

A Clog in the Wheel of Justice

- Barr. Aigbeze Uhimwen

The wheel of justice grinds slowly but thorough. Our legal system in Nigeria is adversatorial in nature, by that; it means that the law presumes an accused person innocent until otherwise proven. The authority on which this presumption of law is based is constitutionally provided in section 36(5) of the 1999 constitution which provides that;

(5) “Every person who is charged with a criminal offence shall be presumed innocent until he is proved guilty”

The direct implication of this proviso is that, the onus falls on the party alleging, to prove its case. This presumption of innocence is the bedrock for the administration of justice in Nigeria. To ensure fair hearing in any trial, the two pillars of justice must be observed. (1) *Nemo judex in causa sua*; meaning, you cannot be a judge in your own cause and (2) *Audi Alterem Patem*; meaning, the other party must be heard. For an accused person to be convicted for any criminal offence, the prosecution must discharge this burden of prove beyond reasonable doubt. No prima facie case can be established where this burden is not satisfactorily discharged. It is trite law, that where there is a doubt, it shall be resolved in favor of the accused person.

Having established this premise let us consider a trend, which has become notorious especially in prosecution of cases of human trafficking in our courts. By virtue of the NAPTIP Act 2003. the Agency by law is vested with the power to investigate and prosecute criminal charges against a trafficker or persons who have contravened certain provision of the Act in court.

Looking at a report released by NAPTIP containing a list of successful cases of conviction secured in trafficking offence between a period of 5months ending in march 2006, it reveals three cases of conviction where judgment was given. The obvious question therefore is; why are the convictions so few?

The major clog, I have identified, that contributes to the inability of the prosecution to establish a prima facie case against the accused, lies in the attitude and unavailability of the victim's witnesses. Sometimes, the witnesses just fade into thin air, the evidence of the victims and her witnesses go along way in establishing the offence.

It must be borne in mind that human trafficking is clandestine in nature, and perpetrators of this act are usually well known to the victims. Sometimes the traffickers are relatives or members of the same family. Some victims, even after being abused by their traffickers are reluctant to prosecute them because of the family bond that exists. They would rather just forget the whole episode than see that justice is done. This trend is what I have come to term as a major clog in the wheel of justice.

It is my earnest desire, that there would be a change of attitude on the part of those vital witnesses if justice is to be done.