

LEGAL FRAMEWORK AND CHALLENGES CONCERNING FORENSIC EVIDENCE IN NIGERIA

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Abstract

Forensic evidence cannot be avoided in modern legal systems; it is used principally for asserting justice. However, several challenges in implementing forensic evidence in the judicial processes are faced in Nigeria. Attempts to address this persistent problem include issues such as the admissibility of forensic evidence in courts, lack of adequate forensic infrastructure, inadequate examinations, and much more procedural inconsistency. Hence, there is a need to examine the legal provision regarding forensic evidence in Nigeria, the identification of the central core challenges, and possible reform proposals to improve reliability and acceptance in audit processes. The study adopts a doctrinal study method, relying on primary and secondary sources of research material. The study, therefore, revealed gross loopholes within the corpus of legislation in Nigeria: highly limited statutory references on emerging forensic technologies, extremely few forensic laboratories, and inconsistencies in judiciary interpretation of forensic evidence. The study has further uncovered a critical blockage to the usage of forensic evidence, which is the lack of specialized training for law enforcement and judiciary officers. The study further concludes that the status of Nigeria regarding the advancement of forensic evidence is marginally high, but there are lots of things to be done. Legislative amendments are recommended to strengthen forensic evidence laws, investments in forensic infrastructure, and capacity-building initiatives for legal and law enforcement professionals. These measures are sure to strengthen the place of forensic evidence in the advancement of justice in Nigeria.

Keywords: *Forensic Evidence, Legislations, Challenges, Nigerian Court System.*

Introduction

The very essence of forensic evidence in modern criminal justice systems cannot be undermined,¹ as it constitutes an objective and scientific proof essential to resolving criminal cases.² Forensic science has become the backbone of criminal investigation around the world in terms of supporting law enforcement agencies in the collection and analysis of evidence before its presentation in court.³ With this sophisticated technology, the accuracy of legal proceedings increases substantially,⁴ reducing the burden of witness testimony on which the court has to rely, but which sometimes ends up being incorrect.⁵ However, after much effort to integrate forensic science into the Nigerian criminal justice system, problems remain in the legal, institutional, and technical areas.⁶ The Nigerian legal framework about forensic evidence is relatively new, with an inadequate infrastructure limited expertise that can be said to exist, and procedural loopholes that do not allow full implementation and acceptance in the courts.⁷

The global advancement in forensic science has not been well matched by Nigeria about the criminal justice system; here, forensic evidence is still not fully

¹ Walid Mahmoud Khalilia et al., "Challenges Facing Palestinian Crime Scene Investigators," *Egyptian Journal of Forensic Sciences* 14, no. 1 (February 3, 2024): 13, <https://doi.org/10.1186/s41935-024-00386-1>.

² Jillian L. Chamberlain, Terance D. Miethe, and Wendy C. Regoeczi, "When DNA Is and Isn't Magic: A Conjunctive Analysis of How Context Matters in Homicide Investigations," *Homicide Studies* 29 (November 29, 2024), <https://doi.org/10.1177/10887679241300531>.

³ Minhwan Jang, "Exploring the Quantity and Type of Evidence Collected during Criminal Investigations in South Korea," *Forensic Science International: Synergy* 9 (2024): 100544, <https://doi.org/10.1016/j.fsisyn.2024.100544>.

⁴ An-Di Yim and Nicholas V. Passalacqua, "A Systematic Review and Meta-Analysis of the Effects of Race in the Criminal Justice System with Respect to Forensic Science Decision Making: Implications for Forensic Anthropology," *Humans* 3, no. 3 (August 25, 2023): 203–18, <https://doi.org/10.3390/humans3030017>.

⁵ Maria Hardeberg Bach et al., "Hope Shattered: An Interpretive Phenomenological Analysis of Survivors' Experiences With Untested Rape Kits," *Violence Against Women* 28, no. 15–16 (December 20, 2022): 3886–3909, <https://doi.org/10.1177/10778012221083335>.

⁶ Sonja Bitzer et al., "Sexual Homicide and the Forensic Process: The Decision-Making Process of Collecting and Analyzing Traces and Its Implication for Crime Solving," *Forensic Science International* 340 (November 2022): 111446, <https://doi.org/10.1016/j.forsciint.2022.111446>.

⁷ Pieter Hartel and Rolf van Wegberg, "Going Dark? Analysing the Impact of End-to-End Encryption on the Outcome of Dutch Criminal Court Cases," *Crime Science* 12, no. 1 (March 6, 2023): 5, <https://doi.org/10.1186/s40163-023-00185-4>.

integrated into the various locations across the country.⁸ This is not an all-encompassing fact that is true about popular factors that affect the admissibility and credibility of forensic evidence in Nigeria, where legislative gaps, the capacity of forensic laboratories, and the competency of such forensic experts can be mentioned as factors of influence.⁹ Due to inadequate legal provisions and variable judicial precedents, legal practitioners and judicial officers experience difficulties in interpreting these technicalities.¹⁰ Traditional investigative methods and public scepticism on the effectiveness of investigative methods further hinder effective justice delivery.

However, it must be noted that several scholars have contributed to the concept of forensic evidence as a viable tool for the justice system. In this regard, it will be relevant to examine some of these scholars' views as follows. Joseph et al. studied the impact of forensic evidence in terms of case processing in criminal justice in five jurisdictions in the US. Their findings revealed that forensic evidence had a role to play in case-processing decisions but that role was dependent mostly on time and examination. Their study also pointed out that there is a need for further research on how forensic evidence is filtered from collection through use in court. Geoffrey has also discussed the likelihood-ratio framework in evaluating forensic evidence, arguing against the misconception that it is based on a strong statistical base.¹¹ He recommended the empirical testing of forensic comparison systems under realistic conditions of the trial while underscoring the importance of

⁸ Khaled Alkhuder, "Attenuated Total Reflection-Fourier Transform Infrared Spectroscopy: A Universal Analytical Technique with Promising Applications in Forensic Analyses," *International Journal of Legal Medicine* 136, no. 6 (November 1, 2022): 1717–36, <https://doi.org/10.1007/s00414-022-02882-2>.

⁹ Sarah Wüllenweber and Stephanie Giles, "The Effectiveness of Forensic Evidence in the Investigation of Volume Crime Scenes," *Science & Justice* 61, no. 5 (September 2021): 542–54, <https://doi.org/10.1016/j.scijus.2021.06.008>.

¹⁰ Peter A. Woodman et al., "The Forensic Examination of Structural Fires in Victoria, Australia: Decision-Making Processes and Impact on Judicial Outcomes," *Science & Justice* 61, no. 4 (July 2021): 369–77, <https://doi.org/10.1016/j.scijus.2021.03.009>.

¹¹ Geoffrey Stewart Morrison, "The Likelihood-Ratio Framework and Forensic Evidence in Court: A Response to R v T," *The International Journal of Evidence & Proof* 16, no. 1 (January 1, 2012): 1–29, <https://doi.org/10.1350/ijep.2012.16.1.390>.

statistical models and objective measurements. Shichun Ling et al. conducted research on public perceptions of forensic evidence reliability compared to that of eyewitness testimonies.¹² Their findings showed that although forensic evidence—considering DNA led to more guilty verdicts, the evidence had little influence on sentencing expectations, thereby not supporting the CSI effect. In addition, Wüllenweber and Giles addressed the issue of the effectiveness of forensic evidence in UK volume crime investigation in a way that revealed that evidence such as DNA from non-movable items was very effective in securing criminal charges.¹³ Furthermore, the study presented challenges with resource allocation as well as contextual influences of utility with which forensic evidence faced.

Concerning the above, it suffices to state that, it is clear from the study that it brings into the discussion a thorough examination and critique of the Nigerian legal framework regarding forensic evidence, outlining its weaknesses, and proposing feasible reforms. It is meant to narrow the void between legal theory and the practice of criminal investigations and trials. Thus, the study will mainly analyze the current legal framework concerning forensic evidence in Nigeria, identify major challenges, and recommend legal, procedural, and institutional reforms that would make the regime directly effective in delivering justice and upholding the rule of law.

Hence, the novelty of this study is the legal framework and challenges of forensic evidence in Nigeria aims at critically investigating the deficiencies and loopholes in the legal framework governing forensic evidence in Nigeria, an understudied area concerning the country's judicial system. From mostly theoretical perspectives on the legality, reliability, and practical challenges surrounding the usage of forensic evidence in Nigerian courts, it provides new recommendations that can be used to strengthen the integrity of the criminal justice

¹² Shichun Ling, Jacob Kaplan, and Colleen M. Berryessa, "The Importance of Forensic Evidence for Decisions on Criminal Guilt," *Science & Justice* 61, no. 2 (March 2021): 142–49, <https://doi.org/10.1016/j.scijus.2020.11.004>.

¹³ Wüllenweber and Giles, "The Effectiveness of Forensic Evidence in the Investigation of Volume Crime Scenes," 554.

processes in Nigeria while attracting reform in the forensic practices toward global standards and justice and accountability.

Method

The study focuses on the legal framework as it relates to the regulation of forensic evidence in Nigeria. Hence, a doctrinal method of study was adopted for a successful examination and conduct of this research study. In view of this, primary and secondary sources of research material, such as the Nigerian constitution, legislation, case laws, journal articles, textbooks, commentaries, and other relevant literature necessary and relevant to this study, were consulted.

The data obtained in this study from primary and secondary sources of research material were analysed through a rigorous analytical and descriptive approach.¹⁴ Regarding the adoption of the doctrinal method of research, it aims to theorize and conceptualize the concept of forensic evidence in Nigeria to ascertain how it operates and the lapses therein. Furthermore, it also aims to examine the various legal frameworks to ascertain the extent to which forensic evidence is regulated by law in Nigeria.

Discussion

Concept of Forensic Evidence in Nigeria Court System

Forensic evidence probably plays the greatest role in modern criminal justice systems, as it provides scientific and objective proof vital to the resolution of criminal cases.¹⁵ Forensic science, in that sense, has become the hallmark of crime investigation across the globe in support of law enforcement agencies, as it pertains

¹⁴ Pradeep M.D., "Legal Research- Descriptive Analysis on Doctrinal Methodology," *International Journal of Management, Technology, and Social Sciences* 4, no. 2 (2019): 95–103, <https://doi.org/10.47992/ijmts.2581.6012.0075>.

¹⁵ Michaela R. Flippin, Charles M. Katz, and William R. King, "Examining the Impact of a Crime Gun Intelligence Center," *Journal of Forensic Sciences* 67, no. 2 (March 13, 2022): 543–49, <https://doi.org/10.1111/1556-4029.14952>.

to the collection, analysis, and presentation of evidence before the court.¹⁶ This involved technological advancement greatly increased the accuracy of legal proceedings by reducing the reliance on sometimes unreliable witness testimonies. In this regard, forensic evidence embraces scientific methods and principles employed in crime detection and investigation for legal proceedings. It applies undoubtedly specialized knowledge in various fields, such as biology, chemistry, and physics through computer science, to uncover evidence that can subsequently be used to solve crimes. Forensic evidence is involved in identifying suspects, linking perpetrator and crime scene, and reconstructing a criminal event in criminal investigation. It is thus a component of reliability associated with objectivity and empirical nature, thus becoming a boon in the quest of justice.¹⁷ Hence, collection, preservation, and analysis accuracy of forensic acts play a significant role in preserving the judicial integrity.

In the Nigerian court, forensic evidence has become one of the most essential tools for establishing a fact or proving a guilty person, as well as exonerating an innocent person. It houses a lot of applications ranging from DNA analysis to fingerprint matching, ballistic testing, toxicological reports, and digital forensics.¹⁸ Such evidence all evokes testimony corroboration, scene reconstruction, and improves the probative value of cases. Forensic evidence has, however, increased the precision and credibility of judicial outcomes through decreased reliance on circumstantial evidence and eyewitness accounts, which can both be fallible. It incorporates the law of Nigeria into the adversarial model, where evidence is led by

¹⁶ Minhwan Jang et al., "The Impact of Evidence Type on Police Investigators' Perceptions of Suspect Culpability and Evidence Reliability," *Zeitschrift Für Psychologie* 228, no. 3 (July 2020): 188–98, <https://doi.org/10.1027/2151-2604/a000411>.

¹⁷ Maria Arndt, Lisa Stolzenberg, and Stewart J. D'Alessio, "The Effects of Race and Physical Evidence on the Likelihood of Arrest for Homicide," *Race and Justice* 12, no. 4 (October 24, 2022): 623–43, <https://doi.org/10.1177/2153368719900358>.

¹⁸ Kent McFadzien et al., "The Evidence-Based Investigative Tool (EBIT): A Legitimacy-Conscious Statistical Triage Process for High-Volume Crimes," *Cambridge Journal of Evidence-Based Policing* 4, no. 3–4 (December 8, 2020): 218–32, <https://doi.org/10.1007/s41887-020-00050-3>.

prosecution and defense to support and contest claims respectively.¹⁹ In such a situation, forensic evidence plays a crucial role to provide dispassionate and scientifically validated evidence to assist the judiciary in making fair and equitable judgments. Its amalgamation in criminal and civil litigation would improve judicial determinations by adding evidence beyond subjective testimony. In deeper situations like suspect identification, time and placed event determination, and verification of contradictory assertions, forensic evidence advances the arm of law.²⁰ Nonetheless, the admissibility of forensic evidence in Nigerian courts is founded upon legal and procedural standards as entrenched in the Evidence Act of 2011. This Act brings the first laws relating to the relevance, authenticity, and reliability of evidence presented in the courts. Forensic evidence will be valid and admissible only if this requirement is met.²¹ The Act lays down those forensic procedures must conform to established scientific protocols, and the expert witnesses presenting such evidence must be qualified and credible.

However, it has its drawbacks. One area where one can see many derelictions in the Nigerian courts is that of forensic evidence.²² The main reason is the unavailability of modern forensic laboratories with newly-adopted cutting-edge technologies to do proof analysis quickly and correctly. In addition to this, fewer trained forensic experts delay investigations and prolong trials. Generally, there is considerable ignorance and poor understanding of forensic science by lawyers and

¹⁹ Peter A. Woodman et al., "The Impact of Chemical Trace Evidence on Justice Outcomes: Exploring the Additive Value of Forensic Science Disciplines," *Forensic Science International* 307 (February 2020): 110121, <https://doi.org/10.1016/j.forsciint.2019.110121>.

²⁰ Lisa L. Smith, Heather D. Flowe, and Wangu Kanja, "Achieving More with Less: A Critical Review of Protocols for Forensic Investigation of Sexual Violence in Low-Resource Environments," *Forensic Science International: Synergy* 1 (2019): 108–13, <https://doi.org/10.1016/j.fsisyn.2019.07.002>.

²¹ Rana Muhammad Mateen and Asma Tariq, "Crime Scene Investigation in Pakistan: A Perspective," *Forensic Science International: Synergy* 1 (2019): 285–87, <https://doi.org/10.1016/j.fsisyn.2019.06.046>.

²² Rebecca Campbell and Giannina Fehler-Cabral, "Why Police 'Couldn't or Wouldn't' Submit Sexual Assault Kits for Forensic DNA Testing: A Focal Concerns Theory Analysis of Untested Rape Kits," *Law & Society Review* 52, no. 1 (March 1, 2018): 73–105, <https://doi.org/10.1111/lasr.12310>.

judges alike.²³ This may result in the evidence being misread or undervalued during trials. Other hurdles include variations in expert witness testimonies and the absence of an appropriate legal framework that governs the procedure of forensics.²⁴ Corruption and dishonesty among law enforcement officers further make for non-admissibility of forensic evidence. There have also been recorded incidences of tampering with evidence, fabricating evidence or evidence thereof, and mishandling a crime scene by law enforcement agencies.²⁵ Such incidences can further diminish public trust and the judiciary's trust in forensic processes.

Concerning the above, it suffices to state that the above identify issues can be addressed by extensive reforms directed at legal as well as institutional and capacity-building measures. It will also be worthwhile to analyze these laws regulating forensic evidence in the Nigerian court system in this regard.

Legal Framework and Court Cases Analysis of Forensic Evidence in Nigeria

It is lamentable to state from the outset that there is no legal framework concerning the practice of forensic science vis-a-vis forensic evidence under the Nigerian legal system.²⁶ This notwithstanding the practice of forensic science cannot be denied in Nigeria over the years.²⁷ Thus, one will therefore be left to wonder what must be the basis for the continual practice of forensic science in Nigeria and even

²³ Susan N. Sincerbox and Elizabeth A. DiGangi, "Introduction in Forensic Taphonomy and Ecology of North American Scavengers," in *Forensic Taphonomy and Ecology of North American Scavengers* (Elsevier, 2018), 1–16, <https://doi.org/10.1016/B978-0-12-813243-2.00001-4>.

²⁴ William R. King et al., "Forensic Evidence and Criminal Investigations: The Impact of Ballistics Information on the Investigation of Violent Crime in Nine Cities," *Journal of Forensic Sciences* 62, no. 4 (July 23, 2017): 874–80, <https://doi.org/10.1111/1556-4029.13380>.

²⁵ Sonja Bitzer, Pierre Margot, and Olivier Delémont, "Is Forensic Science Worth It?," *Policing: A Journal of Policy and Practice* 13, no. 1 (March 1, 2019): 12–20, <https://doi.org/10.1093/police/pax058>.

²⁶ Davidson C. Onwubiko and Felix E. Eboibi, "The Application of Forensics Examination in Crime-Related Prosecution: The Need for Standardization and a Recognized Model in Nigeria," *Digital Evidence and Electronic Signature Law Review* 17 (November 2, 2020): 83–93, <https://doi.org/10.14296/deeslr.v17i0.5228>.

²⁷ Kabiru H. Mohammed, Yusuf D. Mohammed, and Abiodun A. Solanke, "Cybercrime and Digital Forensics: Bridging the Gap in Legislation, Investigation and Prosecution of Cybercrime in Nigeria," *The International Journal of Cybersecurity Intelligence and Cybercrime* 2, no. 1 (February 27, 2019): 56–63, <https://doi.org/10.52306/02010519ZJRK2912>.

the applicability of Forensic evidence in the Nigerian Court System. In this regard, it will be relevant to consider and take an inventory of the Nigerian Laws especially the laws as it relates to evidence to discover and uncovered the rationale behind its continual practice in Nigeria.

The Nigerian Extant Law on evidence law is the Nigeria Evidence Act, 2011 (hereinafter refers to as the Act). It repealed and replaced the Nigerian Evidence Act, 1945 under which there was not provision for forensic evidence. Under the extant law however even though forensic evidence was not mentioned there are some provisions that make the practice of forensic science, and admissibility and applicability of Forensic evidence in the Nigerian Court legitimate. The Nigeria Law of Evidence, being the first and old Nigeria Law on evidence did not make any provision for nor did it recognize forensic evidence of any sort. In fact, opinion evidence generally was considered irrelevant in legal proceedings before the Nigerian courts under that Act.²⁸ It should be borne in mind that what governs admissibility is relevance. Meanwhile, the said Act considered opinion evidence under which forensic evidence fall irrelevant thereby robbing it of the admissibility value. But since the practice of forensic science in Nigeria and the applicability of Forensic evidence cannot be denied there must be a law that makes the practice legitimate which also allows for its practice and applicability to legal proceedings in the Nigerian Court System.

However, in Section 66 of the evidence Act, 1945 it is provided that the fact that any person is of the opinion that a fact in issue, or relevant to the issue, does not exist, is irrelevant to the existence of such fact except as provided for in sections 57 to 65.²⁹ The exceptions guarantee the admissibility of expert and non-expert

²⁸ Emma Antrobus and Andrew Pilotto, "Improving Forensic Responses to Residential Burglaries: Results of a Randomized Controlled Field Trial," *Journal of Experimental Criminology* 12, no. 3 (September 11, 2016): 319–45, <https://doi.org/10.1007/s11292-016-9273-z>.

²⁹ Habeeb Abdulrauf Salihu, "Possibilities for the Incorporation of African Indigenous Procedures and Mechanisms of Dispute Resolution in the Administration of Criminal Justice in Nigeria," *Contemporary Justice Review* 23, no. 4 (October 1, 2020): 354–72, <https://doi.org/10.1080/10282580.2020.1719364>.

opinions concerning foreign law, native law, and custom, points of science or art, the identity of handwriting or finger impressions, specific usages and tenets, the existence of the relationship of one person to another.³⁰ The exception implies that the opinion of a digital forensic expert is admissible in the Nigerian Court where it is for the purpose of making an inquiry that is beyond the knowledge that is at the disposal of the sitting judges, magistrates, and judicial officials.³¹ This assertion is in tandem with the wordings of the court in the cases of Shell Petroleum Development Company of Nigeria Limited v. Otoko and Shell Petroleum Development Company, Nigeria Ltd V Farah. In both cases the court held that opinion evidence is only necessary where the expert can furnish the court with scientific or other information of a technical nature that is likely to be outside the experience and knowledge of the Judge.³²

The early engagements of the courts of Nigeria with forensic evidence were predominantly on digital forensic evidence.³³ To examine this, it becomes pertinent to analyze the first introduced optics of the courts and lawyers toward this issue, especially as it was framed in the provisions of the Evidence Act. Although there existed an exception permitting opinion evidence under which digital forensic evidence fell, it failed to gain wide acceptance.³⁴ The reason for such unwillingness was largely interpretative controversy surrounding Section 2 of the Nigerian Evidence Act. Section 2 defined "documents" to include books, maps, plans,

³⁰ A. de Siqueira et al., "Forensic Veterinary Pathology," *Veterinary Pathology* 53, no. 5 (September 19, 2016): 979–87, <https://doi.org/10.1177/0300985816655850>.

³¹ John Sunday Ojo, "Transforming Pacifists into Warmongers? Separatist Movement, State Repression, and the Politics of Framing Terrorism in Nigeria: Evidence from IPOB and Yoruba Nation's Freedom Frontiers," *Journal of Applied Security Research* 19, no. 3 (July 2, 2024): 377–412, <https://doi.org/10.1080/19361610.2023.2189867>.

³² Emmanuel Onyeabor, "Liabilities and Compensation for Environmental Damage Under the Domestic Legal System," in *Environmental Law* (Cham: Springer Nature Switzerland, 2024), 615–85, https://doi.org/10.1007/978-3-031-68956-7_11.

³³ I. O. Haruna, P. A. Aidonojie, and O. J. Beida, "Prospects and Issues Concerning the Regulatory Regime of E-Payment System in Nigeria," *Journal of Digital Technologies and Law* 2, no. 2 (July 30, 2024): 372–93, <https://doi.org/10.21202/jdtl.2024.19>.

³⁴ Paul Atagamen Aidonojie et al., "Nigeria's Adoption of Robotic Lawyers: Legal and Socio-Economic Challenges," *BESTUUR* 12, no. 1 (July 4, 2024): 69, <https://doi.org/10.20961/bestuur.v12i1.89747>.

drawings, photographs, and also any matter expressed or described upon any substance using letters, figures, or marks, or by one of these means, intended to be used or which may be used to record that matter. The fact that digital forensic evidence has an electronic nature meant that the content of Section 2 did not accommodate electronically generated evidence or modern paperless storage devices. By a literal interpretation of the section, it gives an impression of being concerned with physical documents observable by physical sight.³⁵ That limitation, arguably, tended toward decreased use of digital forensic evidence to resolve disputes under the Evidence Act. To understand better, it will be educative to analyze some very interesting cases of that era in which forensic evidence played a key role.

To this end, the trial court convicted the accused in the case *R. v. Onitiri*. With this decision, the convict appealed to the Court of Appeal. The Court presided over by Verity, C.J. upheld the decision of the trial court on conviction, which was buttressed by evidence of forensic expertise. Another popular case relevant to the criminal law charges of burglary and stealing is *Queen v. Akpan*.³⁶ It was heard under Sections 411(1) and 390(4)(b) of the Criminal Code and Penal Code, respectively. The lower courts convicted the accused, and the court of appeal confirmed the conviction. Also, this case's judgment was based on forensic evidence from an expert who compared the suspect's fingerprints with a print discovered on a louvre blade at the crime scene. They exemplify the new application of forensic evidence in Nigerian courts, especially by the Evidence Act of 1945.³⁷ These two judgments indicate how forensic evidence enabled convictions despite the

³⁵ Paul Atagamen Aidonojie, Joseph Nwazi, and Ugiomo Eruteya, "The Legality, Prospect, and Challenges of Adopting Automated Personal Income Tax by States in Nigeria: A Facile Study of Edo State," *Cogito: Multidisciplinary Research Journal* 14, no. 2 (2022): 149 – 170, <https://www.cogitojournal.ro/index.php/cogito/issue/view/3/3>.

³⁶ Millicent Ele, "Oil Spills in the Niger Delta-Does the Petroleum Industry Act 2022 Offer Guidance for Solving This Problem?," *Journal of Sustainable Development Law and Policy (The)* 13, no. 1 (May 24, 2022): 130–61, <https://doi.org/10.4314/jsdlp.v13i1.6>.

³⁷ E. K. Umukoro et al., "Making the Case for Development of Forensic Science in a Developing Country with Emphasis on Forensic Pharmacology: The Nigerian Perspective," *Journal of Applied Sciences and Environmental Management* 28, no. 7 (July 7, 2024): 2095–2104, <https://doi.org/10.4314/jasem.v28i7.22>.

limitations associated with it. The two cases, *R. v. Onitiri* and *Queen v. Akpan*, are landmark cases with early dependencies concerning forensic methodologies within the Nigerian legal system. They set precedents for gradual integration of forensic methodologies into the judicial process.

Well, the issue of the underutilization of forensic evidence in Nigerian courtrooms arose from the slow development of computer and information technology infrastructure by the country itself. After some landmark cases had been decided, the Nigerian Supreme Court issued two contradictory judgments on the admissibility of computer-generated evidence and ironically, they had one of the broadest impacts on the utilization of forensic evidence in Nigerian courts, particularly in digital analyses.³⁸ The first one was the one given in *Esso West Africa Inc. v. T. Oyegbola*, decided in 1969. This is a judgment apparently emphasizing that the law should fit in with modern business techniques: "The law cannot be and is not ignorant of the modern business methods and must not shut its eyes to the mysteries of the computer. It must be understood that in modern times reproduction and inscriptions on ledgers or other documents by mechanical process are commonplace.³⁹ Thus section 37 cannot therefore apply only to books of accounts." It showed a progressive view on technology adoption in law.

The very next year, in 1976, the Supreme Court gave a different view in *Yesufu v. ACB*.⁴⁰ The Court thought that modern technology might fit within the ambit of statutory definitions but contended, "...while we agree that for Sections 96(1)(h) and 37 of the Act, 'bankers' books' and 'books of account' could include 'ledgers cards,' it would have been much better, particularly concerning a statement of account

³⁸ OCHE OGOLEKWU, "Forensic Linguistics as a Catalyst for Crime Detection Among Nigerian Youths: A Study of Selected Police Investigations and Court Proceedings," *Ahyu: A Journal of Language and Literature* 1, no. 3 (May 9, 2020): 42–51, <https://doi.org/10.56666/ahyu.v1i3.6>.

³⁹ Mark O. Ezegbogu and Philemon Iko-Ojo Omede, "The Admissibility of Fingerprint Evidence: An African Perspective," *Canadian Society of Forensic Science Journal* 56, no. 1 (January 2, 2023): 23–41, <https://doi.org/10.1080/00085030.2022.2068404>.

⁴⁰ Oluwafemi Alexander Ladapo, "Effective Investigations, A Pivot To Efficient Criminal Justice Administration: Challenges In Nigeria," *African Journal of Criminology and Justice Studies* 5, no. 1 (2011): 7, <https://digitalscholarship.tsu.edu/ajcjs/vol5/iss1/7>.

contained in a document produced by a computer, if the position is clarified beyond doubt by legislation as had been done in England in the Civil Evidence Act." Because the latter decision did not invalidate the earlier one, both judgments stand valid and unreconciled, creating the challenge from these rulings. This situation thus enables lower courts to pick and choose which judgment to respond to. It cites *Yesufu v. ACB* as it contends that the Evidence Act does not make provision for such evidence when admitting digital forensic evidence.⁴¹ *Esso West Africa Inc. v. T. Oyegbola* refers to courts that tend to accept forensic evidence in their respective judgments. As such, this inconsistency has worked against the uniform application of forensic evidence in Nigeria's judicial system.⁴²

Since 1976 when the court in *Esso West Africa Inc. v. T. Oyegbola* ruled, Nigeria has been tracking considerable developments in computer technology and information and communication infrastructures. The decision became a "funnel" for awakening possibilities and benefits of bringing science and technology to this regard.⁴³ With the deregulation of telecommunications industry, Nigeria witnessed a rapid rise in the number of such facilities during the late 1990s with an explosion of Internet Service Providers (ISPs) and a proliferation of cyber cafes across the country.⁴⁴ In this sense, recognizing the importance of technology, Nigerian government took proactive measures, one of which included the formulation of a National Policy on Information Technology (NPFIT) in 2001, which resulted in the

⁴¹ Y.F. Oluwajobi and Emmanuel Ayokanmi Fatimehin, "Admissibility of Electronically Generated Evidence In Nigeria: History, Challenges, and Prospects," *Run Law Journal* 7, no. 1 (2024): 1–27, <https://www.runlawjournals.com/index.php/runlawj/article/viewFile/76/60>.

⁴² Olayinka Silas Akinwumi and Kamoru Tiawo Lawal, "Admissibility of Computer-Generated Evidence Under Nigeria's (New) Evidence Act, 2011," *International Journal of Legal Information* 40, no. 3 (February 28, 2012): 583–98, <https://doi.org/10.1017/S0731126500011458>.

⁴³ Paul Atagamen Aidonojie, Anne Oyenmwosa Odojor, and Patience Omohoste Agbale, "The Legal Impact of Plea Bargain in Settlement of High Profile Financial Criminal Cases in Nigeria," *Sriwijaya Law Review* 5, no. 2 (July 28, 2021): 161, <https://doi.org/10.28946/slrev.Vol5.Iss2.852.pp161-174>.

⁴⁴ Paul Atagamen Aidonojie, Toyin Afolabi Majekodunmi, and Omolola Janet Adeyemi-Balogun, "The Legal Issues Concerning the Operation of Fin-Tech in Nigeria," *Jurnal Media Hukum* 30, no. 2 (October 31, 2023): 78–97, <https://doi.org/10.18196/jmh.v30i2.18337>.

establishment of the National Information Technology Development Agency (NITDA) Act of 2007 by the National Assembly.⁴⁵

Important said is that much as Nigerian Evidence Act 2011 provides the framework for the admission of evidence, its ambit does not so comprehensively extend to the practice of forensic science or to the applicability of forensic evidence in Nigerian courts. However, certain provisions within the Act do facilitate the application of forensic evidence. Section 67 of the Evidence Act, as it applies generally to the inadmissibility of opinion evidence, reads: "The opinion of any person as to the existence or the non-existence of a fact in issue or relevant to the fact in issue is not admissible except as provided in Sections 68 to 76 of this Act." In commenting on this provision, Yemi Akinseye-George noted that opinions are subjective beliefs based on personal judgment rather than certainty: Therefore, they become unreliable and mostly inadmissible as evidence.⁴⁶ Similarly, Fidelis Nwadialo argues that opinions, being conclusions drawn from facts, are irrelevant and border on encroachment into the area reserved for the court to interpret and infer from the evidence.⁴⁷

Combining the views of these legal scholars and the Act, it appears that their collective conclusions on the exclusion of opinion evidence entail its unreliability, logical weakness, and invasive character in usurping the function of the judiciary. One may ask: is forensic evidence, which is considered opinion evidence, faced with the same inability of admissibility? The answer, as the Evidence Act clarified, is in the negative. Forensic evidence, particularly that offered from the exploitation of

⁴⁵ Paul Atagamen Aidonojie et al., "International Laws Regulating Human Rights in Business Operations in Uganda : Issues and Challenges," *Fenomena: Journal of the Social Sciences* 23, no. 2 (2024): 131–44, <https://doi.org/10.35719/fenomena.v23i2.188>.

⁴⁶ A. Kodzo Paaku Kludze, "Law and Practice Relating to Evidence in Nigeria. By T. Akinola Aguda. London: Sweet & Maxwell (Nigerian Practice Library), 1980. Pp. Lvi, 533. U.S. \$109 (Bound).," *International Journal of Law Libraries* 9, no. 4 (August 13, 1981): 185–89, <https://doi.org/10.1017/S0340045X00002768>.

⁴⁷ Paul Atagamen Aidonojie et al., "The Role of Digital and Scientific Technology in Complimenting Global Legal Framework Towards Clean Energy Transition," *Journal of Sustainable Development Law and Policy (The)* 15, no. 3 (November 25, 2024): 314–43, <https://doi.org/10.4314/jsdlp.v15i3.12>.

expert capabilities, is very much received under the law as a different category. According to Section 68(1) of the Evidence Act, expert opinions may be admitted in court about matters that need specialized knowledge, such as science, handwriting, or fingerprint examination.⁴⁸ It states: "When the Court has to form an opinion on a point of law, customary law or custom, or of science or art, or as to the identity of handwriting or conducting finger impressions, the opinions upon that point of persons specially skilled in such foreign law, customary law or custom, or science or art, or in questions as to the identity of handwriting or finger impressions, are admissible." This provision differentiates forensic evidence from general opinion evidence and affirms that it is admissible provided it comes from a qualified expert.

An expert shall mean "one so skilled about the subject as mentioned in subsection (1) of this section"-section 68(2) of the Nigerian Evidence Act, 2011. It can, therefore, be inferred those digital forensics meets the yardstick for consideration under Nigerian courts as admissible evidence and is not simply a matter of opinion evidence. Physical evidence such as handwriting analysis, computer data, DNA, mobile phone records, and fingerprint analysis should be admissible under the law when presented by forensic experts regarding digital forensics.⁴⁹ Sebastian Tar Hon (SAN) takes issue with the broad interpretation provided by Fidelis Nwadialo on the ground that it runs contrary to the relaxation of the common law rule of excluding opinion evidence contained in Sections 67 to 76 of the Act.⁵⁰ Tar Hon posits that since it was Nwadialo's position that must be necessarily applied, it would follow that even expert opinions are inadmissible, for only the court should draw inferences from proven facts. Tar Hon stands in the same frame as Yemi Akinseye-George, who possesses a somewhat nuanced view. The

⁴⁸ Gideon T.A. et al., "Combating Financial Crimes through Forensic Audit: Evidence from Nigeria," *British Journal of Management and Marketing Studies* 6, no. 4 (October 14, 2023): 54–62, <https://doi.org/10.52589/BJMMS-SRPHNYLN>.

⁴⁹ Alexander Asuquo, "Examining the Obligation to Preserve Electronic Evidence under the Nigerian Law," *Social Science Research Network*, 2019, <https://doi.org/10.2139/ssrn.3309035>.

⁵⁰ Esa O. Onoja, "The Relationship between the Constitutional Right to Silence and Confessions in Nigeria," *African Journal of Legal Studies* 6, no. 2–3 (March 21, 2014): 189–211, <https://doi.org/10.1163/17087384-12342032>.

differences are personal; they share another feature, namely, the fact that Nwadialo and Akinseye-George acknowledge the allowance in the Nigerian Evidence Act 2011 of two kinds of opinion evidence, expert and non-expert.⁵¹ However, Section 67 of the Act states that admissible opinions must relate to matters specifically set out in Sections 67 to 76.

Judicial pronouncements have further made the rules clear for the admissibility of opinion evidence. In *Awaye Motors Company Ltd v. Adewunmi*, the court held that only experts can give opinion evidence. This established principle was also upheld in *Modupe v. The State*. Also, in *All Nigeria Peoples' Party v. Usman*, the Nigerian Court of Appeal went further to explain the rationale for the exclusion of non-expert opinion evidence.⁵² The court explained that witnesses ordinarily restrict themselves to stating observed facts rather than inferring from them because that is the prerogative of the court.⁵³ An unsupported opinion is worthless; and even if an opinion is based on evidence, it would risk stepping into the shoes of the courts. Non-expert opinions get excluded for the reason that this kind of evidence is usually irrelevant, possibly confusing to the courts. For instance, in expert matters, one can get opinions only from experts as being in an appropriate position to interpret complex issues for the courts.⁵⁴ On the other hand, for non-expert issues, their opinions are not entertained as they do not help but confuse the courts and may instead complicate the proceedings.

⁵¹ Muideen Adeseye Awodiran et al., "Digital Forensic Accounting and Cyber Fraud in Nigeria," in *2023 International Conference On Cyber Management And Engineering (CyMaEn)* (IEEE, 2023), 321–26, <https://doi.org/10.1109/CyMaEn57228.2023.10050992>.

⁵² Saliu Jimoh, Abdulwahab D. Shittu, and Sodiq S. Mustapha, "The Nigerian Criminal Justice and the Belligerence of Blasphemy: Societal, Judicial and Islamic Law Perspectives," *Jurnal Hukum Novelty* 13, no. 1 (July 22, 2022): 81, <https://doi.org/10.26555/novelty.v13i1.a23582>.

⁵³ Boniface Ewulum, "Alternative Dispute Resolution Mechanisms, Plea Bargain and Criminal Justice System in Nigeria." 8 (2017);" *University Journal of International Law and Jurisprudence* 8 (2017): 119-124., <https://www.semanticscholar.org/paper/>.

⁵⁴ Benjamin Okorie Ajah et al., "Investigating the Awareness of Virtual and Augmented Realities as a Criminal Justice Response to the Plight of Awaiting-Trial Inmates in Ebonyi State, Nigeria," *Crime, Law and Social Change* 77, no. 2 (March 27, 2022): 111–32, <https://doi.org/10.1007/s10611-021-09988-5>.

While we would not fail to acknowledge the effort of the learned authors and the court, it is hereby submitted with all due respect to whom it concerns that this decision and all similar decisions together with the submissions of learned authors that insist that only the court can give opinion is first of all obsolete and next to it that they were reached per incuriam.⁵⁵ This is given the fact that under the Evidence Act, 2011 and other laws local and foreign even non-experts and a fortiori, experts, can give opinion evidence in the court of law.

Although there is no specific legal framework on forensic evidence in Nigeria, its practice, applicability, acceptability and admissibility in the Nigeria court system has been given the force of law by section 68 of the Nigerian Evidence Act 2011. Apart from the Nigerian Evidence Act, there are other few legislations whose provisions relates to the practice of forensic evidence in the Nigerian Court System. One of these is the Nigerian Cybercrimes Act, 2015. In its Part 3 of the Act, it provides for cybercrime offences. It particularly made it clear that forensic evidence is a necessity.⁵⁶ In Section 41(1) (d) of the Cyber Crimes Act, the Act “establish and maintain a National Computer Forensic laboratory and coordinate utilization of the facility by all law enforcement, security and intelligence agencies”.

The explanation that can be given for this, is that like every other offences information remains instrumental to proving and disproving the guilt or innocence of a cybercrime perpetrators. Give this reality, information forms part of the sum total of the evidence that is tendered before the Court of law. The Cyber-crime has made provision for this. Another law that gives legal backing to the application of forensic evidence under the Nigerian legal system is the Administration of Criminal Justice Act, 2015. This Act came to remove the traditional practice that required the extraction of confessional statements from suspects by law enforcement agencies

⁵⁵ Tae-In Ha, “A Study on Gender Cognitive Sensitivity of a Criterion for Judging the Credibility of Sexual Violence Crimes,” *Korean Association of Public Safety and Criminal Justice* 31, no. 4 (December 30, 2022): 347–78, <https://doi.org/10.21181/KJPC.2022.31.4.347>.

⁵⁶ Nwo Su et al., “Cybercrime and Computer Science Undergraduate Students in Private Universities in Nigeria: An Empirical Investigation,” *International Journal of Computer Trends and Technology* 51, no. 1 (September 25, 2017): 34–37, <https://doi.org/10.14445/22312803/IJCTT-V51P105>.

and replace it with what we called the Judges' rule. The implication of this, is simply that the Nigerian enforcement agencies are by this law mandated to resort to forensics investigative mechanism to be able to trace, identify, apprehend and prosecute perpetrators of crimes in the Nigerian Court System.⁵⁷ This makes it crystal clear that the traditional means of criminal investigation though still relevant is inadequate in its ability to investigate, apprehend and prosecute criminals. Hence, it henceforth resorts to the modern and most innovative mechanism called forensic science as the only adequate means so far to achieve this in the 21st century.

It is noteworthy of mention that the court, the Supreme Court of Nigeria has given credence to the foregoing provision of the law in *Godwin Chukwuma v. FRN*. The apex court in this case affirmed the conviction of the Appellant based on the forensic evidence that was made available to the court by forensic expert who tested an illegal substance adjudged to be Cannabis Sativa found in his possession.

Challenges of Forensic Evidence in the Nigerian Court System

The use of forensic evidence in Nigeria court system faces several challenges. These challenges include the lack of adequate forensic facilities, equipment, and trained personnel. Additionally, there have been instances of mishandling and contamination of evidence, which can affect its admissibility and reliability. However, it will be relevant to consider and examine some of these challenges as follows:

1) Lack of Adequate Forensic Laboratories

It is impossible to fruitfully discuss forensic evidence without talking about forensic laboratories, the hub from which these species of evidence are being produced.⁵⁸ It is unfortunate to note that in the entire Nigeria there has not been

⁵⁷ Samuel Nwatu and Chidebe Nwankwo, "Adopting the Election Petition Model as a Means of Fast Tracking Justice Delivery in the Regular Court System in Nigeria: Problems and Prospects," *The Nigerian Juridical Review* 17 (July 13, 2022): 152–67, <https://doi.org/10.56284/tnjr.v17i1.32>.

⁵⁸ Eve E Carson, "Crime Prevention Belongs to Everyone. Reconstructing the Evidence in a Cold Case and the Effect of External Factors on Crime Resolution," *Journal of Forensic Research* 06, no. 05 (2015), <https://doi.org/10.4172/2157-7145.C1.017>.

sufficient establishment of working Forensic laboratories. At the time this research was carried out, only three (3) functional forensic laboratories existed in the country. Some of the sources and places where these facilities ought to be presented such as the Nigerian Police, the Economic and Financial Crimes Commission, and the Benin Branch among others are lack of these facilities.⁵⁹ The most common and oldest forensic Laboratory in Nigeria is the one that is located at Oshodi, Lagos state, the second one is located at the Federal Capital Territory of Nigeria, Abuja, and the third and brand new one was launched by the Lagos State Government thereby raising the number forensic laboratories to two in Lagos State.⁶⁰ Now, a careful study of this while bearing in mind the size of Nigeria and its population will force one to conclude that Nigeria is far from maximizing the multiple benefits of Forensic Evidence.

2) The Absence of Regulation Regarding Forensic Evidence in Nigerian Legal System

One of the major challenges that interfaces the use of forensic evidence in the Nigerian court is the absence of regulations regarding forensic evidence. This is the argument put forward by Sonja Bitzer. Sonja argues that, it is an obvious challenge within the Nigerian Legal space that a legal framework concerning the practice of forensic science visa vis forensic evidence under the Nigerian legal system is lacking. The submission of the learned is quite apt because the absence of a legal framework concerning the practice of forensic evidence within our court system is adverse.⁶¹ More so, this reveals the reluctant approach that is shown by the Nigerian law makers towards new things so as to take advantage of the innovations that science

⁵⁹ Babajide Olatoye Ilo and Adekunbi Folashade Imosemi, "Prospect and Challenges of Criminal Procedures in Nigeria: A Review," *Unnes Law Journal* 8, no. 2 (October 19, 2022): 279–312, <https://doi.org/10.15294/ulj.v8i2.56482>.

⁶⁰ Olugbile David Olaleye, "An Appraisal of the Use of Plea Bargaining in the Nigerian Justice System," *African Journal of Law, Political Research and Administration* 6, no. 2 (November 21, 2023): 100–124, <https://doi.org/10.52589/AJLPRA-FSWJYPTI>.

⁶¹ Bitzer et al., "Sexual Homicide and the Forensic Process: The Decision-Making Process of Collecting and Analyzing Traces and Its Implication for Crime Solving."

and technology is introducing to legal space.⁶² To this end, it is recommended that, the Nigerian Government should consider putting in place a legal framework regarding the forensic evidence in Nigerian Legal System. Also, legislative amendments are recommended to strengthen forensic evidence Law that can be gleaned in certain laws in Nigeria.

3) **Poor Funding by the Government**

Even though Nigeria have only a few numbers of forensic laboratories over the years, it is as a result of the fact that the Nigerian government has not been committed to funding the few forensic Laboratories.⁶³ To adequately and efficiently utilize forensic science in fighting crimes in our society the government must commit some finances to that purpose. This they have failed to do. As a result, therefore, since inception Nigeria has not been able to sufficiently reap the many beneficial fruit on the tree of forensic science evidence.⁶⁴ The fact that these few are not well equipped with the necessary equipment and reagents to be able to function according to world best practices is another reason that show government's poor commitment. It recommended for the maximum benefit of the legal practice and the Nigerian Justice system that the Nigerian government should invest in forensic infrastructure and commit to its full fundings.

4) **Lack of Training of Experts**

Although it is worth commending the effort of the government and the Ministry of education for having recently introduced forensic evidence as a course of study in some Universities in Nigeria. But, having done that it is apt to state state

⁶² Bitzer, Margot, and Delémont, "Is Forensic Science Worth It?"

⁶³ Robinson Tombari Sibe and Christian Kaunert, *Cybercrime, Digital Forensic Readiness, and Financial Crime Investigation in Nigeria*, Advanced Sciences and Technologies for Security Applications (Cham: Springer Nature Switzerland, 2024), <https://doi.org/10.1007/978-3-031-54089-9>.

⁶⁴ Olaitan O Olusegun and Olatunji S Oyelade, "Access to Justice for Nigerian Women: A Veritable Tool to Achieving Sustainable Development," *International Journal of Discrimination and the Law* 22, no. 1 (March 17, 2022): 4–29, <https://doi.org/10.1177/13582291211043418>.

that there are challenges that came with this.⁶⁵ One major challenge is that the course requires up to date equipment and reagents to be used in teaching the students. It is unfortunate that the universities do not have that equipment to be able to train their students in forensic science. In this regard, without the required equipment a perfect training cannot be done. The implication of this therefore, is that students can be admitted and later graduate yet void of the true understanding of the intricacies and complexities of the course forensic science. They are largely taught in the theoretical aspect without any practical experience. It suffices to state that forensic evidence is too delicate a subject to be taken this likely.⁶⁶ It is therefore, recommended that the Nigerian government particularly the judicial arm should begin capacity building initiatives, for legal and law enforcement professional so as to key into this novel area for the purpose of strengthening the place of forensic evidence in the advancement of the Nigerian Justice system.

5) **Lack of Training of Judicial Officers:**

Second to forensic experts, as far as forensic evidence is concern, judicial officers' knowledge concerning this concept cannot be ruled out. By Judicial officers for the purpose of this we mean the judges who preside over the matter, the state council also known as the prosecutors who stand in court, and the defense counsel, lawyer who take to defend the defendant, legally known as his client.⁶⁷ These personals need a proper training to be able to adequately perform their duties. It is undisputable to state that the use, practice and applicability of forensic evidence in Nigeria court system will be much easier if all parties involved have been trained to

⁶⁵ Godswill Owoche Antai et al., "Legal Framework and Mechanism for Combating International Crimes: A Comparative Analysis between Nigeria and Uganda," *NIU Journal of Social Sciences* 10, no. 3 (September 30, 2024): 37–52, <https://doi.org/10.58709/niujss.v10i3.1978>.

⁶⁶ Damascene Nteziryayo et al., "Advancement and the Existing Landscape of Forensic Medicine in Africa: A Comparison with Developed Countries," *Forensic Science, Medicine and Pathology*, February 28, 2024, <https://doi.org/10.1007/s12024-024-00789-5>.

⁶⁷ Adegboyega Ogunwale, Letitia Pienaar, and Oluwaseun Oluwaranti, "Plausible Subjective Experience versus Fallible Corroborative Evidence: The Formulation of Insanity in Nigerian Criminal Courts," *Frontiers in Psychiatry* 14 (April 19, 2023), <https://doi.org/10.3389/fpsy.2023.1084773>.

understand what forensic evidence is all about.⁶⁸ By this we mean that, the key players as mentioned above without doubt will do better if they were trained to understand the procedure and process involved in tendering forensic evidence in court to be admissible, the weight that will be attached and its overall effect on the case and how to rebut the evidence when necessary.

We further submit that to be able to hear evidence, interpret and analyze them, and arrived at just decision in accordance with the evidence at his disposal of a presiding judge must of a necessity have the requisite knowledge of forensic science and forensic evidence. While, we cannot deny that is how it ought to be, but the current state of things in Nigeria court system is entirely different. Most judges from the Area/ District Court to the Supreme of the land, state counsel and defense counsel/lawyers may not possess sufficient knowledge about forensic evidence.⁶⁹ Similarly, some lawyers might have been shut up or blind to the mystery of science that they have not had the opportunity to rely on forensic evidence for any reasons. All they know is traditional evidence obtained by all traditional means. Meanwhile, we cannot also deny the fact that some might have actually use or involved in case where forensic evidence was relied but did not know what it was all about and so had to rely on forensic experts throughout the trial.⁷⁰ The lack of trained judicial officers therefore, posed one of the major challenges to the application of forensic evidence in the Nigerian Court today.

6) Crime Scene Contamination

Another major challenge concerning the use of forensic evidence in the Nigerian Court System is crime scene contamination. When a crime scene is contaminated then we are not sure of the authenticity of the evidence that will be

⁶⁸ John Oladapo Obafunwa, Oluwatomi Ajayi, and Mathias I Okoye, "Medical Evidence and Proof of Cause of Death in Nigerian Courts," *Medicine, Science and the Law* 58, no. 2 (April 30, 2018): 122–34, <https://doi.org/10.1177/0025802418754576>.

⁶⁹ D. Etin-Osa and C.E. Etin-Osa, "Forensic Science and the Nigerian Society," *Journal of Nuclear Sciences* 6, no. 1 (December 26, 2019): 17–21, <https://doi.org/10.1501/nuclear.2023.49>.

⁷⁰ Paul Oluwatosin Bello, "Criminal Justice Response to Human Trafficking in Nigeria and South Africa: Suggestions for Better Performance," *Contemporary Justice Review* 21, no. 2 (April 3, 2018): 140–58, <https://doi.org/10.1080/10282580.2018.1455507>.

collected. Unlike some other jurisdictions such as the U.S.A, Canada, South Africa etc. where they have trained forensic experts who can manage contaminated crime scene to still get original and authentic evidence as if it were not contaminated.⁷¹ Most Nigerian enforcement and investigatory personnel little or nothing about management of crime scene to avoid contamination by the general public.⁷² Additionally, forensic experts do not come to the crime scene in time and this poses a great challenge to the authenticity of the evidence later collected because it always creates room for crime scene contamination before their arrival.

Conclusion

Concerning the above it is sufficient to indicate that there is a legal framework summarizing forensic evidence in Nigeria which is important for justice, although it does suffer several problems that would otherwise enhance its effectiveness. One of the major problems to the achievement of this goal is lack of adequate legislation regarding all issues related to the admissibility and application of such evidence, especially that arising out of new technologies. Thus, statutes are redundant as they do not fully address the issues related to the handling of very advanced forensic tools since judicial and legal interpretation will be very vague. This has caused differences in ruling, thus undermining the credibility and acceptance of forensic evidence in courts of law in Nigeria. Apart from this, bad legislation has not allowed for a major hindrance, lack of forensic infrastructure: The country is lacking in functional forensic laboratories equipped with modern tools and technology dispensation.⁷³ Such infrastructural underdevelopment has prevented efficient collection and analyses of evidence, as well as delayed judicial processes, thus

⁷¹ Stephen G. Coughlan, "The 'Adversary System': Rhetoric or Reality?," *Canadian Journal of Law and Society* 8, no. 2 (July 18, 1993): 139–70, <https://doi.org/10.1017/S0829320100003203>.

⁷² Damascene Nteziryayo and Liu Xinshe, "Development of Forensic Medicine in Rwanda- Past, Present, and Future Perspectives," *Journal of Forensic and Legal Medicine* 98 (August 2023): 102573, <https://doi.org/10.1016/j.jflm.2023.102573>.

⁷³ Wasiu Gbolahan Balogun, Ansa Emmanuel Cobham, and Abdulbasit Amin, "Neuroscience in Nigeria: The Past, the Present and the Future," *Metabolic Brain Disease* 33, no. 2 (April 9, 2018): 359–68, <https://doi.org/10.1007/s11011-017-0119-9>.

creating disaffection for the legal system among the populace. Without significant investment regarding forensic facilities, the usage of this element in the facilitation of the administration of justice remains even underutilized.

Another challenge that faces the forensic system is that most law enforcement and judicial officers have not been sufficiently trained in using and interpreting forensic evidence. There are many who do not have specific knowledge about the use of forensic tools in the investigation and trial stages. Such knowledge lacunae tend to cause procedural errors that would cast doubt on the integrity of forensic evidence in courts of law.

It is in this regard that strong capacity-building initiatives, evidenced in training and workshops, need to be initiated so that the existing gaps will be closed in terms of the skills and competencies of concerned officers. Forensic evidence should become more significant in the delivery of justice in Nigeria by focusing on legislative reforms, infrastructure improvement, and capacity building. Such reforms would update current laws to recognize modern forensic innovations making the whole judicial process clearer and more consistent in handling forensic evidence. Investments in forensic laboratories and training programs destined for law enforcement and judiciary personnel will add immeasurable value to the credibility and acceptability of forensic evidence within the justice system. These would not just ameliorate the existing problems but also prepare forensic evidence to be the venue through which social justice would be delivered in Nigeria while gaining public confidence in the system. Suffice to add that, the importance of forensic evidence is quite enormous and novel. Forensic evidence, is therefore recommended not only for the Nigeria legal system but also for incorporation into the generality of legal science as a novel course of study and interest. This will be of great service especially to the criminal legal science not only in Nigeria but globally. Should Nigerian take this giant step other nations of the world particularly the African nations will follow her step and wake up to the new dawn of scientific and forensic evidence in their justice system.

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