirus disease 2019 (COVID-19), a series of rippling effects were set in motion. As agitations for social distancing and calls to flatten the curve of infection spiralled, the world came to a resounding halt, impeding the functionality of social institutions. With the world gradually returning to normalcy, a need arises to study the precise impact of the COVID-19 pandemic on specific social institutions. This study examined the various ways the COVID-19 affected the Nigerian legal system. Adopting a secondary method of data collection, the study consulted research works and other sources of empirical information on COVID-19 and the legal system. The study found that by failing to declare a state of emergency, the enacted lockdown infringed upon citizens' right to move freely as detailed in the Nigerian constitution. The study further found that the pandemic exposed weaknesses of Nigerian legal system in remote hearing and digitalisation of court procedures. Based on these findings, the study recommended that the Nigerian government should uphold the legalities of the constitution. The study also recommended for intensified efforts by the government to digitalize the legal system in line with international standards.

## Key words

Corona virus disease (COVID-19), lockdown, legal system, Nigeria, remote hearing

## How to cite this article using ASWNet style

Adedokun, K., Raji, A., RAJI, Khalid O., Muhammed, A. Y. (2021). Corona virus disease 2019 (COVID-19) pandemic and the Nigerian legal system: a blessing in disguise? *Journal of Development Administration (JDA)*, 6(2), 89-96.



## Introduction

The coronavirus disease 2019 (COVID-19) has upended and ended lives around the world. The secondary effects of the pandemic have as well been catastrophic. Borders were closed, which obstructed the influx of people, goods and services. Nations adopted the lockdown procedure for an extended period of time. Evidently, this inadvertently crippled economic endeavours, in addition to limiting social interactions in the family institution, and necessitating the closure of educational institutions (Pistor, 2020). The legal institution has not escaped the effects of the novel pandemic. Judicial and legislative procedures have been largely challenged globally. Though, some nations have been able to respond effectively to the mounting challenges set in by the COVID-19 pandemic, others have been left waning in the onslaught. Generally, the COVID-19 pandemic exerts significant challenges to the laws that govern our political, social, as well as economic lives. Certainly, it is vital that these institutions fulfil their requisite duties, if a state of societal equilibrium is to be attained. A widespread dysfunction of all social institutions would only compound the woes set in by the pandemic. The legal institution, which is as old as time itself was of concern in this study. Over the years, it has evolved in tandem with the unavoidable onslaught of social change. Therefore, the purpose of this study was to investigate the effects of COVID-19 on Nigerian legal system by reviewing relevant literature in regard to remote hearing and the lockdown procedure during the pandemic.

## Background

In line with social work being vital to the general functioning of the society, it becomes imperative to examine how the Nigerian society has been functioning in the face of the COVID-19 pandemic. Specifically, this study was concerned with the Nigerian legal system in light of changes that the pandemic brought about. Is the legal system in a state of equilibrium or is there an imbalance? This was an overriding concern in this study.

Measures applied to address the spread of COVID-19 have led to rapid and significant changes to the operation of legal systems around the world. Specifically, new guidance in multiple countries authorised an adoption of remote hearings, alongside other changes (Byrom, Beardon, and Kendrick, 2020). The swift rise of remote hearing has occupied a key position to an assurance of the continued operation of legal systems. Alongside the rise of remote hearings has been a research interest in uncovering various challenges posed by the unusual circumstance. Has the legal system been able to adapt without significant hitches? Studies

have indicated that this is largely the case. According to Byrom, Beardon, and Kendrick (2020), people have expressed satisfaction with the legal system set in by remote hearings. Markers of satisfaction consisted of absence of technical glitches, agreement with outcome, and participation in a completely visual hearing.

Despite the existence of research interest in terms of effects of the COVID-19 pandemic on legal systems in the UK, USA, and so on, very little concrete research has been conducted on the subject in Nigeria. Although thoughts and opinions have been shared, there is no concrete canon of scientific knowledge detailing the effects of the COVID-19 pandemic on legal systems in Nigeria. This is the gap that this study sought to fill. This paper therefore examined if the governmental response to the COVID-19 pandemic infringed on any of the Nigerian citizens' rights. This study as well examined how the legal system in Nigeria has fared in adopting virtual hearings. Essentially, the research was oriented towards deciphering a possible benefit in the midst of the pandemic. Is there a silver lining? This was the overarching question answered at the end of the study.

## Methodology

This research was hinged on a review of relevant literature to the study's objectives. The review was done by primarily assessing research papers available on Research Gate and Google Scholar platforms. More than thirty literature on "COVID-19" and the concept of "legal system" were discovered on both platforms. However, this study only included 12 of discovered journal articles, based on significance to the subject matter. Priority was also accorded to African literature whenever possible. In addition, 11 of the consulted literature were sourced from published books, chapters-in-books, and articles from established platforms to contribute to the study's objectives. A scoping literature review was done in regard to the specific objectives, based on the literature available on the objectives to date. This was done to increase the credibility of the findings. Moreover, interview findings of prominent jurists were assessed to lend some specificity to the study, in line with established objectives.

## Conceptual clarification

### Defining COVID-19

In 2019, the coronavirus disease initially emerged in Wuhan, the capital of Hubei province in China. It was later referred to as "COVID-19" by the W.H.O, which stands for Coronavirus Disease 2019 (Onyema et al., 2020). The Coronavirus outbreak

remains one of the worst global pandemics ever experienced. The mortality rate soared, and the ease of spread was upsetting. Research shows that older people and those with underlying medical problems like cardiovascular diseases, diabetes, chronic respiratory disease, and cancer are more likely to develop serious illnesses from COVID-19 (Onyema et al, 2020). Some of the symptoms of COVID-19 include sore throat, runny nose, constant coughing/sneezing, breathing difficulty and fatigue.

The coronavirus disease (COVID-19) is a pathogenic and highly infectious disease (Muhammad, Suliman, Abeer, Nadir and Rabeea, 2020) that has found its way into other parts of the world, making it a pandemic the whole world had to come together to fight. The pandemic has overwhelmed the health system of even the most powerful of nations and has forced governments to choose between lives and livelihoods, while doctors have been forced to make a trade-off between those who survive and those who die. In the absence of a vaccine and clear exit strategy, the COVID-19 pandemic has caused a fear of the unknown for many countries of the world.

In Nigeria, as of 15 December 2020, the COVID-19 pandemic has 73,374 confirmed cases, with 5,863 being active, and 1,197 cases of death (The Nigeria Centre for Disease Control, 2020).

### **The Nigerian Legal System**

The Nigerian legal system was originally sourced from received English law through the process of colonialism (Ikpor, Ituma and Okezie, 2019). The received English law typically entailed statutes, doctrines, and common laws that were applicable to England in 1900. Beredugo (2009) in Anyim (2019) defined the Nigerian legal system as the comprehensive legal machinery that addresses the legitimacy of the government, the constitution, and the civil service agencies. Moreover, the Nigerian legal system caters to the pre-colonial legal system consisting of a plurality of culturally derived mores/norms that were subsequently fashioned into customary laws. Essentially, to fully comprehend Nigeria's legal system, it becomes imperative to succinctly examine the pre-colonial, colonial and post-colonial transitions, as revealed by Anyim (2019). As previously stated, the pre-colonial period was dominated by an ethnic plurality. The period was solely dominated by the respective customary laws and mores distinctive to each ethnic group. However, the transition into the colonial period fostered the surge of English legalities brought on by the colonial forces. In addition to the respective customary laws, mores, and norms, the legal system operated in Nigeria surged upwards. With Nigeria gaining independence in 1960, the post-colonial government simply inherited the adopted English

legal system, in addition to the customary laws (Anyim, 2019).

### **Sources of Nigerian law**

Generally, the source of the Nigerian Law can be classified into: Primary Sources and Secondary Sources.

#### **Primary sources**

The primary sources of Nigerian law can be equated to the principal sources of legality that embody a binding significance and are imperative to the operation of the social system (Ikpor, Ituma and Okezie, 2019). Thus, the primary sources Nigerian law are binding on the court of law, whereas the secondary sources of law are not particularly binding.

As revealed by Dina, Akintayo and Ekundayo (2005) in Anyim (2019), the primary sources of Nigerian Law are the following: (a) The Constitution (b) Nigerian Legislation (c) Nigerian Case Law/Judicial Precedent (d) Received English Law (e) Customary Law

#### **(a) The constitution**

Azinge and Udombana (2012) defined a constitution as the organic law governing a group of people that justifies the type and accompanying governmental powers, as well as the rule of law operated in the country. The constitution embodies the supreme law of the land in Nigeria, and directs subsidiary legislation and statutes enacted by the Legislative authority. The current constitution in operation is the 1999 Nigerian Constitution which was set in on the 29<sup>th</sup> of May 1999. However, the Constitution has undergone certain amendments over the years (Malemi, 2010).

#### **(b) Nigerian legislation**

The Nigerian Legislation represents another primary source of law in Nigeria, which could be in the form of ordinances, decrees, acts, or edicts (Anyim, 2019). The Laws of the Federation of Nigeria 1990 (LFN) gives a comprehensive account of the Nigerian legislative force. An ordinance is associated to laws that came into operation prior to the operation of federalism in Nigeria. Decrees indicate enactments set in by the Federal Military Government. Acts refer to statutes passed by the democratic federal legislature, whereas edicts were passed by state military administrators before democracy came into operation (Anyim, 2019).

#### **(c) Nigerian case law or judicial precedents**

This indicates a practice wherein a court's prior decision is followed in a successive akin case (Umoh, 2013). Though judges are typically responsible for the interpretation of laws and are not

charged with the duties of making laws, the process of interpreting laws often transforms into a key reference point in the determination of cases in the future. This process is termed judicial precedent. Thus, judges inadvertently make what are termed “case laws”, which are followed by the establishment of judicial precedent. Essentially, lower courts are expected to follow the doctrine of judicial precedent laid down by higher courts. In Nigeria, the Supreme Court claims the status of being the highest court of the land. All other courts in Nigeria, such as the Customary Court, High Court, and the Appeal Court are bound to follow precedents/case laws laid down by the Supreme Court (Anyim, 2019).

#### **(d) Received English law**

Received English Law refers to the legal principles/laws deriving their origin in England, which are now applicable in the Nigerian legal system as laws (Nwocha, 2016). This was set in by the onslaught of colonialism in Nigeria. However, a failure to review a great portion of these “received laws” particularly in regard to matters of criminality has largely predicated a scenario called the practice of impracticable laws. But, in the view of Akinyemi (2017) in Anyim (2019), despite the strong influence exerted by received English Law, the Nigerian legal system continues to be a very complex phenomenon due to the prevalence of legal pluralism.

#### **(e) Customary law**

The Nigerian customary law can be defined as a system of law originating from multiple norms, mores, customs and traditions that are peculiar to ethnic groups in Nigeria and are applied in regulating peoples’ actions in the society (Kolajo, 2001; Garner, 2009; Nwocha, 2016). Basically, customary law refers to the cornucopia of legal postulates that can be found at the grassroots level in the society. In the view of Anyim (2019), customary law entails the embodiment of customs prevalently accepted by members of the society as legal requirement for conducts in the society. In essence, customary law is an embodiment of legal compulsions sourced from societal members’ prevailing customs. Customary law therefore echoes the prevalent social, cultural, economic, and political realities of societal members. In Nigeria, customary law can be categorised into Ethnic Customary Law and Islamic / Sharia Customary Law (Obilade, 1979). In the context of this study, Ethnic Customary Law is applicable to the respective ethnic groups that can be found in Nigeria. On the other hand, Islamic/Sharia Customary law is sourced from the Holy Qur’an and the religion of Islam. Therefore, its attendant binding principles are religiously motivated, and is overwhelmingly applicable in the Northern regions

of Nigeria, and partly applicable in some Southern regions of Nigeria (Gwangndi, 2016).

#### **Secondary sources of Nigerian law**

Secondary sources of law refer to the origins of law that fail to embody a binding effect in Nigeria. The legal authorities detailed in these laws are largely diluted and are consequently not binding on any court of law in Nigeria. According to Beredugo (2009) in Shehu, Osman and Othman (2016), secondary sources of law represent sources of law that are of reduced significance and barely embody any form of persuasive authority. However, secondary sources can be vital whenever the court finds reason in the attendant content. Moreover, secondary sources of law can as well be cited if they echo the contents detailed in primary sources. Largely, the secondary sources of Nigerian law, in the view of Shehu, Osman and Othman (2016) include the following: (a) decisions of foreign courts (b) International treaties/ conventions/resolutions (c) law reports (d) law textbooks.

## **Findings**

- The lockdown initiated by the Federal government is against citizens’ fundamental right of movement, as a state of emergency was not declared by the Presidency.
- Court systems have been unable to adjust to remote hearings.

#### **COVID-19 and lockdown procedure**

The President of the Nigeria exercised applicable powers on the 29<sup>th</sup> of March 2020 (as contained the Quarantine Act), to order a restriction of movement in the Federal Capital Territory, as well as Ogun and Lagos States, accordingly, issuing the COVID-19 Regulations (Mondaq, 2020). As a result, the free-flow movement of people was completely restricted, although with some certain exemptions listed. The lockdown commenced for an initial fourteen days. Most of the State Governments followed suit by having their borders closed and enforcing lockdowns as well. The State and Federal Court systems of Nigeria were not exempt from this disruption, as court sittings were suspended for an initial period of two weeks, with time-bound, or essential cases being the only exemption. This was detailed in Circular No. NJC/CIR/HOC/11631 issued by the Chief Justice of Nigeria (Mondaq, 2020).

In respect to the lockdown set in by the Federal Government as a response to the pandemic, questions were raised that the action encroaches on the freedom of movement detailed in sections 40 and 41 of the constitution.

According to Ojo (2020), the order for lockdown was dispensed pursuant to the powers of the President as detailed in the Quarantine Act, 2004 of the country's law, which empowers the presidency to initiate protocols meant to protect citizens of Nigeria against pandemics such as the novel COVID-19. Ojo (2020) however cited that a state of emergency should have been declared by the presidency prior to the initiation of lockdown procedures, in order to avoid infringing upon the citizens' right to move freely, as detailed in Sections 40 and 41 of the 1999 Constitution.

Further recognising the effects of the pandemic on Nigeria's legal system, Ojo (2020) cited that the consequences have been quite devastating on multiple aspects of the legal system. For instance, all courts were closed at a period under the directive of the Chief Justice of Nigeria. Due to this, litigants could not conclude nor continue litigations, which resulted in many legal obligations "hanging in the air".

### **COVID-19 and remote hearing**

Also, the COVID-19 pandemic has exposed the weakness of the Nigerian legal system in terms of technology, as it has been occupying a very minor role in legal proceedings over the years. The use of electronic means (for example, Zoom, and Skype for video conferencing to resolve disputes has not achieved much success. Though, at a point in time, some effort was exerted towards getting lawyers registered on email platforms by the Supreme Court, in a bid to digitalise the Nigerian legal system. Despite this effort, greater effort is required, as a failure of fully digitalising the court system exerts great havoc to the legal system. Ojo (2020) supported this view by referencing the fact that numerous courts in developed parts of the world that were placed under lockdowns as a result of rising trajectories associated with the spread of the COVID-19 utilise virtual mediums to hear cases, with judgments also being virtually delivered and enforced. This noticeable lapse exhibits the weaknesses of the Nigerian legal system in terms of being uncompetitive. The use of virtual means of dispute mediation and arbitrations would certainly elevate any court system in the world (Scherer, 2020). However, a certain weakness has also been expressed that virtual hearings only allows an access to the justice system for a minute proportion of the public. Doughty (2020) has as well-expressed findings that remote hearings do not always make for a fair trial.

However, Etomi in Ojo (2020) further cited that a move towards the digitalisation of court systems in Nigeria would eliminate an issue of "crowded courts"; allowing for a smoother and more professional justice system. It is also believed that

this would serve to eliminate certain distractions that might crop up in a physical court, thereby allowing judges to focus more on presented evidence and arguments. If cases are appealed, they would be transmitted electronically with ease, thereby eliminating potential delays in the justice system that has been plaguing Nigeria.

## **Discussion**

It is a general fact that no matter the level at which a piece of legislation is intricately drafted, or the level of consultations and considerations put into such legislative exercise, it can be unavoidable for such legislation to comprehensively cover all circumstances (foreseen or unforeseen). Hence, this necessitates the need for a frequent review in order to adjust to present trends. The COVID-19 pandemic represents one of such unanticipated circumstances, as it continues to unsettle lives in Nigeria and beyond. The pandemic continues to persist throughout the world, with fears of a second wave rising, which has largely brought the entire world to a resounding halt. The pandemic has disrupted various spheres of human endeavours around the world and Nigeria is not an exception. Certain businesses have been halted, and national and global economies had to undergo significant changes to adapt to the novel condition. Accordingly, business leaders and governments have taken extraordinary reactive steps geared towards curtailing of the raging scourge.

The findings of the study showcase that the lockdown initiated by the presidency has in a way deprived Nigerians of their freedom of movement, as a state of emergency was not declared. This action contradicts the duty of social workers to uphold human rights and ensure that the government acts in accordance with constitutional stipulations. Actions of this nature could have a potential long-term implication and impact. Though, the need for unanticipated arrangements is understandable in a pandemic, it is important not to dispose legality if order and equilibrium is to be maintained in the society. The pressures which emanate as a consequence of the pandemic, as well as the challenges in addressing them are at a risk of impeding human rights and societal well-being. This has been made apparent in the failure of court systems to fully adapt to remote hearings in Nigeria. The study revealed that virtual hearings have not been hitch-free. Hence, the justice system has been clustered during the COVID-19 pandemic period, due to a failure to operate at an optimum level.

## **Recommendations**

Based on findings that the lockdown procedure initiated by the presidency was against the

constitutional rights of Nigerians, the study recommends that Nigerian government should uphold the legalities of the constitution, if justice is to be maintained in the society. In light of the conclusion that remote hearing and a general digitalisation of the Nigerian legal system has been challenging, the study recommends greater commitment be made by the government towards digitalising court proceedings in Nigeria, as well as other aspects of the legal system. This needs to be addressed urgently if Nigeria is to meet up with international standards.

## Conclusion

Generally, the study concludes that the COVID-19 pandemic has significantly affected the Nigerian legal system. Specifically, the implications of the pandemic were discussed in regard to the lockdown procedure and remote hearing. The results of this study serve as an addition to the body of empirical knowledge available on the effects of COVID-19 in Nigeria. Largely, this study has also provided detailed knowledge on the manner in which governmental response to COVID-19 has impacted the legal system. However, is there a silver lining to this? The study concludes that there is indeed a silver lining. Due to the pandemic, weaknesses in the Nigerian legal system have been made apparent which should be immediately addressed.

## Declarations

There was no conflict of interests in this study, as utmost objectivity was upheld throughout the procedures. An attestation can as well be made in regard to this article's originality, in line with research ethics. This article shall not be submitted to another outlet unless it gets withdrawn or rejected. All the co-authors in this article fully participated in the research procedure, in a bid to attain an output of great quality.

## References

Anyim, W.O. (2019). Research under Nigerian Legal System: Understanding the Sources of Law for Effective Research Activities in Law Libraries. *Library Philosophy and Practice (e-journal)*.

Azinge, E. and Udombana, N. (2012). *Drafting Legislation in Nigeria: Constitutional Imperatives*. Lagos: Nigeria Institute of Advanced Legal Studies.

Byrom, N., Beardon, S., and Kendrick, A. (2020). *The Impact of Covid-19 Measures on The Civil*

*Justice System*. UK: Civil Justice Council and The Legal Education Foundation.

Doughty, J. (2020). Remote justice – family court hearings during the pandemic. *Journal of Social Welfare and Family Law*.

Garner, B. A. (2009). *Black's Law Dictionary*. Minnesota: West Publishing Co.

Gwangndi, M. I. (2016). The Socio-Legal Context of the Nigerian Legal System and the Shariah Controversy: An Analysis of Its Impact on Some Aspects of Nigerian Women's Rights. *Journal of Law, Policy and Globalization*, 45, 60-66.

Ikpor, I.M., Ituma, E., and Okezie, B.N. (2019). Environmental Accounting and Sustainable Financial Performance: Evidence from the Nigerian Petroleum Industry. *International Journal of Applied Environmental Sciences*, 14(1), 85-93.

Knight, C. (2014). Theories of distributive justice and post-apartheid South Africa. *Politikon*, 41(1), 23-38.

Kolajo, A. A. (2001). *Customary Law in Nigeria through the Cases*. Ibadan: Spectrum Books Ltd.

Malemi, E. (2010). *The Nigerian Constitutional Law*. Lagos: Princeton Publishing Company.

Markey, M., Ransom, M.M., and Sunshine, G. (2016). Ebola: A Public Health and Legal Perspective. *Michigan State International Law Review*, 24(2), 434-447.

Mondaq (2020). *The COVID-19 Pandemic and Legal Underpinnings of The Applicability of Statutes Of Limitation*.

Muhammad, A. S., Suliman, K., Abeer, K., Nadir B. and Rabeea, S. (2020). COVID-19 infection: Origin, transmission, and characteristics of human coronaviruses. *Journal of Advanced Research*, 24 (2020), 91–98.

Nwocha, E. N. (2016). Customary Law, Social Development and Administration of Justice in Nigeria. *Beijing Law Review*, 7, 430-442.

Obilade, A.O. (1979). *The Nigerian Legal System*. Ibadan: Spectrum Books Ltd.

Ojo, Y.A. (2020, May 05). COVID-19 impact on legal system in Nigeria is devastating, says Etomi. *Guardian*.

Onyema, E.M., Eucheria, N.C., Obafemi, F.A., Sen, S., Atonye, F.G., Sharma, A., and Alsayed, A.O. (2020). Impact of Coronavirus Pandemic on Education. *Journal of Education and Practice*, 11(13), 108-121.

Rewar, S., Mirdha, D., and Rewar, P. (2015). Treatment and Prevention of Pandemic H1N1 Influenza. *Annals of Global Health*, 81(5), 645-653.

Scherer, M. (2020). Remote Hearings in International Arbitration: An Analytical Framework. *Journal of International Arbitration*, 37(4)

Shehu, I.S., Osman, N., and Othman, M.F. (2016). Nigerian Citizens and Fundamental Rights: Myth, Manoeuvre and Reality. *Journal of International Studies*, 12, 53-64.

The Nigeria Centre for Disease Control (2020). *COVID-19 Nigeria*. Available online at <https://covid19.ncdc.gov.ng>

Umoh, P. U. (2013). Law in African Context. In M. E. Nwocha, Ed., *Human Rights and Criminal Justice in Nigeria*. Abakaliki: CE Darrolls Publishers.

# Journal of Development Administration (JDA)

ISSN (print) 2218-4899

ISSN (online) 2788-8169

Manuscripts can be submitted any time, they are open access and they are published online as soon as they are accepted.

## Journal policy

The journal publishes papers that focus on development in general including family, community, social, national and international development. The journal promotes *people centred development*, that is, people centric approaches to development, development with a human face. By putting people at the centre of development, practitioners in different fields of development are able to take people out of poverty. This from-bottom-going-up-approach to understanding poverty, planning against it and implementing reduction strategies is seen as the most important recipe for communities which still suffer the dangers brought by poverty.

## Topic areas

The Journal considers articles from a wide variety of interest areas and from a wide spectrum of disciplines. The editor works with an editorial team from across the globe derived from development sectors mainly in the social sciences. Specific areas covered include but are not limited to development management; resource mobilisation and fundraising; inclusive development; sustainable development; disability and development; gender and development; poverty; sustainable development; social services and development; human development; HIV/AIDS; child development; counselling; rural development; governance; disaster management; agriculture and livelihoods; and Information and Communication Technologies (ICTs).

## Types of papers

The Journal contains peer reviewed articles in the form of original reports, research summaries (including dissertations), book reviews, literature review articles, think pieces, reports of work and original frameworks. Other forms of papers may be published at the discretion of the Editor.

## Review process

The JDA uses a double-blind peer review process.

## Submission

Submit a single Word document to [asw@africasocialwork.net](mailto:asw@africasocialwork.net)

Website: [www.africasocialwork.net](http://www.africasocialwork.net)