

LAW REPORTS IN NIGERIA

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The state of the law reports is as effective a conversation opener among Nigerian lawyers, as the weather in England. A non-Nigerian lawyer who has spent some time in Nigeria recently asked me whether the law reporting situation was "as bad as ever", to which I believe I replied in the affirmative. Second thoughts have prompted this brief article, encouraged by a number of new initiatives which promise that the future may be better.

The background

In the past the situation has by no means been as bad as it might have been, or as in many other countries has been. The Sudan, as an example, until recently had an unreported void for a large section of its legal history.¹ There are reports which cover to some extent most of the period during which Nigeria has had an English-type legal system superimposed upon its pre-existing legal structure. The first major court was the Supreme Court--a court of first instance of unlimited jurisdiction--established in 1863.² There are no cases reported from this early period, but official reports exist from the turn of the century, although not printed until some time after the dates of the decisions. The Nigeria Law Reports cover the period 1881³ to 1942 and were printed by the Government Printer in Lagos between 1915 and 1944. The decisions of the West African Court of Appeal, which consti-

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1. See, e.g., E. Guttman, "Law Reporting in the Sudan" (1957) 6 International and Comparative Law Quarterly 685.
2. Supreme Court Ordinance, No. 11 of 1863.
3. This date is somewhat misleading as there is only one case for 1881 and no other until 1898.

tuted the penultimate appellate body (below the Judicial Committee of the Privy Council) for Anglophonic West Africa between 1930 and 1955,⁴ are quite fully reported.

The federalization of Nigeria in 1954⁵ led rapidly to the proliferation of official series of reports. Each of the original three regions, the Supreme Court and the Federal Territory of Lagos produced its own series. Shortly after its creation in 1963 the Mid-Western Region also inaugurated its own series. Additionally, there have been two privately produced series of pan-Nigerian reports and journals occasionally report cases.⁶

A recent article on law reporting in Africa⁷ pinpoints as one of the problems a supposed prejudice, inherited with the rest of the English legal paraphernalia, in favour of non-official law reporting systems. Government finance and organization are suggested as the means to a solution. One cannot generalize for Africa from the case of Nigeria, or can one ignore Nigeria when discussing Africa. Here we have a country with a remarkable number of official series of reports. Why, then, the gloom and despondency? The answer lies in the following table which will serve also as a reasonably comprehensive bibliography of Nigerian law reports. It indicates the position, in March 1972, of all reports the writer is aware of, both current and defunct.

Report	Abbreviation	Court(s) covered	Dates
Lagos: Reports of Certain Judgements of			1884-92

4. The court continued for some time for the other Anglo-
phonic West African countries.
5. The Federal Constitution came into force on October 1,
1954.
6. Particularly the Nigeria Bar Journal and the Nigeria
Lawyers' Quarterly.
7. E. Kofi Tetteh, "Law Reporting in Anglophone Africa"
(1971) 20 I.C.L.Q. 87.

the Supreme Court,
Vice-Admiralty Court
and Full Court of
Appeal (a)

Nigeria Law Reports (b)	N.L.R.	All superior	1881-1942
Selected Judgements of the West African Court of Appeal(b)	W.A.C.A.	W.A.C.A. and Privy Council	1930-55
Selected Judgements of the Federal Su- preme Court (b)	F.S.C.	Supreme Court	1956-61
Lagos High Court Reports	L.L.R.	High Court of Lagos	1956-66
Western (Region of) Nigeria Law Reports (c)	W.(R.) N.L.R.	High Court of West, Supreme Court	1956-62
Eastern (Region of) Nigeria Law Reports	E.(R.)N.L.R.	High Court, East	1956-64
Northern (Region of) Nigeria Law Reports	N.(R.)N.L.R.	High Court, North	1956-66 (d)
Mid-Western Nigeria Law Report	M.N.L.R.	High Court, Mid-West	1964
All Nigeria Law Reports	All N.L.R.	All superior	1961-66
Nigeria Monthly Law Reports (b)	N.M.L.R.	All superior	1964-68

Federal Nigeria Law Reports	F.N.L.R.	All superior	1967
Judgements of the Supreme Court of Nigeria	S.C.	Supreme Court	Jan.-Feb. 1972

- (a) I have never seen this report and rely for its existence upon T.O. Elias, Nigeria: The Development of its Laws and Constitution, (1967) p. 314.
- (b) Defunct or apparently so.
- (c) The three original regions were at first called Western Region of Nigeria, etc., later Western Nigeria, etc., and their law reports were named accordingly.
- (d) Part of 1966 only.

Although the entire period from the beginning of the century to the late 1960's is to some extent covered, the coverage is not, and has never been, up-to-date. Each of these volumes (with the exception of the newest venture, the monthly volume of cyclostyled judgements of the Supreme Court) has appeared several years in arrears.

Why?

E. Kofi Tetteh cites L.C.B. Gower to the effect that African countries tend to blame their problems on "anyone but themselves".⁸ Law reporting is a quite straightforward human endeavor, and if not successful one can point to human factors as the cause. One can isolate the government which

8. L.C.B. Gower, Independent Africa: the Challenge to the Legal Profession, (1967) p. 32, quoted Tetteh, op. cit. at p. 88.

pinches the pennies, the lawyers who will not buy, the state counsel who gives priority to his other duties, the one who insists on keeping control of the operation when there is a more efficient means available, or the printers who cannot or will not produce a satisfactory piece of work. All of these have played a part in the regrettable situation tabulated above. However, we have not uncovered the root problem.

We are confronted not simply with the failings of individuals but the whole problem of underdevelopment. The ultimate reason why England and the United States have an effective law reporting system and we do not is that they are rich and Nigeria is poor. Every government must feel it is trying to do too much with too little, but of none is it truer than of those of the Third World. Every statistic about a developing country like Nigeria (except, blessedly, those concerning such matters as infant mortality) has undergone an astonishing increase in the last decade. There are more people, schools, roads, vehicles, hospitals, doctors, larger towns. And parasitic upon these developments are more police, more lawyers, crime, litigation, legislation, courts and judges. (To give an example of the last only: in 1967 there were nine judges of superior courts in the Western State; two years later there were twenty.⁹) With the multifarious needs of development pressing upon the manpower and financial resources of the nation, keeping up-to-date with law reports cannot be expected to claim a position high on the list of desiderata either in the minds of the government--particularly now that the legal profession has lost to some extent that position of governmental ascendancy which once it enjoyed¹⁰--or in the minds of the people. The rising expectations do not include a modern law reporting system, nor,

9. See T.A. Aguda, "The Organisation of the Judiciary" in Select Law Lectures and Papers (1971) p.3.

10. The prominence of lawyers in nationalist movements and the governments of newly independent nations has often been noted. Lawyers have taken a large share of the blame for the failings of Nigeria before the first coup. However, they are still surprisingly prominent: 3 of the 12 federal commissioners (apart from the Attorney-General and Commissioner for Justice) are still lawyers.

it is submitted, ought it to assume any such position of priority!

Editing

Only in the Federal Ministry of Justice are there people employed full-time to produce law reports. The four man law reporting and research division of that Ministry is responsible for Volume 2 of the All Nigeria Law Reports, covering the High Courts throughout the Federation. This advantage is reflected in the advanced stage of the preparations for publication: by the end of 1971 editorial work had been completed on the volume for 1970. Elsewhere the editorial work is carried out part-time by people who have other duties. For example, the editorial work on the Western Nigeria Law Reports is undertaken by state counsel and they are a few years ahead of the published reports. However the delay in publication is attributable to the fact that it has proved impossible to hold a meeting of the editorial committee which is drawn from within and outside the Ministry of Justice.

In the East, members of the Faculty of Law of the University of Nigeria, Nsukka, have taken over the editing of the law reports. It is very much to their credit that by the end of 1971 there had been published three annual volumes of the Eastern Nigeria Law Reports, in under two years from the re-opening of the University after the war. Editing of the Northern Nigeria Law Reports, carried out by members of the Faculty of Law at Ahmadu Bello University and a Judge of the High Court in Kano, is at an advanced stage.

Printing

Printing of the reports has mostly been in the hands of the various government presses, with a few private firms involved. The quality of the official productions is high, but in some instances the capacity of the presses is limited. Delay at this stage has contributed to the problems of keeping the reports reasonably current, particularly in the case of the All Nigeria Law Reports. Large private presses are few and heavily committed, and lack of experience with this

type of work often results in first attempts being unacceptable and causing even further delay. So serious has the situation become that at one point the Federal Attorney-General contemplated sending the All Nigeria Law Reports to England for printing. This plan, however, seems to have been abandoned, and now the work is to be more widely distributed among Nigerian printers.

The Market

"Nigerian lawyers don't buy books" is a commonly heard complaint and certainly there are many who do not buy all a well-equipped lawyer should. Nigeria has over 1,500 practicing lawyers, yet the Nigerian Monthly Law Reports failed for want of support from practitioners. Each issue sold only approximately 500 copies, of the 3000 printed.¹¹ To be fully equipped with Nigerian reports would not be prohibitively expensive. One could acquire all the reports still available (and most are) for approximately £120. Yet it is still possible for a former student of the writer to relate a recent visit to the chambers of another lawyer of several years standing and to exclaim "He had only one book in his chambers!"

It should be emphasized that the problem is less acute than formerly. Most of the lawyers now in practice have been through the Nigerian Law School, and the curriculum includes office management and stresses the need to have the books required to practice effectively. There are now large numbers of lawyers who make an effort to keep reasonably up-to-date with the reports that are published, and few who are hopelessly ill-equipped. The first printing of the 1966 volume of the Lagos High Court Reports sold out within a few months. Two of the difficulties that faced publications like the Nigerian Monthly Law Reports may equally have been distribution and a lack of interest on the part of the profession.

Additionally, the attitude of the Nigerian lawyer should

11. Report of the Nigerian Association of Law Teachers Planning Committee for Law Reporting (1970).

be understood in its context. I have heard a Nigerian judge complain that lawyers consider it more important to buy a car than to buy books--and heard young practitioners agree. Unfortunately, a man's ability is likely to be measured by his apparent success, and in Nigeria this is most easily gauged by his possessions, most obviously his car. An unsophisticated member of the public will be unlikely to know or be able to judge a lawyer's performance in court, but he will know what type of car he drives. There are also practical considerations: except in Lagos a young lawyer may have to travel to courts away from his base-town several times a week. Public transport is poor so a car is virtually essential.

The Continuing Legal Education Scheme

This scheme, financed by the Ford Foundation, is intended to provide lectures and seminars for members of the Bar. The national situation, however, has prevented the holding of many such functions, and the primary production of the Continuing Legal Education Institute has been a monthly cyclostyled digest now entitled Law Notes and Review. It is distributed free of charge to the profession, and over 1,500 copies of every issue are produced. It contains primarily brief digests of cases, the full judgements of which can be obtained from the courts concerned--sometimes, it must be said, with difficulty or considerable expense. Occasionally the digest reprints the full judgement in a case of especial interest. For the last five years this has been the most up-to-date information available on the development of the law in Nigeria and cannot be ignored in a discussion of the law reporting situation. Occasionally, members of the judiciary have refused to accept citations in court from this publication on the grounds that it is not a proper report. However, since it complies with the requirement of the English system for a report to be capable of being cited--that it be prepared by a member of the Bar--most courts have wisely accepted it.

The Future

The Nigerian legal scene sometimes gives the appearance

of being scattered with the dead and dying attempts to run an efficient law report. One is therefore reluctant to greet every idea with optimism and enthusiasm for fear that it too comes to naught, and indeed one recent proposal did. The Nigerian Association of Law Teachers established in 1969 a committee to make proposals for improving the situation. The original committee was augmented by representatives from the Nigeria Bar Association. Their major proposal was for the establishment of a limited company in which shares were to be held by the governments of the Federation and the States, by the Bar Association and the Nigerian Association of Law Teachers, among others. This suggestion collapsed when it became apparent that the federal government would not be prepared to sink money into such a venture, which made it improbable that any state government would take this step.

Nevertheless, as was stated at the beginning, a number of recent developments augur well for the future. The progress made with the Eastern Nigeria Law Reports, has already been mentioned, although there is still a large gap to be filled. A private group, of law teachers and practitioners in Enugu, has published the first volume of the Federal Nigeria Law Reports--for 1967--and promise the next volume soon.

On the other side of the River Niger, the Faculty of Law of the University of Ife has embarked upon a project covering the whole Federation. They have decided not to endeavor to fill existing gaps but to begin with 1970, and the volume of the University of Ife Law Reports for that year is expected to be available soon. It is clear that the University is attaching considerable importance to this project, for they have recently advertised for an editor-in-training for the reports.

If the printing problems can be overcome, it may be that in the near future the All Nigeria Law Reports will be quite up-to-date. The editorial work on the High Court volume is well advanced and new developments are occurring in connection with the Supreme Court volume. The former Federal Attorney-General became the Chief Justice of the Federation early in 1972, and his influence is already being felt in the law reporting field. Formerly the Supreme Court volume was the sole responsibility of the Deputy Chief

Registrar of the Supreme Court; however, a law reporting committee has been set up for the Court, under the chairmanship of a Justice of the Supreme Court who has experience in this area. The Chief Justice has expressed the hope that the gap between the published volumes and the present day can be bridged rapidly. (In fact the Deputy Chief Registrar was already working on the 1968 volume.) Finally, in a quite new initiative, the judgements of the Supreme Court are to be available, in cyclostyled form in monthly volumes, from January 1972. The judgements for each month are being made available by the middle of the succeeding month.

So much more has been promised in the past than has ever materialised that one is reluctant to express optimism on the future of law reporting in Nigeria. However, if only one or two of these ventures succeed, they will go some way toward providing the type of service needed by the country's legal profession and the intelligent and truly Nigerian development of the law.