Delayed judgments: how long is too long?

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Forget the controversies surrounding the process and procedure of the latest cohort of judges and whether they could be appointed or elevated on contract. The reality is that we now have additional judges to service the needs of justice in our country. That is a good piece of news in a country where the judge to case/citizen ratio is about perhaps one of the highest in the world. There is no doubt that there is an urgent need to have more able hands on the judicial deck to adjudicate between the state and citizens and between and among citizens.

One of the long-standing problems in the justice delivery in Sierra Leone is the uncertainty of delivery of final decisions or judgements. There's no gainsaying the grim reality that some litigants have had to wait for years before their judgements were delivered. Unfortunately, in those cases, one or more of the parties would've passed on or moved on beyond the controversies in litigation. In those instances, judgments are inevitably handed to disinterested or deceased parties.

The Constitution of Sierra Leone mandates that every court must deliver its final decision within three months. Section 120(16) of the Constitution of Sierra Leone (Act No.6 of 1991) states that:

"Every Court established under this Constitution shall deliver its decision in writing not later than three months after the conclusion of the evidence and final addresses or arguments of appeal, and furnish all parties to the cause or matter determine with duly authenticated copies of the decision on the date of the delivery thereof."

There are similar provisions in the Constitution of Nigeria and Ghana to cite a few. Section 294 of the Federal Constitution of Nigeria 1999 mandates their courts to deliver judgements within ninety (90) days of the conclusion of the evidence and final address. The Supreme Court of Nigeria in the case of Ifezue v Mbadugha (1984 NGSC 36) has held that the provision is mandatory and nullified a ruling that contravened it. In the case of Republic v Judicial Committee of the Central Regional House of Chiefs; Ex parte Aaba (Supreme Court of Ghana, Civil Appeal No 1/99, July, 25, 2001), the Supreme Court of Ghana held that provisions as to time limits were mandatory and not discretional, holding that any judgment given out a stated time limit was a nullity. However, a year later, in the case of the Republic v High Court, Accra; Ex parte Expandable Polystyrene Products Limited (Supreme Court, Civil Motion 21/2002, July 24, 2002), the Supreme Court went back on its progressive steps by reversing its views with regards time limits. The court held that failure of delivery of judgment within the time prescribed by the rules would not strip a judge of jurisdiction or necessarily render the judgment a nullity. The authors could not find any decided case on the issue of the effect of

judgements rendered beyond the constitutional period by either the appellate or supreme court of Sierra Leone.

There is no gainsaying that delayed judgments have caused considerable distress and hardship to litigants and have deprived them of access to justice. Nowadays, not even a magician can conjecture when a judgment in the courts of Sierra Leone can be delivered. The authors glean from conversations with practising counsel that almost all practising lawyers have at least one judgment which has been pending for over a year. In some cases, even rulings on interlocutory matters are now bloating in years of delay. Litigants are succumbed to the agony of waiting: while some quickly snap out of expectation of justice, others are tempted to resort to other illegal and immoral means of redress. The concomitant risk in delaying judgment or ruling is the heightened tendencies of litigants to fetch ways of contact with benchers in order to facilitate expeditious determination of their matters. Those who don't then have the means or the culture of abuse of justice, would only have themselves to blame. For several decades, judges in both the trial and appellate courts of Sierra Leone have cited the unrealistically huge number of cases assigned to them for adjudication as the main reason for not delivering their final decisions within the stated constitutional timeframe.

To enforce compliance with the constitutional period for delivery of judgment, there has to be a purposeful and systemic approach to addressing the age-old problem of oft-long delays. The authors would recommend firstly, the introduction of pupillage in the judiciary—there's already a draft amendment bill of the Legal Practitioners Act 200 to make this possible. Through this structure, at least two pupil barristers would be assigned to a judge every year to assist with writing drafts of rulings, conducting research and drafting skeletal judgments. This it is believed would lighten the burden on judges to hear their numerous matters, conduct their own research and type out their judgments. Secondly, there's an urgent need for practice direction or supplement to the High Court Rules 2007 on timelines with delivery of rulings on interlocutory applications and final judgments, consistent with the constitutional provision and effect of non-compliance. We would recommend that rulings on interlocutory application should be rendered no longer than thirty (30) days from being reserved. Thirdly, notorious delays in the delivery judgements should be considered a judicial misconduct. The authors believe that once judges are aware that consistent pattern of delayed judgements would open them to scrutiny or inquiry, they would strive irrespective of the insufficiency of facilities to deliver judgment within time. This is not a means to frighten judges in their work; it is a way to heighten judicial accountability.

The authors hope that with the latest addition of new judges, it is about time that timely delivery of judgment was place atop the priorities of the judiciary. The timeless maxim that "justice delayed is justice denied" cannot be truer.