

**LEGAL EDUCATION AND ACCESS TO JUSTICE IN  
NIGERIA: ETHICAL CONCERNS AND CROSS CUTTING  
ISSUES**

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**Abstract**

*In Nigeria, ethical education and access to justice have emerged as pivotal concerns that extend beyond the confines of the legal profession, permeating the socio-economic structure of the nation. This essay aims to elucidate the relationship between ethical education and access to justice in Nigeria, addressing how these issues are influenced by the socio-economic environment at any given time and proposing actionable recommendations for improvement. Deploying the doctrinal approach, the paper defines key concepts comprising the justice system, it examines the interconnectedness of socio-economic environment, ethical education and access to justice, analysing how deficiencies in these areas not only affect legal practitioners but also contribute to broader social injustices including access to justice. Through an exploration of relevant statutory frameworks, judicial decisions, study reports of local and international organisations as well as established ethical principles, the paper highlights the systemic issues resulting from ethical lapses, makes substantial findings on the issues interrogated and offers recommendations for comprehensive ethical education and policy reforms. The findings suggest that a holistic approach to ethics in the justice system can significantly enhance public*

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*trust, access to justice and the quality of justice delivered.*

**Keywords:** Ethical Education, Legal Profession, Justice System, Access to Justice, and Socio-economic Space

### **1.0 Introduction**

Nigeria, a nation with a rich cultural heritage and diverse population, faces significant challenges in ensuring access to justice and addressing moral and ethical issues. The justice system in the country, as in many other jurisdictions, faces numerous challenges related to ethical standards and professional conduct. Recent debates and discussions, such as those at the international conference on "Ethical Foundations of Legal Education: The Future of Access to Justice in Africa,"<sup>1</sup> have increasingly highlighted concerns about the falling standards of the legal profession in Africa. However, the issues extend beyond lawyers and legal education, implicating the entire justice system, including law enforcement agencies, social workers, legislators, correctional facilities, and the judiciary.

Legal ethics are fundamental principles and guidelines that govern the professional conduct of lawyers and other legal professionals. These principles ensure that legal practitioners uphold the law, maintain the integrity of the legal profession, and serve the interests of justice. In Africa, legal ethics are particularly important as the continent continues to develop its legal systems and institutions. The legal profession in Nigeria plays a critical role in the administration of justice while also serving as a moral compass for society. Underscoring the role of ethics in the administration of justice in Nigeria and its erosion within the legal profession, the Nigerian Bar Association's (NBA) 2021 report<sup>2</sup> highlighted that unethical conduct

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<sup>1</sup> Ethical Foundations of Legal Education: The Future of Access to Justice In Africa. Strathmore University, Nairobi, Kenya. 10-12 July 2024

<sup>2</sup> [RoLAC report] (<https://www.thenigerianvoice.com/news/285167/rule-of-law-and-anti-corruption-rolac-trains-lawyers-on-et.html>) accessed 02 August 2024

among legal practitioners significantly contributes to the broader culture of impunity and corruption in Nigeria.

However, this paper is of the view that, ethical education and access to justice are alarming concerns that transcend this professional sphere, impacting various sectors and contributing to widespread socio-economic disparities. As for instance, when the political leadership in Nigeria decides to offer monumental benefits to Judicial officers which are neither gazetted nor a part of their conditions of service, as was recently announced in Nigeria by the FCT Minister<sup>3</sup> that `President Bola Tinubu has approved the construction of 40 houses for the Justices of the Court of Appeal, the Federal High Court, and the FCT High Court`. Though we note that the provision of housing for judges is sometimes a part of their conditions of service, aimed at ensuring they have a stable and conducive living environment to perform their duties effectively, such unscheduled generosity raises concerns about potential conflicts of interest or the perception of undue influence that may be valid.

At the recent international workshop on `Ethical Foundations of Legal Education: The Future of Access to Justice in Africa`<sup>4</sup> there seemed to be a general thinking that, concerns with failing standards of the legal profession and the entire justice system in Africa hinge on the absence of ethical education of Law students and lawyers, but this author notes that, ethics are a cross-cutting issue that extends to all facets of society. According to Egbokhare in his social media post, ethical issues and corruption are prominent even in academics when he said:<sup>5</sup>

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<sup>3</sup> Wike announces construction of housing complex for judicial officers - FRCN HQ ([radionigeria.gov.ng](http://radionigeria.gov.ng)) accessed 4 July 2024

<sup>4</sup> Ibid (n.2) The "Ethical Foundations of Legal Education: The Future of Access to Justice in Africa" workshop, held from July 10-12, 2024, at Strathmore Law School, gathered over 35 law school leaders from 12 African countries and 80 students. Co-organized by White & Case LLP, the African Center on Law and Ethics (ACLE), Fordham Law School, and Strathmore Law School, the workshop aimed to enhance legal ethics through curriculum development, research, and training.

<sup>5</sup> F O Egbokhare Culled from WhatsApp on the 11th July 24

I was in Germany for the Humboldt Fellowship in 1996/97 at the University of Hamburg. A German scholar and I were engaged in a hearty discussion. Everything was going on well when he asked me this question: “why is it that all recommendations written by Nigerians are always overly positive, even when it is obvious that the individual is a mediocre.?” Let us take the peer review process in tertiary education as an example, it has collapsed and now mostly a mere exercise to fulfil all righteousness. Those who fail peer review are most likely victims of politics. There is an unwritten code that no one fails a promotion assessment. If you turn in a negative report, even where everyone accepts that it was objective and fair, you are vilified as a wicked person who wants to remove the ladder after climbing up.

Therefore, the justice system is an interconnected and interdependent framework where various actors play crucial roles in the administration of justice. The ethical behaviour of these actors impacts not only the individuals involved but also the broader public's perception of the justice system's fairness and efficacy. Thus, the interplay between these concerns and the legal framework is crucial for the protection of human rights and the promotion of social justice.

Deploying the doctrinal method of research, this paper defines key concepts such as ethical education and the scope of the legal profession within the justice system. It reviews relevant legal frameworks in Nigeria, including specific laws and regulations governing ethical conduct. Through a detailed analysis, including case studies, the essay examines the current state of ethical standards and their implications for the justice system. Finally, it offers findings, recommendations, and a conclusion on the necessity of a comprehensive approach to ethical education across all sectors involved in justice delivery in Nigeria.

## 2.0 Definitions

### i. Ethical Education

Ethical education involves the systematic teaching of moral principles and values, which guide individuals in distinguishing right from wrong and acting accordingly. In the context of the justice system, ethical education encompasses the instruction of professional standards, codes of conduct, and the broader societal values that inform legal and moral judgements. Further, ethical legal education focuses on cultivating lawyers who understand the ethical implications of their actions and decisions. It encompasses the study and application of moral principles, professional ethics, and responsible decision-making.<sup>6</sup>

### ii. Legal Profession

The legal profession encompasses individuals trained and licensed to practice law, providing services such as counselling, advocacy, and representation to clients. The profession typically includes lawyers, judges, prosecutors, and other legal specialists who apply legal knowledge and skills to resolve disputes, protect rights, and promote justice<sup>7</sup>.

### iii. Justice System

The justice system refers to the institutions and processes responsible for enforcing laws, ensuring justice, and maintaining public order. It includes the police, courts, correctional facilities, and various regulatory bodies. The system also involves legislative bodies that create laws and administrative agencies that implement and oversee legal processes. The justice system's effectiveness relies heavily on the

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<sup>6</sup> See the American Bar Association (ABA) Model Rules of Professional Conduct. Rule 1.1: Competence pp. 5-6; Rule 1.2, Scope of Representation pp. 7-8; Rule 1.3, Diligence pp. 9-10; The Association of American Law Schools (AALS). Statement on Ethics and Professionalism. (2019). Section II: The Role of Law Schools pp. 3-4, Section III: "Ethics and Professionalism in Legal Education" pp. 5-7; Sullivan, W. M., et al. *Educating Lawyers: Preparation for the Profession of Law*. (2007) and Jossey-Bass. *The Ethics of Legal Practice* (pp. 63-86)

<sup>7</sup> Ibid (n. 5) Model Rules of Professional Conduct. (1); Rhode, D L *In the Interests of Justice: Reforming the Legal Profession*. (2000) Oxford University Press. Chapter 1: The Crisis of the Legal Profession pp. 3-20 and Abel, R L. *American Lawyers*. Oxford University Press. (1989) Chapter 1: The Legal Profession pp. 1-20

ethical conduct of all its components, making ethical education essential for its proper functioning<sup>8</sup>. This paper adopts a broader view, encompassing all individuals and entities whose work intersects with the legal system. Each of these actors play a crucial role in upholding justice and ensuring that ethical standards are maintained.

iv. Access to Justice:

Access to justice is a constitutional issue<sup>9</sup> which encompasses the ability of individuals to seek and obtain a remedy through formal or informal legal institutions for grievances, ensuring fairness and equality before the law<sup>10</sup>. It is a reference to the ability of these individuals, regardless of their socio-economic status, geographic location, or other factors, to seek and obtain fair, timely, and effective remedies through the judicial system. From the Nigerian courts, access to justice is a fundamental right, essential for the protection of human dignity<sup>11</sup>. In the case of *Adegbite v State*<sup>12</sup> the court described access to justice as “a cornerstone of democracy... ensuring equal treatment under the law.” whilst in the case of *Egbuna v State*<sup>13</sup> it was defined “as not only a right but a duty of the state to provide”. Access to justice is a matter of such grave concern to both the global community and international institutions that they have specifically defined and provided for it in the Universal Declaration of Human Rights (Article 8), the International Covenant on Civil and Political Rights (Article 14) and the African Charter on Human and Peoples' Rights (Article 7).

v. Socio-economic Environment:

This term describes the various socio-economic dynamics in a country, including issues related to poverty, education, and employment that

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<sup>8</sup> Walker, S *The Police in America: An Introduction*. McGraw-Hill. (1994) Chapter 1: The Justice System pp. 2-15; Neubauer, D. W., & Frimpong, J. A. *America's Courts and the Judicial System*. Cengage Learning. (2017) Chapter 1: The Justice System pp. 2-20; Friedman, L. M. *Total Justice*. Russell Sage Foundation.(1985) Chapter 1: The Justice System in Action pp. 1-15

<sup>9</sup> See the 1999 Constitution of the Federal Republic of Nigeria (as amended) Section 36

<sup>10</sup> [https://en.wikipedia.org/wiki/Access\\_to\\_justice](https://en.wikipedia.org/wiki/Access_to_justice) Accessed 15 July 2024

<sup>11</sup> *Oputa v State* (2008) 18 NWLR (Pt. 1119) 1

<sup>12</sup> (2013) 18 NWLR (Pt. 1385) 1

<sup>13</sup> (2018) 19 NWLR (Pt. 1641) 1

affect individuals' quality of life and their ability to interact effectively within their society. Socio-economic Environment further refers to the intersection of social and economic factors influencing individual and group opportunities, interactions, and outcomes. It encompasses dimensions such as income, occupation, race, gender, and geographic location.<sup>14</sup>

### **3.0 Legal Frameworks for Ethical Standards and Access to Justice in Nigeria**

Through various statutes and constitutional provisions, Nigeria's Legal Framework provides for ethical standards, the protection of human rights and access to justice as shown below:

1. The Constitution of the Federal Republic of Nigeria 1999 (as amended)<sup>15</sup>

The Constitution 1999 (as amended), serves as the supreme law of the land. It provides the foundational legal framework for ethical standards in the country. It enshrines fundamental human rights and establishes the judiciary's independence, ensuring that justice is administered impartially. Some key provisions relevant to our discussion include:

- i. Section 15(5) which mandates the state to abolish corrupt practices and abuse of power.
- ii. Section 17(1) which emphasises that the State's social order is founded on the ideals of Freedom, Equality, and Justice.
- iii. Sections 35, 36, 39 and 40 which guarantee the right to personal liberty, fair hearing, the right to freedom of expression and access to justice, respectively, thereby affirming the importance of legal representation and the protection of human rights.

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<sup>14</sup> Bourdieu, P *The Forms of Capital*. In J. G. Richardson (Ed.), *Handbook of Theory and Research for the Sociology of Education* (1986). pp. 241-258; Sen, A. *Development as Freedom*. Oxford University Press. (1999). Chapter 1: The Concept of Development pp. 3-20; Portes, A. Social Capital: Its Origins and Applications in Modern Sociology. (1998) *Annual Review of Sociology*. Vol. 24, pp.1-24

<sup>15</sup> Constitution of the Federal Republic of Nigeria 1999 (as Amended)

2. The Federal Competition and Consumer Protection Act of 2018 (FCCPA)

This Act is significant for its provisions on consumer rights and protection, which inherently involve ethical considerations<sup>16</sup>. It establishes standards for business practices and consumer interactions, thereby holding businesses and professionals accountable for ethical conduct<sup>17</sup>. The Act is also relevant for legal practitioners who deal with consumer protection laws and the judiciary's role in enforcing these laws<sup>18</sup>.

3. Codes of Conduct

Various professional bodies in Nigeria have established codes of conduct to guide the ethical behaviour of their members. Notable among them are:

i. Code of Conduct for Public Officers and the Code of Conduct Tribunal: Established under the Fifth Schedule of the Nigerian Constitution, it outlines ethical guidelines for public officers, including those in the judiciary and legislative branches. The Code covers issues such as conflict of interest, financial disclosures, and general conduct in public office<sup>19</sup>.

ii. Police Code of Conduct: The Nigeria Police Force has a code of conduct that prescribes ethical behaviour for police officers. It covers areas such as integrity, impartiality, respect for human rights, and the use of force<sup>20</sup>.

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<sup>16</sup> FCCPA 2018 PT. XV, Sections 114 - 133

<sup>17</sup> Ibid. See also PT XVI Sections 134 - 145 dealing with Duties of Manufacturers, Importers, Distributors and Suppliers of Goods and Services

<sup>18</sup> Ibid (n.11) See Sections 38 and 39 dealing with the Establishment of the Consumer and competition Protection Tribunal (CCPT) and Appeals to same; see also Section 152 dealing with Redress by the Courts.

<sup>19</sup> Ibid (n.10) Paragraphs 1 - 14 for the Code of conduct for Public Officers and 15 - 18 for the Code of Conduct Tribunal

<sup>20</sup> See Police Code of Conduct, its details, implementation | ([theeagleonline.com.ng](http://theeagleonline.com.ng)) Accessed 21 September 2024

The Code of Conduct for officers and men of the Nigeria Police Force was reported to have been launched sometime in 2013 by the then Vice President Namadi Sambo.

iii. Judicial Code of Conduct: The National Judicial Council (NJC) has established guidelines to ensure the impartiality and integrity of judges. This code outlines standards for judicial behaviour, including the avoidance of conflicts of interest and the maintenance of public confidence in the judiciary<sup>21</sup>.

iv. Professional Regulatory Bodies

The Legal Practitioners Act (LPA) Cap. L11 LFN 2004: This statute governs the admission and regulation of legal practitioners, outlining ethical obligations that attorneys must adhere to as a prerequisite for practice.

v. The Rules of Professional Conduct for Legal Practitioners (RPC): Rules of Professional Conduct for Legal Practitioners, made by the General Council of the Bar established under the LPA on the June 21, 2023, encompasses ethical guidelines that govern the behaviour of lawyers, promoting integrity, respect, and professional accountability<sup>22</sup>. It is important to note that, professional bodies, such as the Nigerian Bar Association (NBA) and the Council of Legal Education (CLE), play critical roles in regulating the conduct of their members. The NBA, for example, has a disciplinary committee that addresses breaches of ethical standards among lawyers. The Council of Legal Education oversees the curriculum and standards for legal education in Nigeria, ensuring that ethical considerations are an integral part of legal training.

vi. Legal Aid Act of 2011: This Act aims to provide free legal services to indigent persons, thereby improving access to justice for disadvantaged populations.

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The booklet contains eight principles, with each principle having between two and four rules aimed at guiding the officers and men in their conduct as police officers.

<sup>21</sup> National Judicial Council ([njc.gov.ng](http://njc.gov.ng)) Accessed 21 September 2024

<sup>22</sup> Rules of Professional Conduct for Legal Practitioners, 2023 ([sabilaw.org](http://sabilaw.org)) Accessed 21 September 2024

vii. The Administration of Criminal Justice Act (ACJA) 2015 seeks to expedite criminal proceedings and reduce, if not eliminate delays in the administration of criminal justice in Nigeria.

#### **4.0 Legal Education and Access to Justice in Nigeria: Ethical Concerns, A Cross Cutting Issue**

As shown severally in 1.0 & 2.0 above, the current state of ethical standards in Nigeria's Justice System and ethical landscape is complex, shaped by various factors, including: The socio-economic environment, political leadership, corruption, and institutional weaknesses, which pervade the justice system, affecting not only legal professionals but also law enforcement, judiciary, correctional facilities, the academia and related sectors.<sup>23</sup> All of which are discussed in greater detail in paragraphs: 4.0 (iii), (iv), (vii) and (viii) (b - c) below. Despite the presence of a robust legal framework, ethical education in the Nigerian legal profession remains inadequate, as evidenced by several case studies such as the NBA's Report of 2021<sup>24</sup> and a myriad of judicial decisions. Specifically, these factors or elements are examined below:

##### **i. The Socio-economic Environment**

The various socio-economic dynamics in Nigeria today, ranging from issues related to poverty, a huge literacy problem, and unimaginable levels of employment that affect individuals' quality of life and their ability to interact effectively within their society, ultimately determine their abilities and access to justice<sup>25</sup>. According to a World Bank report, Nigeria's poverty and unemployment levels are quite concerning. Almost half of Nigerians live below the national poverty line, with approximately 133 million people, or 63% of the population, experiencing multidimensional poverty.<sup>26</sup> As of recent reports, Nigeria's unemployment rate stands at about 33%, with youth

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<sup>23</sup> See the Independent Corrupt Practices and Other Related Offences Commission (ICPC) Nigeria Corruption Index Report, 2020. ICPC.gov.ng accessed 25/09/24

<sup>24</sup> Ibid (n.1)

<sup>25</sup> Olawoyin, A. *Access to Justice in Nigeria: Challenges and Prospects*. (2017) *Journal of Law and Policy*, 12 Pp. 10-25.

<sup>26</sup> <https://blogs.worldbank.org/en/opendata/why-do-so-many-nigerian-workers-remain-poor-labor-force-surveys-may-have-answer> accessed 23 September 2024

unemployment exceeding 40%.<sup>27</sup> These statistics are highly under estimated in the view of this researcher, as they do not closely mirror the reality in Nigeria.

From the above reports, it is clear that, socio-economic factors significantly impact access to justice, as they influence an individual's ability to navigate the justice system. Specifically, socio-economic factors like, Limited financial resources hinder access to legal representation<sup>28</sup>, Court fees and costs can be prohibitive<sup>29</sup>, Limited education and literacy skills impedes understanding of legal procedures<sup>30</sup>, Language barriers exacerbate access issues<sup>31</sup>, and Social connections and networks influence access to justice<sup>32</sup> and even marginalisation of a community is a factor, as such communities face systemic barriers<sup>33</sup>

ii. The Legal Profession and Ethical Issues:

The legal profession in Nigeria is governed by ethical rules and regulations, primarily outlined in the Rules of Professional Conduct for Legal Practitioners (RPC) and enforced by the Nigerian Bar Association (NBA). In accordance with these rules and pursuit of ethical standards within the legal profession in Nigeria, The Legal Practitioners Disciplinary Committee (LPDC) has disbarred several lawyers for unethical practices, including misappropriation of clients' funds and professional misconduct.<sup>34</sup> Despite these regulations and

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<sup>27</sup> The Nexus among Unemployment, Poverty and Crime in Contemporary Nigeria. (2022). Retrieved from [Semantic Scholar] <https://www.semanticscholar.org/paper/> accessed 27 September 2024

<sup>28</sup> Rhode D L., *In the Interests of Justice: Reforming the Legal Profession*. (2000) Oxford University Press. pp. 43-60

<sup>29</sup> National Centre for State Courts, *Court Fees and Costs* (2019)

<sup>30</sup> Abel, *American Lawyers*. (1989) Oxford University Press, pp. 120-140

<sup>31</sup> Benson, *Language Access in the Justice System*. (2015) National Association of Judiciary Interpreters, pp. 12-25

<sup>32</sup> Galanter, *Why the "Haves" Come Out Ahead*. (1974) *Law & Society Review*. , pp. 97-115

<sup>33</sup> Crenshaw, *Demarginalizing the Intersection of Race and Sex*. (1989) *University of Chicago Legal Forum*., pp. 138-142)

<sup>34</sup> *Olufemi Adeniran v Chief Akin Omoboriowo & 2 Ors* (2009) ALL NLR 432

efforts of the LPDC, recent years have seen increased scrutiny and disciplinary action against legal practitioners who violate ethical standards, emphasizing the determination of the NBA to sanitise the profession. One of the early and high-profile cases showcasing the action of the LPDC is the case of *Olufemi Adeniran v Chief Akin Omoboriowo & 2 Ors.*<sup>35</sup> in which, the LPDC suspended Chief Akin Omoboriowo, a Senior Advocate of Nigeria (SAN), for professional misconduct, specifically for misappropriating client funds. In some recent disciplinary cases that came through the LPDC to the courts: *Okike v. LPDC*, Okike, a lawyer, was accused of professional misconduct, he allegedly filed false court documents and misled the court. The Supreme Court upheld the LPDC's disciplinary action, holding that Okike's actions constituted infamous conduct, warranting striking off the roll.<sup>36</sup>; in *NBA v Alabi*, the lawyer failed to remit client funds and the NBA petitioned LPDC for disciplinary action. The Court of Appeal affirmed LPDC's decision holding that, Alabi's conduct constituted infamous conduct.<sup>37</sup>; and in *Iteogu v LPDC*, the LPDC struck Iteogu's name from the roll for misconduct. On appeal, the Supreme Court upheld LPDC's decision holding that Iteogu's actions demonstrated gross professional misconduct.<sup>38</sup>

The Nigerian Bar Association's (NBA) report of 2021<sup>39</sup> cited in paragraph 1.0 above emphasises the crucial role of ethics in maintaining the integrity of legal and democratic institutions. It also discusses the challenges posed by socio-cultural factors and the need for ongoing training and reform in ethical standards for lawyers. Olarinde, *et.al* in their paper titled "Professionalising the Legal Profession in a Developing Economy: Ethics, Accountability and Discipline at the Bar"<sup>40</sup> generally agree with the position of the NBA.

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<sup>35</sup> Ibid

<sup>36</sup> (2005) 18 NWLR (Pt. 956) 209

<sup>37</sup> (2006) 12 NWLR (Pt. 992) 333

<sup>38</sup> (2009) 16 NWLR (Pt. 1165) 1

<sup>39</sup> Ibid (n.2)

<sup>40</sup> Olarinde, E S., Olawuyi, D, & Jacob, I U (2021). Professionalizing the Legal Profession in a Developing Economy: Ethics, Accountability and Discipline at the

iii. The Judiciary

Though the judiciary in Nigeria as an integral part of the justice system is constitutionally independent, it faces significant ethical challenges, including allegations of corruption, political interference, and judicial misconduct. The National Judicial Council (NJC) which oversees the discipline of judicial officers and has been involved in numerous cases where judges were disciplined for unethical conduct, including accepting bribes and abusing judicial powers. Good examples are the highly publicised cases of Justices Ayo Salami and Walter Onnoghen.

In 2011 the National Judicial Council (NJC) suspended Justice Ayo Salami, the then President of the Court of Appeal, over allegations of unethical conduct. The NJC's decision followed a series of accusations related to bias in handling election petitions, particularly concerning the Ekiti and Osun State governorship elections. Salami himself had previously accused the then Chief Justice of Nigeria, Justice Katsina-Alu, of attempting to influence decisions in election petitions.<sup>41</sup> Again in 2019, the NJC recommended the removal of Justice Walter Onnoghen, a former Chief Justice of Nigeria, after he was charged with non-declaration of assets and corruption. This led to his suspension by the President and eventual retirement.<sup>42</sup> Apart from these cases, the judiciary is generally perceived as susceptible to political interference and corruption, thus undermining public confidence in the justice system. This situation is confirmed by other findings and reports:

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Bar. *Review of International Geographical Education (RIGEO)*, 11(12), 297-308.  
Accessed 25 September 2024

<sup>41</sup> NJC Suspends Salami Over Misconduct Allegations," Punch Newspaper, August 18, 2011; Salami's Suspension: A Judicial Crisis in Nigeria," Vanguard Newspaper, August 19, 2011.

<sup>42</sup> Premium Times "NJC Recommends Onnoghen's Removal," April 3, 2019.; Corruption Allegations: Onnoghen Found Guilty by Code of Conduct Tribunal," The Guardian, April 18, 2019.

- a. In a communique titled ‘National Judicial Council (NJC) and Corruption in the Judiciary’ The NJC acknowledged the need for comprehensive reforms to enhance judicial integrity in the report<sup>43</sup>.
- b. The Legal Defence and Assistance Project (LEDAP) in its report on delays in Nigeria’s Criminal Justice System in 2020 found that, the problem of filing multiple, unsubstantiated charges against defendants, leads to discharges, and that this fact had been highlighted in various judicial reforms. They concluded that, this malpractice often delays trials and allows defendants to evade justice<sup>44</sup>.
- c. Collusion Between Prosecutors and Defence Counsel was also found to be a problem of the judiciary and access to justice. According to the Transparency International Nigeria in its 2019 report on ‘Judicial Corruption and the Challenges of Legal Reform’<sup>45</sup>
- d. From the Independent Corrupt Practices and Other Related Offences Commission, a report “(ICPC). Nigeria Corruption Index and Judicial Sector”, between 2018 and 2020, ranked the judicial sector as the highest in the Nigeria Corruption Index. This report identified the judiciary as being deeply infiltrated by corrupt practices.<sup>46</sup>

iv. Public Administration and Political Leadership

Public officials and political leaders play a crucial role in shaping the ethical landscape of a country and the access to justice. Public officials are expected to demonstrate transparency and accountability, which are essential for building public trust and ensuring equitable access to justice.

Political leaders who are corrupt or unethical can manipulate the judicial process, making access to justice difficult for ordinary citizens. In Kenya, for instance, the case of the ‘Anglo Leasing Scandal’ which

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<sup>43</sup> njc.gov.ng, National Judicial Council Communiqué, 2020. Available in official NJC reports and press releases.accessed 24 September 2024

<sup>44</sup> <https://ledapnigeria.org> Legal Defence and Assistance Project (LEDAP) Report on Delays in Nigeria’s Criminal Justice System, 2020.accessed 24 September 2024

<sup>45</sup> <https://ledapnigeria.org> Transparency International Nigeria Report on Judicial Corruption and the Challenges of Legal Reform, 2019.

<sup>46</sup> Independent Corrupt Practices and Other Related Offences Commission (ICPC) Nigeria Corruption Index Report, 2020. ICPC.gov.ng accessed 25 September 2024

involved high-ranking government officials receiving kickbacks for non-existent contracts, had far-reaching effects on governance and the justice system. Efforts to prosecute those involved in the scandal were obstructed by political interference, which revealed the pervasive influence of political leaders in undermining the rule of law and denying justice to the public.<sup>47</sup> From Nigeria, the case of Diezani Alison-Madueke, former Minister of Petroleum Resources, who was accused of large-scale corruption and money laundering is notable. It is alleged that billions of dollars were siphoned from the Nigerian oil industry during her tenure.<sup>48</sup> Another notable corruption case involving public officials is the Halliburton Bribery Scandal that rocked the Nigerian polity, particularly its' oil industry between the years 1994–2004. This scandal involved Nigerian officials taking bribes from Halliburton in exchange for multi-billion-dollar contracts, and led to widespread mistrust in public institutions and contributed to the poor development of Nigeria's energy infrastructure and persisting economic challenges.<sup>49</sup>

In contrast to these sad stories, leadership that prioritises ethical governance can foster social cohesion and economic growth. Such examples can be found even in Africa, Botswana under President Seretse Khama (1966–1980) being one of such. He is often lauded for maintaining strict anti-corruption measures and ensuring transparent governance. His ethical leadership contributed to Botswana's stability, strong economic performance, and cohesive society in contrast to

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<sup>47</sup> "Anglo Leasing Scandal: Kenya's Fight Against Corruption," *The East African*, April 27, 2015; "How Corruption Impedes Justice in Kenya: The Anglo Leasing Affair," *Transparency International*, May 12, 2016.; See also Kagucia, Phillip, and Andrew Dornbierer. 2021. *Upholding an unexplained wealth judgement in Kenya's Anglo Leasing affair*. Case Study 7, Basel Institute on Governance. Available at: [baselgovernance.org/case-studies](https://baselgovernance.org/case-studies)

<sup>48</sup> <https://www.bbc.co.uk/news>[(<https://www.bbc.co.uk/news>, "Nigerian Ex-Minister Diezani Alison-Madueke Charged with Corruption," *BBC News*, August 7, 2017.; Oil Corruption Scandal in Nigeria: The Alison-Madueke Case," *Bloomberg*, April 18, 2019. Accessed 25 September 2024

<sup>49</sup> See "The Halliburton Bribery Case: Corruption and Oil Politics in Nigeria," *Journal of African Law*, Vol. 53, No. 2, 2009, pp. 245–267.; See also "Nigerian Officials Face Charges in Halliburton Bribery Case," *Reuters*, December 5, 2010.

other African nations plagued by corruption.<sup>50</sup> This is evidence that something good can come out of Bethlehem (Africa).<sup>51</sup>

v. Private Sector and Civil Society

Businesses and civil society organizations also bear ethical responsibilities. Corporations must engage in fair business practices, avoid conflicts of interest, and contribute positively to society. Even in Nigeria and the broader African context, businesses and civil society organizations (CSOs) play crucial roles in promoting ethical practices and accountability, as for instance on Ethical Responsibilities of Businesses:

a. The Federal Competition and Consumer Protection Commission (FCCPC) in Nigeria actively promotes fair business practices. In April 2024, the FCCPC urged citizens to report unfair trade practices, particularly focusing on price fixing and arbitrary price increases that exploit consumers. This initiative highlights the agency's commitment to safeguarding consumer interests amid rising inflation and economic instability. The FCCPC emphasised that such unethical practices violate the Federal Competition and Consumer Protection Act (FCCPA) of 2018, which aims to ensure fair market practices in Nigeria.<sup>52</sup>

b. In Zambia, there have been allegations against mining companies for engaging in practices that benefit their interests at the expense of local communities. The Zambian government has taken steps to address these issues by enforcing regulations that require

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<sup>50</sup> See "Leadership, Corruption and Development: The Case of Botswana," *Journal of Development Studies*, Vol. 44, No. 9, 2008, pp. 1567–1589.; See also "Botswana: An African Model for Transparent Leadership," *The Economist*, June 19, 2015.

<sup>51</sup> "Can anything good come out of Nazareth?" Kairos Center, Sermon on Good from Nazareth/Bethlehem, this sermon reflects on Nathanael's question regarding Nazareth but draws parallels to Bethlehem, emphasizing that God often brings forth good from unexpected places., January 22, 2018. (<https://kairoscenter.org/can-anything-good-come-out-nazareth-sermon-celebrating-martin-luther-king/>). (It is that sense that this paper uses the analogy of Bethlehem for Africa). accessed 25 September 2024

<sup>52</sup> <https://nairametrics.com/2024/04/14/report-unfair-trade-practices-agency-tells-nigerians/>

transparency in contracts and operations, aiming to prevent conflicts of interest that could harm local populations.<sup>53</sup>

c. Many Nigerian companies engage in Corporate Social Responsibility (CSR) initiatives that benefit local communities. Such contributions demonstrate how corporations can positively impact society while enhancing their corporate reputation.<sup>54</sup>

vi. Role of Civil Society Organizations (CSOs)

a. CSOs in Nigeria serve as watchdogs by holding both governmental and private entities accountable. For example, organizations like the Socio-Economic Rights and Accountability Project (SERAP) actively monitor government spending and advocate for transparency in public finances. They have taken legal action against the government for failing to disclose information on public funds, thereby reinforcing accountability.<sup>55</sup>

b. CSOs are also instrumental in advocating for good governance across Africa. In Uganda, for instance, civil society groups have mobilized to challenge government actions that restrict freedoms and rights. Following the closure of numerous NGOs due to alleged non-compliance with state requirements, activists have called for greater accountability from the government while ensuring that CSOs adhere to legal standards themselves.<sup>56</sup>

c. Empowering Vulnerable Groups: CSOs also focus on empowering marginalized communities. In Nigeria, organizations like Women's Rights Advancement and Protection Alternative (WRAPA) work to protect women's rights and promote gender equality. They provide legal assistance to women facing violence and advocate for policies that support women's empowerment, thus playing a critical role in societal development and access to justice.<sup>57</sup>

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<sup>53</sup> Ibid

<sup>54</sup> <https://voice.global/blog/becoming-our-own-watchdogs/> accessed 25 September 2024

<sup>55</sup> <https://static1.squarespace.com/static/645417> accessed 25 September 2024

<sup>56</sup> <https://eeagrants.org/topics-programmes/culture-civil-society-good-governance-and-fundamental-rights-and-freedoms/civil> accessed 25 September 2024

<sup>57</sup> Ibid

vii. Law Enforcement

The Nigeria Police Force and other law enforcement agencies are often at the centre of ethical controversies, including issues of brutality, bribery, and abuse of power. The Police Code of Conduct is intended to regulate the behaviour of police officers, but enforcement and adherence to these ethical standards are inconsistent. Reports of extrajudicial killings and unlawful detention further erode public trust. A good example is the case of *Amnesty International v Nigeria*<sup>58</sup> which was adjudicated by the Economic Community of West African States (ECOWAS) Court. This case involved serious allegations of human rights abuses committed by Nigerian military and law enforcement authorities particularly in relation to the events surrounding the Lekki Toll Gate protests in October 2020.<sup>59</sup> The ECOWAS Court found that Nigeria had violated multiple articles of the African Charter on Human and Peoples' Rights (ACHPR), including the right to life, security of person, freedom of expression, assembly and association, prohibition of torture, and the duty of the state to investigate human rights violations. The court ordered Nigeria to pay compensation to the applicants for these violations and mandated that Nigeria adhere to its obligations under the ACHPR.

viii. Ethical issues within Nigeria's correctional facilities are significant and multifaceted. They include overcrowding, inhumane conditions, and the mistreatment of inmates. Correctional officers are sometimes accused of corrupt practices, such as accepting bribes to facilitate illegal activities within the prisons. A few documented cases will illustrate these challenges:

a. Overcrowding and Inhumane Conditions: Nigerian prisons are notoriously overcrowded, often operating at over 200% of their intended capacity. According to a 2022 report by the Nigerian Correctional Service (NCoS), many facilities which were designed to hold a few hundred inmates but currently house thousands. For example, the Ikoyi Prison in Lagos, which was built to accommodate 800 inmates, reportedly held over 3,000 individuals at one point. This

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<sup>58</sup> ECOWAS Court

<sup>59</sup> ECOWAS Community Court of Justice, July 10, 2024 ECW/CCJ/APP/01/2021

severe overcrowding leads to inadequate access to basic necessities such as food, clean water, and medical care, resulting in deteriorating health conditions among inmates. The NCoS has acknowledged these issues but struggles with limited resources and funding to improve conditions.<sup>60</sup>

b. **Mistreatment of Inmates and Human Rights Violations:** Reports from human rights organizations like Amnesty International have documented cases of torture and mistreatment within Nigerian correctional facilities. A 2023 report highlighted instances where inmates were subjected to physical abuse by prison officials and denied access to legal representation. The report emphasized that such treatment violates both Nigerian law and international human rights standards. Inmates often face harsh disciplinary measures for minor infractions, exacerbating their suffering.<sup>61</sup>

c. **Corruption and Bribery Allegations:** Corruption within the Nigerian Correctional Service has been a persistent issue. In October 2024, the NCoS dismissed three officials for misconduct related to corruption allegations, including accepting bribes to facilitate illegal activities within prisons. This included trafficking in illicit items such as drugs and weapons into the facilities. The NCoS's action was part of a broader initiative to combat corruption and maintain discipline among its personnel. The Controller General of Corrections emphasized a zero-tolerance policy towards corruption, aiming to restore public confidence in the correctional system.<sup>62</sup>

#### viii. Legislative and Political Influence

In Nigeria, political corruption and undue influence often undermine the rule of law. Politicians may exert influence over judicial appointments, law enforcement actions, and legislative processes, compromising the independence of these institutions.<sup>63</sup> The relationship between political leadership and the judiciary is

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<sup>60</sup> <https://punchng.com/prison-service-dismisses-three-officials-for-misconduct/>

<sup>61</sup> Ibid

<sup>62</sup> Ibid (n.56); [https://nesgroup.org/download\\_resource\\_documents/](https://nesgroup.org/download_resource_documents/) accessed 25 September 2024

<sup>63</sup> "The impact of political influence on judicial integrity in Nigeria," *Nigerian Law Journal*, (2023) Vol 12, No 3

particularly concerning, as it can lead to biased judgements and selective justice. A classic example is the case of *Federal Republic of Nigeria v James Ibori*. James Ibori, a former governor of Delta State, was accused of embezzling approximately \$250 million from the Nigerian public purse. His political influence allowed him to evade justice domestically for many years. His initial arrest in Nigeria was met with delays and political interference, showcasing a judiciary that struggled against corruption within its ranks. The Economic and Financial Crimes Commission (EFCC) faced significant challenges in prosecuting him due to his political connections and influence. Despite multiple charges filed against him in Nigeria, including money laundering and fraud, Ibori managed to escape conviction until he was arrested in the UK. In 2012, Ibori pleaded guilty to ten counts of money laundering and conspiracy to defraud at Southwark Crown Court in London.<sup>64</sup> He was sentenced to 13 years in prison after admitting to using his position to siphon funds through a complex network involving associates, including family members and legal advisor. The UK court also ordered the confiscation of £101 million from Ibori's assets, which were derived from his corrupt activities.<sup>65</sup> The eventual success of UK authorities in prosecuting Ibori underscores the limitations of Nigeria's judicial system when dealing with corruption at high levels.<sup>66</sup>

#### ix Political Interference

The integrity of the judiciary can be compromised by political influence, particularly in high-profile cases involving political figures or interests. The appointment and removal of judges, as well as judicial decisions in politically sensitive cases, such as those involving Election Petition Tribunals.

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<sup>64</sup> "James Ibori pleads guilty to money laundering," BBC News, February 27, 2012. [BBC News] (<https://www.bbc.com/news/world-africa>- accessed 25 September 2024

<sup>65</sup> (<https://www.cps.gov.uk/cps/news/former-governor-nigerias-delta-state-has-been-ordered-pay-over-ps100-million-and-his>).

<sup>66</sup> "James Ibori: A case study in corruption," Spotlight on Corruption, April 2024. [Spotlight on Corruption](<https://www.spotlightcorruption.org/101-million-of-ibori-loot-confiscated/>).

a. **Judicial Appointments and Political Pressure:** The appointment of judges in Nigeria is often influenced by political considerations. For instance, the Nigerian Constitution allows for the appointment of judges by the President, who acts on the advice of the National Judicial Council (NJC). However, this process can lead to undue influence, as seen in various instances where judges are perceived to be loyal to political leaders rather than impartial arbiters of justice. According to a report by the International Crisis Group, this has led to a judiciary that is susceptible to external pressures from political actors, undermining its independence.<sup>67</sup>

b. **Election Petition Tribunals in Nigeria** have been criticised for their lack of impartiality and susceptibility to corruption. A notable example is the 2019 general elections, where numerous petitions were filed against election results. Reports indicated that some judges were alleged to have accepted bribes to influence their decisions. The situation was highlighted in a report by the Nigerian Bar Association (NBA), which called for reforms to ensure transparency and accountability in tribunal proceedings.<sup>68</sup> Also the Economic and Financial Crimes Commission (EFCC) has investigated several judges for alleged corrupt practices related to election petitions. In a notable case, Justice Rita Ofili-Ajumogobia was arrested and charged with corruption related to her judicial conduct in election matters.<sup>69</sup>

A study published in the *African Journal of Political Science* highlighted that biased judgements can lead to public disillusionment with democracy and erode trust in judicial institutions.<sup>70</sup>

## **5.0 Summary and Findings**

### **5.1 Summary**

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<sup>67</sup> <https://academic.oup.com/icon/article> International Crisis Group, "Nigeria: The Challenges of Judicial Independence," 2020.

<sup>68</sup> [https://www.law.cornell.edu/wex/political\\_question\\_doctrine](https://www.law.cornell.edu/wex/political_question_doctrine) Nigerian Bar Association, "Report on Election Petition Tribunals," 2020.

<sup>69</sup> <https://www.efcc.gov.ng> EFCC Press Release. "Justice Ofili-Ajumogobia Charged with Corruption." (2016)

<sup>70</sup> Ojo, EA, "Judicial Independence and Electoral Justice in Nigeria," *African Journal of Political Science*, (2021)

In summary, Nigeria's justice system faces significant ethical challenges similar to those in other jurisdictions but often lacks the institutional mechanisms necessary to effectively mitigate these issues. Access to justice remains hindered by socio-economic barriers such as poverty, lack of awareness, and inadequate legal resources. Myriad studies, such as the World Justice Project's 2021 Rule of Law Index<sup>71</sup>, reveal that access to legal representation and judicial services is significantly limited for poorer demographics, disproportionately affecting women and rural communities. As a result, countless individuals remain unable to navigate the legal system, creating a cycle of disenfranchisement that sustains socio-economic inequalities. This comprehensive report evaluates the rule of law across 139 countries, using data from household and expert surveys to provide insights into various aspects of governance, including constraints on government powers, absence of corruption, open government, fundamental rights, order and security, regulatory enforcement, civil justice, and criminal justice, this exactly is the current state of affairs in Nigeria.

### **5.1 Findings**

- i. **Congestion and Delays:** The Nigerian justice system is plagued by case congestion and delays, which significantly hinder timely justice. A study by Nwafor and Aduma highlights that the overwhelming number of cases far exceeds the court's capacity, leading to unnecessary adjournments and prolonged litigation processes. This has resulted in a system that struggles to deliver justice efficiently, reflecting similar issues in other jurisdictions but lacking robust mechanisms to address them effectively.<sup>72</sup>
- ii. **Systemic Ethical Issues in the Legal Profession and Judiciary:** Both the legal profession and the judiciary in Nigeria are plagued by systemic ethical issues. Corruption remains a critical issue within Nigeria's judiciary, undermining public confidence and the rule of law.

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<sup>71</sup> World Justice Project. (2021). WJP Rule of Law Index 2021. World Justice Project. Available at: [World Justice Project](<https://worldjusticeproject.org/rule-of-law-index/2021>) accessed on 02/08/24

<sup>72</sup> Nwafor & Aduma, (2020) <https://journals.unizik.edu.ng/jcpl/article/download/476/448/1154>.

A report by Adeyemi discusses how corruption among judges leads to biased decisions, where wealth and influence can dictate judicial outcomes. This problem is exacerbated by inadequate funding and resources for the judiciary, which hampers its ability to operate independently.<sup>73</sup>

iii. **Impact on Justice Delivery and Public Confidence:** The ethical lapses within the legal profession and judiciary adversely affect justice delivery. They lead to biased judgements, injustice, and a loss of public trust in the legal system. The perception of a compromised judiciary and legal profession can deter individuals from seeking justice and contribute to a culture of impunity.

iv. **Judicial Reforms and Independence:** Recent discussions emphasise the need for judicial reforms to ensure transparency and accountability. Issues such as the appointment process for judges, judicial remuneration, and autonomy have been under scrutiny. A former Vice President of Nigeria, Yemi Osinbajo, and other key figures have called for a more rigorous and transparent process for judicial appointments to uphold the integrity of the judiciary.<sup>74</sup>

## **6.0 Recommendations**

- i. **Strengthening Disciplinary Mechanisms:** There is a pressing need to enhance the effectiveness of disciplinary bodies such as the Legal Practitioners Disciplinary Committee (LPDC) and the National Judicial Council (NJC). These bodies should be equipped with more resources and empowered to act swiftly and transparently in cases of misconduct. The adoption of digital case management systems could improve the efficiency and transparency of disciplinary proceedings.
- ii. **Judicial Independence and Appointment Process:** To reduce political interference, Nigeria should consider reforms in the appointment and removal process of judges. Establishing a more independent and merit-based system, possibly involving

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<sup>73</sup> Adeyemi, (1996) <https://core.ac.uk/download/pdf/228601930.pdf> accessed 25/09/24.

<sup>74</sup> "Osinbajo Advocates for Transparency in Judicial Appointments." The Guardian Nigeria, July 2021

the legal community and civil society, could help ensure that appointments are based on competence and integrity.

- iii. **Ethical Education and Training:** Continuous ethical education and training should be mandatory across the spectrum of the justice system (all legal professionals and including judges being on first line charge in this regard). This training should cover topics such as conflict of interest, corruption, and the importance of upholding the rule of law. Law schools should integrate ethics more comprehensively into their curricula, emphasizing practical scenarios and the implications of ethical breaches.
- iv. **By learning from countries with stronger judicial independence and stringent anti-corruption measures, Nigeria can strengthen its legal frameworks and institutions to ensure greater accountability and transparency.** The effectiveness of judicial systems in countries with strong anti-corruption frameworks, such as Kenya, offers valuable lessons for Nigeria. Daibu's analysis suggests that traditional justice systems in Kenya have successfully addressed similar challenges through community-based approaches that emphasize reconciliation over punitive measures. This model could inform reforms in Nigeria's justice system to enhance accountability and transparency. Countries like South Africa have implemented judicial reforms that promote independence and accountability. The South African judiciary operates under a framework that includes stringent anti-corruption measures and mechanisms for public accountability. Such institutional frameworks have resulted in a more effective justice system, contrasting sharply with Nigeria's current challenges.
- v. **Strengthening Legal Frameworks:** The Administration of Criminal Justice Act (ACJA) of 2015 was a significant step towards reforming Nigeria's criminal justice system; however, its implementation has faced numerous challenges. Scholars argue that while the ACJA introduced important innovations aimed at expediting trials and reducing delays, systemic issues such as corruption and inadequate infrastructure continue to

undermine its effectiveness<sup>75</sup> Legislative reforms are necessary to codify these changes and ensure they are legally binding.

- vi. Strengthening Legal Aid: Increased funding and support for legal aid organizations can bridge the gap for marginalized groups, ensuring that justice is accessible for all Nigerians.
- vii. Strengthening Institutional Frameworks: Institutions responsible for overseeing ethical conduct, such as ombudsman offices, anti-corruption agencies, and human rights commissions, should be strengthened and adequately resourced.

## **7.0 Conclusion**

Ethical education and access to justice in Nigeria are not merely concerns of the legal profession; they are fundamental to the nation's socio-economic landscape and overall democratic integrity. The interplay between these factors reveals a pressing need for systemic reform. However, ethical standards within Nigeria's legal profession and judiciary are foundational to the integrity and effectiveness of the justice system. While significant challenges remain, including political interference, corruption, and professional misconduct, there is a clear path forward. Strengthening disciplinary mechanisms, ensuring judicial independence, enhancing ethical education, and increasing transparency are critical steps in restoring public trust and ensuring justice is served impartially. Also, by learning from countries with stronger judicial independence and stringent anti-corruption measures, Nigeria can strengthen its legal frameworks and institutions to ensure greater accountability and transparency.

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<sup>75</sup> Ibid