IN SEARCH OF JUSTICE IN A POLARIZED NIGERIAN STATE: A JURISPRUDENTIAL APPROACH*

Abstract
Equal rights and treatment of all citizens in relation to their liberty entails justice in the simplest form. The equal rights must be extended to social, economic and political strata to shun unfair competition. However in an increasingly polarized society like ours will concept of justice ever be same as in other civilized societies? Appointment of judicial officers in a [polarized] society is not often based on most qualified but on who will serve the very sectional or certain interests, if appointed? This has left society with abstract justice and more and more separated from citizens. Society seems to have lost interest in the very essence of justice and often resort to violence. The work examines whether a balance in the administration of justice can really be maintained in a polarized state. Are there options open to us still, to amend the existing situation and achieve substantial justice in all spheres? Doctrinal approach is employed in the course of this work. The study found that options abound but amendments must be made in our laws and in the scheme of policies, if substantial justice will ever be achieved in our society.

Keywords: Justice, Polarised State, Nigeria, Constitution

1. Introduction

The idea of justice to the common man is equal treatment of all persons. That is the expectation but this work goes beyond equal treatment of citizens and examines what transpires in the political arena thereto appointment of judicial officers. These processes crystallize to the justice administration we have and or receive in our society today. Judicial power in Nigeria is vested in the courts established under the constitution.[1] The courts have power to do justice in matters brought before it with sanctions in appropriate cases. The powers of the court also extend to determination of any question as to the civil rights and obligations of parties concerned.[2] One of the necessities of law is to maintain societal order. Where there is an infraction of law, the court will order sanctions to ensure that such infraction will not cause societal values to be eroded. The constitution also sets limits as to the questions upon which the court can be called to determine. The issues relating to fundamental objectives and directive principles of State policy are excluded as not being justiciable, save as provided by the constitution. Of particular interest is the provision that the judicial power vested in accordance with the constitution 'Shall not, as from the date when this section comes into force, extend to any action or proceedings relating to any existing law made on or after 15th January, 1966 for determining any issue or question as to the competence of any authority or person to make any law.'[3] From the foregoing, certain special issues are worth considering:

(a) That this document referred to as the 1999 constitution of Nigeria is not the will of the people contrary to the express declaration in the preamble to the constitution. In addition the constitution clearly also states that it is a Constitution Decree indicating that it is a product of the military.
(b) The provision seeks to provide underserved immunity for the military usurpers of power. Whether action of the military in taking over power by force is called a revolution is immaterial in this circumstance. In another revolution the usurpers may be prosecuted and full weight of the law exerted on them for treason.
(c) It may also go to show to some extent the weakness of the law officers,[4] federal or state as the case may be, which ought not to be. A person who is alleged to have committed a crime cannot by insertion of such a provision in the law made by him or co-conspirators remove

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[1] Chapter VII of the Constitution of FRN 1999, Ss.230 to 284 CFRN.
[2] Section 6 (6) (a) & (b) CFRN 1999
[3] Section 6 (6) (d) CFRN 1999
[4] It ought to be noted that the Supreme Court has said that it must be acknowledged that when there is a successful abrupt change of government in a manner not contemplated by the constitution, a revolution is deemed to have taken place; Uwaifo JSC in AG Federation v Guardian Newspaper Ltd., [1999] 9NWLR 187, 22. This view will certainly affect the mind of the court in a proper action for prosecution of the usurpers of power. Most of the appointments in the judiciary are made of people who are either conservative and do not see the need for change in the existing order which has continued to erode societal values or meant to serve a particular interest. This statement is not without exception anyway.

> from chronicles that a crime was never committed. In a proper action or application the court ought to reconsider and declare that section 6 (6) (d) of the Nigeria constitution which seeks to provide undue immunity to usurpers of power is void.

That notwithstanding, it has been provided that the repeal of an enactment shall not affect any right, privilege or punishment or liability accrued in respect of any offence committed under the enactment[5]. Such provision in the Constitution will also not affect any investigation, legal proceedings, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment[6]. This seems to have laid to rest the issue of the immunity so provided in the constitution. What was done was to change the constitution but not the entire legal system and laws. The interpretation Act was not repealed neither was the Criminal Code abrogated. It is for the Federal Law Officers to take action, investigate any allegation of crime and bring appropriate charges.

2. Appointment of Judicial Officers

The appointment of Chief of justice of Nigeria, Justices of the Supreme Court, President of the Court of Appeal and Chief Judge of the Federal High Court shall be done by the President on the recommendation of the National Judicial Council, subject to confirmation by the Senate. The basic qualification is that the persons to be so appointed in any of these offices must have been so qualified as a legal practitioner in Nigeria and for not less than 15 years, 12 years, 10 years respectively. The area of specialty of the person to be so appointed is not of the essence.[7] The appointments have to be confirmed by the senate. In the ordinary course of business the President cannot appoint a person to any of these offices whom the President knows cannot be confirmed by the senate or person whose ideology and legal orientation sharply contrast with that of the President and the ruling party. Most often than not some of the appointees to these offices see it as opportunity to serve the interest of the person who appointed him primarily, and justice he was called to achieve becomes secondary.

3. Determination of Courses or Matters

At the helm of affairs in the judicial strata are the Justices, judges and magistrates. The power to determine the course or matter brought to the regular court is vested in them. The period within which judgments will be delivered after conclusion of evidence and final address, and mode of delivery of judgments are spelt in the Constitution. Judgment shall be delivered not later than 90 days after the conclusion of evidence and final address.[8] This extended period within which to deliver judgment is an unusually long period for a litigant to wait for an outcome of a concluded course in court.[9]

4. Judiciary, Rule of Law and Democracy

The position occupied by an efficient judiciary and her role thereof in a democratic State is germane to maintenance of social order and elevation of rule of law in addition to showcasing the freedom that ought to be part of democracy in all spheres. The judiciary is one of the tripartite arms of government in the constitution. The role of the judiciary is mainly encapsulated in the judges and magistrates. The function of judges is more than acting as mere umpires in a game who are there to ensure that neither side commits foul. They must direct and control the trial according to recognized rules and procedures and ensure that justice is not only done but is manifestly seen to be done.[10] Law exists to achieve justice in a given case. So where the rule of law or procedure is strictly adhered to and absurd result is produced, that is justice according to law and not justice in the real sense of it, as expected by the by-stander. In that circumstance it cannot be objectively said that justice has been done. It is absolutely a technical and abstract justice that will leave both litigants and the judge(s) disappointed. It is immaterial that the judge handed down the judgment and unconcerned. Judges are concerned; 'the lady justice or *lustitia'*[11] is immaterial. In African society such absurd judgment will ring bell for a long time. Lord Denning

[5] S. 6(1)(d) Interpretation Act LFN 2004
[6] S. 6(1)(e) Interpretation Act LFN 2004
[7] Ss.231(1) & (2), 238(1) & (2), 250(1) & (2) CFRN 1999
[8] S. 294 (1) CFRN 1999
[9] The trial of Derek Chauvin started on 29th March, 2021 and verdict was passed on April 20, 2021. In Nigeria such a case will last for several years.
[10] Role of Judges; Handbook for Criminal Cases. Zimbabwe Legal Information Institution. https://zimilii.org/content/section-1 Accessed 30/4/2021
[11] The blind folded woman holding scale or balance for justice.

rightly said, 'My root belief is that the proper role of a judge is to do justice between parties before him. If there is any rule of law which impairs the doing of justice, then it is the province of the judge to do all he legitimately can do to avoid that rule – or even to change it – so as to do justice in the instant case before him. He need not wait for the legislature to intervene, because that can never be of any help in the instant case. I would emphasize, however, the word legitimately: the judge is himself subject to the law and must abide by it'.[12] The idea of justice is not in abstraction. One ought to feel its impact. A judge faced with the dilemma of rules of procedure that may lead to manifest absurdity will have no alternative than to fall back upon what he considers will meet the justice of the case through some technique of legal reasoning at which some are more adept than others.[13] Where he is unable to do this and rely much on technicalities the result may be catastrophic in developing countries like ours.[14] Similarly, it was said in Donoghue v Stevenson[15] that the criterion of judgment must adjust and adapt itself to the changing circumstances of life.[16] Justice must not be viewed in abstraction. It must have some life in it thereby bringing to the fore the aphorism that justice is not only done but is manifestly seen to be done.

4.1. Judicial Officers' Performance in a Polarized Society

The competent and conscientious performance by judges of the duties of their office is the most way to maintain respect for the rule of law.[17] Could this assertion be vilified today in Nigeria and indeed in many African States? Today in Nigeria and indeed in many African States, how much respect do we have for the rule of law? Judiciary has always been viewed as the last hope of the common man against oppression and tyrannical government. Oputa JSC righty observed when he stated thus, 'The judiciary is the mighty fortress against tyrannous and oppressive laws. It is the judiciary that has to ensure that the state is subject to the law. That government respects the rights of the individual under the law. The courts adjudicate between the citizens *interse* and also between the citizens and the state'.[18] The firm belief of Justice Oputa in this dictum respecting the judiciary is fast disappearing. The common man's mighty fortress appears much to be in his raw power to ventilate issues physically and violently, too. No doubt, there ought and always is much praise for the judiciary in diverse ways. In *Nwanegbo v Oluwole*[19] the court has this to say, 'Clearly whenever the need arises for the determination of the civil rights and obligations of every Nigerian, this provision guarantees to such a person a fair hearing within a reasonable time…Which is synonymous with fair trial and as implying that every reasonable fair minded observer who watches the proceedings should be able to come to the conclusion that the court or other tribunal has been fair to all parties concerned'.

Nigerian judiciary and lawyers seem to have failed the common man in the street. The community is disenchanted with the court procedures and unending adjournments. Our courts are so congested that the time for determination of any course in regular court is indeterminate. The confidence of the society seems to have been lost, if not completely to a certain reasonable degree. The resort to violence and jungle justice may not be unconnected with the lost hope in the judiciary and the courts. So much as there are praises for the judiciary much also needs to be done and urgently too. In Nigeria judicial corruption is no longer an aberration or isolated conduct. It is disturbingly a dominant and recurrent feature of the Nigerian Judicial system.[20] He went further; interference with the judicial process is so deeply ingrained in the Nigeria culture that politicians continue to influence court proceedings. The observation of Justice Krishna of India judiciary is apt here. He said, 'The disease of corruption, in its widest connotation, has affected all parties and even militant organizations although substantial differences in degrees and opportunity may exist. The purity and mentality of the judiciary itself is in

[12] Lord Denning, The Family Story, Butterworth London, 1981 P 174
[13] T A Aguda, The Crisis of Justice, Eresu Hills Publishers, Akure 1986 P. 5
[14] Ibid P. 8
[15] [1932] AC 562
[16]Lord Macmillan in Donoghue v Stevenson [1932] AC 562 at p. 617
[17]*The Role of the Judge*, A Paper delivered at National Judicial Orientation Programme, Novotel North beach, Wollongong by The Hon. Sir Gerard Brennan, AC KBE, Chief Justice of Australia on 13th October, 1996. (https:/www.hcourt.gov.au) Accessed 30/4/2021.
[18]*Understanding the Place and Role of the Judiciary in our Society* by Hon Justice C. Oputa, cited in The Judiciary and Democracy in Nigeria, ed. Prof E Amuchezi and Hon Justice O. Olatawura P. 113 and cited by J A Yakubu in Constitutional Law in Nigeria Demyaxs, 2003 p.317
[19] [2001] 37 WRN p.101. The provision in reference is Section 3(c) of the 1999 Constitution of Nigeria
[20] *Problems, Challenges and Failures of Nigerian Judiciary by* Kubirat Umana;. (https:/researchcyber.com) Accessed 1/5/2021

jeopardy. A broad consensus on vital values enshrined in constitution and a basic integrity in the instrumentalities and the actors who operate, baffles my grasp.[21] Similarly, Justice Kayode Eso, rightly echoed thus '…what is happening in the various election petition tribunals today is mind- shattering, because many of the judges are not just millionaires but billionaires.[22] This is not far-fetched. He that pays the piper dictates the tune.

It may be apt to reconsider the appointment of the judicial officers again. The appointment is made by the President-politician on the recommendation of the National Judicial Council. The President is not bound to accept the recommendation of the National Judicial Council. The person so appointed ought not to be partisan in any respects. The reverse is the case. Every judicial officer appointed has an interest to protect, either of the ruling party or some other sectional interest. In the United States the polarization is even more pronounced. Hasen writing on polarization and judiciary in the US has this to say, If judges are chosen in part for ideological reasons in a polarized selection process, judges' decisions can be expected to reflect their ideology. Indeed, political party has traditionally been considered a good proxy for ideology of judges. Today, party plays a greater role than ever in the selection of judges and provides a better signal of ideological orientation than it has in generations.[23] Many decisions in election petition leave much to be desired. In *Waku v Joshua Adagba*,[24] the tribunal in striking out the petition stated that the person who contested the election was Chief J.K.N. Waku, while the person who filed the petition was Senator J. K. N. Waku. Even the reasoning is bereft of any technicality. In *Dingyadi V. Wamakko*[25] the Court of Appeal that found that an issue of multiple nominations touches on the qualification of a candidate to contest an election upheld that same candidate was qualified and eligible for run-off of the same elections years later.[26] The way and manner Justice Ayo Salami was removed still beggers description to this day. Salami's case has been described as, '… a culmination of what has clearly been a proxy war between the ruling PDP and the leading opposition party, the ACN; a war which began when the Court of Appeal replaced most of the PDP governors in the South West that came to power in the 2007 elections'.[27] It is clearly an issue of whose interest are you serving or you are here to serve. Judges are influenced in political matters as well as other sensitive issues by their affiliations. Election matters are usually the place of exposition of these affiliations and interests of the judges. The Justice Salami's standoff and very many other cases are very incisive. These affiliations in turn affect the decisions and justice in cases handed down in the society. Hasen aptly put it in this manner; It would be equally simplistic to believe that today's politics and polarization have no effect on the job of judging, that judges are merely finding neutral principles of law in documents or old cases and applying them in an apolitical manner … Empirical research on judicial behavior negates the simplistic notion that judges are mere 'partisans in robes' Judicial behavior does not simply reflect partisan politics, at least not in the way we see it in polarized legislative bodies. When Supreme Court justices provide uniformity and federal supremacy through unanimous or near-unanimous decisions on important questions of federal statutory or constitutional law, it is fair to view the Court as doing law and not politics.[28] The fact remains that their interest and affiliations are seen daily in the judgments handed down to the society.

4.2. Judicial Challenges

Beyond the issues of corruption in the judiciary either by the executive or some wealthy public there are varying institutional bottle necks that have and will continue to pull down the judicial process save urgent steps are taken. The aphorism that justice delayed is justice denied has been part of Nigeria jurisprudence. The concept of fair hearing is not limited to affording parties all the opportunities

[21] Justice Krishna Ayer; Law versus Justice: Problems and Solutions. Deep & Deep 1981 p. 13, cited by T A Aguda Op Cit p. viii,

[22] *Issues in Election Petition Adjudication in Nigeria's Fourth Republic: A Sociological Critique of the Role of the Judiciary* by A G Umar kari (Ph.D) published in GJPLR Vol.5 No.7 pp 75- 87. Assessed 3/6/2021 (https://www.eajournal.org)

[23] *Polarization and the Judiciary* by Richard L. Hasen, Annu. Rev. Political Sci. 2019. 22:261–76, https://doi.org/10.1146/annurev-polisci-051317-125141. Accessed on 4/6/20

[24] Cited by A. G. Umar kari (Ph.D) Ibid.

[25] **(**2008) 17 NWLR Pt. 116 p. 395

[26] It may be argued that the status of the person that was disqualified earlier may have changed and the impediment may have been removed over the years, but was such clearly shown in that case.

[27] A. G. Umar Kari (Ph.D) Ibid.

[28] Hasen Ibid Pp. 272 – 273 Annu. Rev. Political Sci. 2019. 22:261–76

available to them in search of justice but also that courses in court are dealt with expeditiously. The longer the course stretches in court the economic value of the result would have diminished so much that most often litigants abandon matters and blame lawyers for not doing much to conclude cases in court. In *Chukwu v Makinde*,[29] it was a case that arose out of personal injury resulting in permanent disability. The case commenced in Akure High Court with Suit N0.ALC/173/88 and final judgment with respect to all that concerns the matter was given on 7/2/07 by Court of Appeal. What a justice after 21 years of unnecessary economic waste in pursuit of a claim where court barely awarded N196,084,64. The injured person would have been battered all the more with such a justice system. Fair hearing further presupposes that pursuing a course in the court will not render a litigant bankrupt. If budgets are made by most litigants in Nigeria especially, it will in most cases never be enough in the course of litigation. This is because the matters are almost always indeterminate. The level of congestion in the court is alarming. This is further exacerbated by very poor infrastructure. The judge or magistrate will achieve almost nothing with the infrastructure and other working conditions. The executive in the government is cruising in a luxurious vehicle from well furnished conditioned office while the judges and magistrates are expected to work from cubicles without air conditioners. What can such a judicial officer achieve in that environment? Another disheartening circumstance is the giving of discordant orders by courts of coordinate jurisdiction over the same subject matter by the same parties and almost at the same time thereto disobedience to court orders by the executive. The first arm is most often seen in political courses where the parties' forum-shop. If the integrity of the judiciary can be attested to there would certainly not be need for the politician to forum-shop since the outcome irrespective of the forum will almost always be the same. Because it is almost always easy to influence judicial officers, it is also inherent in the person who influences not to obey any order therefrom. The reason is not farfetched. The judicial officer's worth is quantifiable in monetary terms.[30]

5. Dichotomies in a Polarized Society

Polarized societies have several dichotomies which affects its output in all spheres. Two major dichotomies that have eaten deep into the fabrics of Nigeria that one wonders the viability of Nigeria's co-operate existence are discussed.

Legal Dichotomy

Nigeria as a country has four deferent legal systems. These are English Law, Common Law, customary Law and Sharia[31] Law. Within these four Legal systems there still exist the criminal code and the penal code. While the Southern part of Nigeria legal system is patterned and closely related after the British legal system and jurisprudence, the Northern legal system is influenced and patterned towards Sharia or Islamic legal system and injunctions. The diverse Christians and pagan religious population in Northern Nigeria were not considered in the enactment of these laws. The import is that the Islamic or Sharia laws and injunctions are applicable in those Northern States. The laws being a law of the House of Assembly are applicable to all the indigenes and sojourns alike. While the criminal code is applicable in southern Nigeria the Penal code is applicable to Northern Nigeria. Though the Laws are meant for peace, orders and development of the society, it is not wholly so. A non-Muslim subjected to Sharia law will view the process as discrimination[32] and a violation of his fundamental rights to freedom of religion[33] as enshrined in the constitution. If after the execution of the sanction of the court upon such person, the victim will find a way to exit that part of the State whereof his religious views are not respected. If a united society has not been evenly developed what will become of a polarized society like Nigeria? Some of the penal and Sharia or Islamic laws and injunctions having religious undertones will dissuade some investors from investing in some of those states within Nigeria. It is worthy of note that the Sharia laws placed total ban on certain products like alcohol. These states that have banned the production of alcohol and its consumption receive more than 50% of the proceeds of Value Added Tax from these products. It is an unconscionable system and an unholy alliance to say the least. If a system or its products is totally rejected, there will be no reasoning that will support the former to reap benefits

[29] (2007) NWLR Pt. 1038 P. 195

[30] It has to be emphasized that not all judicial officers are corrupt. So it will be wrong to make a blanket or general deductions and apply same to all judicial officers.

[31] Sharia Law was introduced in Nigeria State of Zamafara in October 27, 1999. Thereafter 11 other States in Northern Nigeria followed suit irrespective of the fact that the population of those states are not only Islamic.

[32] S.42(1) (a) CFRN 1999.

[33] S.38 CFRN 1999. It may be argued that the person is not subjected to Islam. That is not so. The moment a person is subjected to religious laws the person is indirectly forced to accept as it were that very religion with regard to those laws.

from the system or its products it abhors and rejected. This legal dichotomy is deeply rooted. Issues that touch on law and religion usually bring out the sharp divide in corporate existence of Nigeria. The dichotomy is traceable to pre-colonization and colonization periods. Islam had been established in Northern Nigeria as at 1830 through the exploits of Uthman Dan Fodio. Christianity came through the South after amalgamation and the religious settings in Northern Nigeria were not disturbed. In fact, it became the basis of governance and British indirect rule of administration. While the English Common law and customary Law were administered in the South, Islam became the hatchet of administration in Northern Nigeria without efforts by the colonialist to introduce Western education.

Religious Dichotomy

The impact of religious dichotomy is a real challenge to the structure and cooperate existence of Nigeria. It is provided that the government of the Federation or of a State shall not adopt any religion as a state religion.[34] It is further provided that every person shall be entitled to freedom of thought, conscience and religion, including freedom to change his religion or belief, and freedom (either alone or in community with others, and in public or in private) to manifest and propagate his religion or belief in worship, teaching, practice and observance.[35] The provisions merely exist in paper. There is no will to implement or defend the Constitution which the executive swore to uphold and defend. Have the provisions helped in cementing the structure of Nigeria and limit continual polarization? Despite the provisions of Section 10 of the constitution some states in Northern Nigeria adopted Sharia Law and same is applied in those States. It has been argued that Sharia is a personal Law and not a general Law.[36] The teaming population in those states in northern Nigeria where Sharia law is implemented have their several businesses affected in one way or the other and without remedy too. If Islamic injunctions are to be followed *stricto sensu* no person will ever live together or near a real Moslem who abides by such injunctions. For instance, the Moslems are enjoined to attack absolutely at all times and in all places in the event of encounter with unbelievers. The Moslems are under obligation to 'slay the idolatries whenever you may find them… fight those unbelievers who are near you and let them find harshness in you…strike off their heads until you have made a great slaughter among them and build in bounds and neither give them a free discussion after words…[37] With these injunctions in the Islamic Holy book, it is indeed extremely difficult for non Moslem to associate with a Moslem. The Christian religion is on the other side of the divide. It is actually opposite of the injunctions of Islam. The traditional African religion is indeed of a different kind. Neither the Christian religion nor traditional African religions has such decree of violence against a non-believer in that religion. Such injunctions as found in the Koran or Sura are extremely difficult to deal with in a modern society of today. Despite the provisions of Section 38 of the constitution several persons and communities have been killed and sacked in the face of religion. It has been said that ethnicity and religion are two volatile issues that can tear a nation like Nigeria apart – in consequence of their plurality.[38]

Ethnicity and Political Affiliations

Ethnicity and its affiliations thereto is a well known factor that has bedeviled Africa. In Nigeria ethnicity was gradually practically developed by British during the indirect rule of administration in Nigeria.[39] Little effort was made to promote understanding and cooperation between north and south of Nigeria. There was no effort to foster serious interactions between the Hausa/Fulani and the rest of Nigerians. Though ethnicity has been defined as the contextual discrimination by members of one group against others on the basis of the differentiated system of socio-cultural symbol,[40] this consciousness for preservation of culture and self and to be in charge of affairs in the scheme of things in Nigeria has caused the gap between ethnic groups in Nigeria to keep widening till today. However, why has Nigeria and African not been able to deal with this question several years after independence. The answer is not farfetched. Africans use ethnicity to champion the course of their group to the detriment of other groups and at the expense of development of the nation state. It is actually the cause of ethnocentrism that made

[34] S.10 CFRN 1999
[35] S.38 (1) CFRN 1999
[36] J A Yakubu in Constitutional Law in Nigeria. Demyaxs, 2003 P. 439
[37] Sura 2-21,9:29, and Sura 47:4
[38] J A Yakubu. Ibid. P.439
[39] *Real Problems, Real Solutions* by Bedford Nwabueze Umez, Nigeria. Morris; Publishing 3212 East Highway 30 Kearney, N.E p30
[40] Otite O, *Ethnic Pluralism and Ethnicity in Nigeria*, Shanceson C. ltd 1975 P. 60.

the Northerners to insist on having at least 50% of the Seats in the National Assembly. Ethnocentrism is further entrenched in Nigeria through the introduction of Federal character initiative under Section 14(3) of the Constitution. Section 14(3) of the Constitution provides:

> (3) 'The composition of the Government of the Federation or any part of its agencies and the conduct of its affairs shall be carried out in such a manner as to reflect the federal character of Nigeria and the need to promote national unity, and also to command national loyalty, thereby ensuring that there shall be no predominance of persons from a few States or from a few ethnic or other sectional groups in that government or in any of its agencies'.

The provision of Section 14 (3) is closely followed by Section 15 (2) and (4). Section 15 (2) provides:

> (2): 'Accordingly, national integration shall be actively encouraged, whilst discrimination on the grounds of place of origin, sex, religion, status, ethnic or linguistic association or ties shall be prohibited'.
>
> (4): 'The State shall foster a feeling of belonging and of involvement among the various peoples of the Federation, to the end that loyalty to the nation shall override sectional loyalties.'

Though Section 14 (3) is not justiciable and may appear harmless on the face of it, it has cemented ethnicity into the fabrics of the Nation State and shall continually breed polarization in Nigeria. It is our firm view that ethnicity has been legalized in Nigeria via the constitution. The subsequent provisions in sections 15 (2) is asymmetrically opposed to Section 14 (3). Section 14 (3) is opposed to modern reasoning.[41] The purport of Section 14 (3) has made nonsense of any intention of Sections 15 (2) and (4). Several members of the nation State Nigeria are being discriminated against in contravention of Section 15 (2) of the same Constitution. In the same vein, it ought to be noted that Section 42 of the same Constitution provides for Right to freedom from discrimination. Section 42 (2) provides that no citizen shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth. The provisions of Section 42 (2) or the entire Section 42 of the Constitution is practically watered down by sections 15 and 14 (3) of the said constitution. These provisions were merely inserted into the constitution to promote ethnicity as they have no force of law.[42] The situation arising from the above sections of the constitution has not been palatable to the nation State Nigeria. Law must not only correspond to the general economic condition and be its expression, but must also be an internally coherent expression which does not, owing to internal conflicts contradict itself. And in order to achieve this, the faithful reflection of economic condition suffers increasingly.[43]

6. Conclusion

Until there is a radical overthrow of the discriminatory principles enshrined into our constitution, the Federal Character commission will continue to act accordingly. Similarly, loyalty to the nation State Nigeria will continue to be a mirage due to the effects of Section 14 (4) of the Constitution and many other laws and policies. Agitations will continue to be a recurring decimal in Nigeria save self-determination is achieved by diverse groups in Nigeria or the Nigeria Federation is redefined. The polarization that is seen today will continue to amplify. Those provisions of the constitution of Nigeria though not justiciable save for Section 42, are contradictory. These Sections must need be amended or expunged from the constitution if the polarization is anything to shrink from today.

[41] It means that certain persons must be employed b the federal government. Over and above other persons who are experts with varying degrees of expenses. This does not have natural development in view but ethnicity simplified and legalized.

[42] Section 14 and 15 of the constitution has been described as a contradiction in terms by J A Yakubu, Ibid P.436

[43] Fredrick Engels quoted in Lloyd's Introduction to Jurisprudence 5th ed. by Lord Lloyd of Hampstead & MDA Morris p. 1013