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Democracy and Perceived Public Confidence in The Judiciary: Roles of Socio-Economy and Gender

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Abstract

The study investigated public perception of the judiciary as a fair plank of justice system in Nigeria democracy based on an analysis of the Enugu State Judiciary. Two hundred and sixteen (216) residents of Enugu State from 9 local government areas participated in the

study. Participants comprised males and females categorized into 5 social groups - top civil servants above grade level 12, political office holders in the local government and the capital city; petty traders, the unemployed and the underemployed youths. Participants' age ranged between 25 and 55 years with a mean age of 33.72 years. Data collection was aided by use of Judicial Perception Questionnaire (JPQ) developed by the researchers. Data analysis using two-way Analysis of Variance (ANOVA) indicate significant influence of political class on perception of judiciary as a fair plank of justice system in Nigeria, $F(1,212) = 8.15, p < .05$. The study revealed non-significant influence of gender and non-significant interaction of political class and gender on the perception of the judiciary as a fair plank of justice system in Nigeria. The results were discussed in terms of their implications for citizen's attitude change and unbiased judicial reform in Enugu State and Nigeria in general.

Key words: Judiciary; Democracy; Public perception; corruption; Enugu State

Introduction

Democratic politics and justice involves three principles (1) that governments are established by and with the consent of the people, and almost always by a constitution (2) that the people choose their leaders in free and fair elections and (3) that the government and its leaders must ultimately obey the will of the majority of those elected to make laws, except in the case of matters that are specifically exempted from the rule by the constitution (Robert, 2001). In any democratic governance therefore, it is expected that a wide range of issues of importance be effectively and efficiently pursued including the provision of basic education for citizens; provision of social amenities such as water supply, good road network, electricity, hospitals; the administration of justice that ensures the rule of law and equal access to justice; provision of internal defence against political violence and religious riots; liberty of persons and property and security against external aggression for the good governance of the people. On this premise, genuine democracy and justice rest on the sovereignty of people not the rulers, thus elected representatives are to exercise authority on behalf of the people, based on will of the people.

It is pertinent to state that democracy and justice are the guarantee of members of a political community to participate equally in the process of rights deliberation, to have their rights and interests as equal members of the political community and as equal rights holders, considered and taken account of by those in deliberative authority (Walker & Schuker, 2012). Every member of the community is entitled, on this account, to have each deliberator assess individual claims on their merits, notwithstanding the number of votes on which they stand, the finances they are able to deploy, and regardless of their influence in the community (Walker & Schuker, 2012). Implicit in this form of equal participation is the right to be heard and to be responded to in terms that locate each person's claim of rights against the backdrop of the community's broad commitment to and understanding of the rights that all members have. Legislatures, obviously, are preferred venues for the first mode - the electoral mode - of participating as equals in the process of choosing among conflicting views of what rights we should all have (Walker & Schuker, 2012).

Less obviously, perhaps, courts are preferred venues for the second mode. We might in fact, call it the adjudicatory mode of participating in that process. Any person injured in the right sort of way is entitled to be heard by courts, entitled to present his/her claims and the arguments on their behalf, and, at worst, entitled to a reasoned statement of why his/her claims were not deemed by a majority of the judges to be persuasive (Egbewole, 2006; 2012).

Judges may well be flawed deliberators, of course, and the very independence that makes them impartial also makes them relatively impervious to electoral correction. However, when a constitutional protagonist turns to the courts, he/she does so either as an individual or as a member of a group that is widely ridiculed or deplored. Much of what is good in constitutional law has in fact, been provoked by the claims of such groups. Of utmost importance is the strength of his/her argument in the eyes of the judges and in the event of failure, he/she is entitled to an explanation of why his/her claim was found wanting.

Since democracy and governance are about the utility of the constitution as the supreme fundamental law which regulates and limits the powers of the arms of government, secures the efficacy of such limitations in actual practice, by ensuring that government is not assumed except with the mandate of the people freely given at periodic interval of time. It further ensures that the mandate is executed according to the constitution and the laws; that disputes, including disputes about the constitutional propriety of legislation and other government acts, are adjudicated impartially according to the constitution and the law by regular courts which are independent of the disputants and ordinary laws applied in the execution of government. Adjudication of disputes is done in conformity with the limitations of the constitution, and in accordance with the procedure for law making prescribed therein (Segal, 1997). The necessary ingredients for attaining constitutional justice includes independent judiciary, access to justice, and the justiciability principle over political question and judicial activism.

It cannot be overemphasized that the judiciary in Nigeria has, in recent times, not lived up to the expectation of the common man who represents its customers. One major challenge to the judiciary in this effort is corruption. An assessment of justice sector integrity and capacity in 10 Nigerian States by the United Nations Office on Drug and Crime (UNODC) (UNODC, 2006) provides a detailed overview of the depth of judiciary incapacitation in Nigeria. The survey instruments were administered to a large set of stakeholders inside and outside the justice sector, including judges, prosecutors, police court staff, lawyers, business people, court users (e.g. litigants, accused, witnesses and experts) and prisoners awaiting trial. They were asked about: Access to justice; Timeliness of justice delivery; Quality of justice delivery; Independence, impartiality and fairness of the courts; Integrity, accountability and oversight; Coordination and cooperation across the justice sector institutions, and Public trust in the justice system. Starting with individual case clearance rates, the result indicates that magistrates in Katsina, Rivers and FCT clear between 134 to 667 cases per annum, while magistrates in Benue, Borno, Enugu and Lagos hardly clear more than 20 cases per annum. When reviewing caseloads and clearance rates over a more extended time period, differences in productivity across states become even more obvious. Most preoccupying appears to be the situations in Borno, Katsina and Lagos states, where individual clearance rates appear to not exceed a third of the caseloads received during the five-year period from 2001 to 2005. Access to justice was a major problem but it was found that access to information was far more problematic than physical or economic access to the courts.

Another focus of the assessments was the frequency, nature, cost and causes of corruption in the courts. For that reason, experience and perception of corruption were both explored. In 2002 a large portion of respondents had experienced bribery. The main reason for paying bribes was to expedite the court process or to be granted execution. Affordability turned out to be more closely related to the number of times that a court adjourned a case, than to lawyers' fees. Other court-related procedures identified as related to corruption included: delays in the execution of court orders; prisoners not being brought to court; lack of public

access to copies of court orders and decisions; disappearance of files; unusual variations in sentencing; delays in the delivery of judgments; high rates of decisions in favour of the executive; and appointments resulting from political patronage. In 2002, 77% of lawyers and 43% of court users claimed that within the last 12 months prior to the interview, they had been approached for the payment of a bribe in the context of a court case. With regard to the independence, impartiality and fairness of the courts, in 2002, users and operators were sceptical, with half of the judges agreeing that government controlled the judiciary, while more than half of the lawyers regarded courts' decisions as influenced by politics. More specifically, 19% of the judges felt that judicial appointments were politically influenced and not based on merit, while 50% of the lawyers claimed to know of judicial decisions that were results of obedience to the political powers.

On this basis of obedience, Milgram (1974) proposed that humans exist in two different states: autonomy and agency. In an autonomous state, a human acts according to his/her own free will. However, when given instructions by an authority figure, humans switch to an agentic state of mind where they see themselves as acting as agents for the authority figure. Milgram observed that many participants in his obedience study experience moral strain when ordered to harm another person. Moral strain occurs when people are asked to do something they would not choose to do themselves, and which they consider immoral or unjust. This moral strain results in an individual feeling very uncomfortable in the situation and, in extreme circumstances, they show anxiety and distress. This anxiety is felt as the individual contemplates dissent and considers behaving in a way that contradicts what he/she has been socialised to do. This seems to be the case of the judicial personnel as they struggle between professional ethics and corrupt political leanings. Assuming that "those who pay the pipers dictate the tunes", we also contend that those who pay the piper would have a relatively positive perception of the pipers when compared with those who have no choice of the tune, and that this positive perception could be reinforcing the tune. This study, however, does not assume that this is true at the mere observational level, hence this investigation. To this end, the following research questions serve as a guide:

1. Is there a perception that the political class significantly influences the fairness of the judiciary?
2. Do women differ from men on perceptions of the judiciary as a fair plank of the justice system?
3. Is there a significant interaction between the political class and gender on perceptions of judiciary as a fair plank of the justice system?

The following hypotheses were tested:

1. The upper political class differs from the lower political class on perceptions of the judiciary as the major plank of the justice system.
2. Women differ from men on perceptions of the judiciary as the major plank of the justice system.
3. Political class and gender significantly interact in the determination of perceptions on the judiciary as the major plank of the justice system.

The purpose of this study is to investigate the nature of public perception and opinions of citizens of Nigeria on the justice system. To this effect, this study is set to determine the following:

1. Whether, or not, social status such as political class or financial status influence the opinion of a person concerning the justice system, and
2. Whether, or not, gender identity influences the opinions of a person concerning the justice system in Nigeria.

This study exposed the practicability of the statement: “The judiciary is the last hope of the common man”. It attempts to explain the statement in the context of the Nigerian justice system guided by questions such as, are the rich more protected than the poor? What are the opinions of the general public on the judiciary? Are these opinions divided between the rich and the poor? What is the implication of significant opinions in a democratic system in the 21st century? The study attempts to provide an exposition on the position in Nigeria and the modalities for amendment and growth.

Economic Status: The affluence category of a person in terms of financial strength such as being poor (i.e. belonging to a lower social class) or rich (i.e. belonging to a higher social class).

Upper Political Class: Public office holders such as those elected through general elections; past and present top government functionaries; level 15 civil servants; top businessmen and major political party stakeholders.

Lower Political Class: The mass of the electorates such as students, unemployed graduates, and civil servants below level 8, petty traders, bus drivers and the skilled and unskilled labourers on the streets.

Gender: The status of being a man or a woman.

Perception: A person’s interpretation, conclusion or judgement which results in opinions on an event, persons or institutions based on past experience.

Perceptions of the judiciary as a fair plank of the justice system: this refers to a person’s opinion of the judiciary as the defender and last hope of the common man as measured by the Judiciary Perception Questionnaire (JPQ) adapted from Barrier to Police Assistance Scale developed by Okafor and Ozor (2013).

Methodology

Research Design

The design for the study is a cross-sectional survey design. Cross-sectional survey design is a design employed when collecting data to make inference about a population of interest at one point in time (Olsen & George, 2004). The cross-sectional design aims at examining the perception of a cross-section of Enugu State residents concerning the Enugu State Judiciary.

Area of the Study

The study area is Enugu State. Located in the south east region, Enugu was the headquarters of the old Eastern region, and has a long tradition of legal practice.

Population of the Study

Enugu State has a population of 3,257,398 and the predominant ethnic group is Ibo. The main religion is Christianity. The state has 25 high court judges, 51 magistrates sharing 34 courtrooms, and 325 customary court judges sitting in 108 customary courts. It has 1,785 judicial staff, comprising 878 junior and 907 senior staff.

Sample and Sampling Technique

A total of 270 participants were randomly drawn in 9 out of the 17 local government areas and the capital city. Among the survey target groups were top civil servants above grade level 12, political office holders in the local government and the capital city; petty traders, the unemployed and the underemployed youths. Participants' age ranged between 25 and 55 years with a mean age of 33.72 years. Each sub-group was allocated a sample according to its estimated universal population within the town. The sample size distribution is determined by the size of the target population in each of the towns calculated on *Confidence Level of 95%* and *Confidence Interval of 5%*, with a set minimum sample size per local government of 30. Out of 270 questionnaires administered in the survey, 256 (95%) were completed and returned, while 40 of the 256 were invalid and therefore, discarded. Only 216 were left for final analysis. The participants were randomly selected at the locations of interview, usually in the office, the church and business premises.

Instrument for Data Collection

Judiciary Perception Questionnaire (JPQ) is a modified version of the Barrier to Police Assistance Scale (BPAS) (Okafor & Ozor, 2013) used in gathering opinions of participants in a cross-sectional survey of Enugu State indigenous politicians, top civil servants and the mass of the less privileged such as the unemployed and the underemployed. JPQ contains a total of 15 questions spanning items across the 5 categories of respondents, covering descriptive, experiential or evaluative information on each of the 7 general themes of the assessment, namely:

- i. Access to justice
- ii. Timeliness of justice delivery
- iii. Quality of justice delivery
- iv. Independence, impartiality and fairness of the courts
- v. Integrity, accountability and oversight
- vi. Coordination and cooperation across the justice sector institutions
- vii. Public trust in the justice system

The questions were framed in multiple choice. The questions required the respondents to give a rating or grading and are usually allotted values of 1-5, with the most negative value being 5 and the most positive being 1.

Validation of the Instrument

The JPQ was modified using a poll of peoples' opinions, following a one-on-one interview of 50 civil servants and 50 traders who were resident in Enugu metropolis by the researcher. Some of their statements in the modified questionnaire items, include "I prefer to settle cases outside the court than settle it in the law court"; "I don't like taking matters to the court because I might waste my resources on clear cases and still don't get justices"; "Lawyers do not push hard on a case when they find themselves defending the less privileged"; "Judges always want their palms to be greased before they give their verdict"; "A judge can suspend a case simply to allow a top government official to buy time to protect his or her political ambition"; "lawyers demand and take bribe to argue a case against the financially handicapped persons in courts"; "Judicial staff demand bribes to circumvent justice"; "the judiciary is no more the last hope of the common man"; "I have lost confidence in the protection the judiciary system has to offer", and so on (see Appendices).

Reliability of the Instrument

After content validation of the initial seventeen items using three Facilitators in the department of criminology, National Open University of Nigeria, item analysis of the instrument using the pilot responses of one hundred senior civil servants of Enugu stated yielded an alpha coefficient correlation of .84. Scores on JPQ are obtained by using the total responses of an individual on the questionnaire. The higher a participant's score, the lower his/her assessment of the judicial system in Nigeria.

Procedure

A total of 15 field researcher assistants and the researcher conducted the field survey. All completed questionnaires were collected by field research assistants and returned weekly to the researcher. The data were entered into SPSS data sheets, and analysed for the key findings into tables and graphs. The distribution of the samples in each local government among each category was spread to ensure balance in geography and gender. In each local government, 5 representative towns were covered by the field researchers who also conducted the interviews and recorded the responses on the questionnaires. However, in a few cases, especially as it concerns top civil servants and political office holders, the questionnaires were left with the respondents for completion and collected after two days. The participants were assured of the confidentiality of their responses.

Challenges

The research teams encountered several challenges, including:

- i. Most of the top civil servants and the politicians refused to be orally interviewed and insisted that the researchers dropped the questions and collected them later, which added to the waiting time, travel costs, and possibility of invalid entries as the researchers did not have the opportunity of explaining the questions where explanation is required. Many cases of invalid questionnaires in that category of respondents were a result of apparent lack of understanding of the questions or multiple answers, and usually occurred where the questionnaires were dropped off for the respondents and collected later.
- ii. Some judicial officers were reluctant to be interviewed, and when they agreed, many were reluctant to answer questions relating to corruption and personnel management for fear that their answers may be reported to the authorities with possible reprisal.

How the challenges were managed

Some of the challenges were envisaged or identified during the pilot testing of the questionnaires. Thus, measures to manage them were put in place, including:

- i. The respondents did not disclose their personal identities in the questionnaire or to the researchers, and this encouraged many judicial staff and top government functionaries to answer the questions without fear of reprisal.
- ii. Pre-survey training of the field researchers and pilot testing of the questionnaires prepared the researchers for the challenges.

Method of Data Analysis

A two-way analysis of variance (ANOVA) was used for data analysis of the results.

Results

Table 1

Mean and standard deviation of political class and gender on judicial perception

Political Class	Gender	Mean	Std. Deviation	N
Lower Political Class	Females	31.8511	9.96511	47
	Males	34.0943	9.08774	53
	Total	33.0400	9.52818	100
Upper Political Class	Females	29.2679	7.71419	56
	Males	29.9667	7.75464	60
	Total	29.6293	7.70943	116
Total	Females	30.4466	8.86249	103
	Males	31.9027	8.61992	113
	Total	31.2083	8.74646	216

The result in Table 1 above shows that the lower political class obtained a higher total mean of 33.04 (SD = 9.52) on judicial perception, indicating a relatively positive assessment of the judicial system. The upper political class obtained a lower total mean of 29.62 (SD = 7.70) on judicial perception, indicating a relatively negative assessment for the judicial system when compared with the total score of the lower political class. The Table also shows that females obtained a lower total mean of 30.44 (SD = 8.86), indicating a relatively positive assessment of the judicial system when compared with males who obtained a higher total mean of 31.20 (SD = 8.74) on judicial perception. However, a 2-way ANOVA was used to determine the significance of these differences. See Table 2 below.

Table 2: ANOVA Summary of public perception of judiciary as a fair plank of justice system in Nigeria

Source	Type III Sum of Squares	df	Mean Square	F	Sig.
Political Class	603.146	1	603.146	8.153	.005
Gender	115.924	1	115.924	1.567	.212
Political Class * Gender	31.946	1	31.946	.432	.512
Error	15683.401	212	73.978		
Total	226823.000	216			

a. R Squared = .931 (Adjusted R Squared = .930)

The result of ANOVA in Table 2 above indicates a significant influence of social status on public perception of judiciary as a fair plank of justice system in Nigeria, $F(1,212) = 8.15$, $p < .05$. This means that there is a statistically significant difference between the perception of the upper political class and the perception of the lower political class on the protective disposition of the judiciary system in Nigeria. Thus, hypothesis 1 is accepted.

The result also indicates a non-significant influence of gender on perception of judiciary as a fair plank of justice system in Nigeria $F(1,212) = 1.57$, $p > .05$. This means that there is no statistically significant difference between the perception of male and the perception of females on the protective disposition of the judiciary system in Nigeria. Thus, hypothesis 2 is not accepted. The result indicates non-significant interaction of social status and gender on judicial perception, $F(1, 212) = 0.43$, $p > .05$. This means that there is no statistical significance

of the joint influence of political status and gender identity on the perceptions of the protective disposition of the judiciary in Nigeria. Thus, hypothesis 3 is not accepted.

Discussion

The result of this study indicates a significant influence of the political class on the perceptions of the judiciary as a fair plank of justice system in Nigeria. This means that there is a statistically significant difference between the perceptions of the upper political class and the perceptions of the lower political class on the protective disposition of the judiciary system in Nigeria. Thus, hypothesis 1 is accepted. This result concurs with the UNODC report that in 2002 a large portion of respondents had experienced bribery. The main reason for paying bribes was to expedite the court processes or to be granted bail. Other court-related procedures identified as linked to corruption included: delays in the execution of court orders; prisoners not being brought to court; lack of public access to copies of court orders and decisions; disappearance of files; unusual variations in sentencing; delays in the delivery of judgments; high rates of decisions in favour of the executive; and appointments resulting from political patronage. Thus, 77% of lawyers and 43% of court users claimed that within the last 12 months prior to the interview they had been approached for the payment of a bribe in the context of a court case. With regard to the independence, impartiality and fairness of the courts, in 2002, users and operators were sceptical, with half of the judges agreeing that government controlled the judiciary and more than half of the lawyers regarded courts' decisions as influenced by politics. More specifically, 19% of the judges felt that judicial appointments were politically influenced and not based on merit, while 50% of the lawyers claimed to know of judicial decisions that had been inspired by politics.

The result also indicates a non-significant influence of gender on perception of judiciary as a fair plank of justice system in Nigeria. This means that there is no statistically significant difference between the perception of male and the perception of females on the protective disposition of the judiciary system in Nigeria. Thus, hypothesis 2 is not accepted. The result indicates non-significant interaction of political class and gender on judicial perception. This means that there is no statistically significant joint influence of political status and gender identity on perception of the protective disposition of the judiciary in Nigeria. Thus, hypothesis 3 is not accepted.

Implications of findings

The result of this study has serious implications for the judiciary, requiring unbiased reforms of the judiciary. The result of the study shows that the public has lost confidence in the disposition of the judiciary, giving way for cases to be settled without going to court and in most cases resulting in jungle justice. The issue of corruption as implicated in this lack of confidence in the judiciary is so deep that it may not be the job of the executive arm or any arm of government alone to fight it. The general public has a lot of responsibility in the areas of giving or accepting bribe or even allowing justice to be perverted before them. Males and females have no significant perceptual differences, indicated in the unison in public opinion. Thus, the onus is on every citizen of Nigeria, particularly the Enugu residents, to resist every form of inconsistency in the judiciary, corruption, nepotism, bias as well as the mal-handling of the less-privileged in society.

Summary and Conclusion

This study investigated the place of the judiciary as a fair plank of justice system in Nigeria, with particular reference to Enugu state. The result of the study indicates that the public

seems to have lost confidence in the judiciary which is supposed to be the last hope for the common man. It is against this background that the government law enforcement agencies and the mass of the electorate should join hands to ensure a corrupt free judiciary system. To this end, this research has the following conclusions:

1. There is corruption in the judiciary
2. There is no meaningful synergy between the judiciary and other law enforcement agencies
3. The public has lost confidence in the judiciary

Recommendations

Based on the conclusions from the findings of this study, we recommend that:

1. An unbiased judiciary reform is necessary to ensure a sense of belonging for every citizen
2. Every citizen of Nigeria, particularly, Enugu residents should desist from giving and taking bribe in the course of justice delivery.

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