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University, Okada, Edo State - Nigeria, Email Ids:
michael.nwokolo@yahoo.com, m.i.ivongbe02@members.leeds.ac.uk.***



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ABSTRACT:

“The study examined the Forensic Science evidence admissibility as an instrument for handling criminal prosecution in the process of justice. It was conducted by empirically reviewing related literature in the field of Forensic Science using a qualitative research method and survey research design. The paper used interview sessions to generate primary data and compared the result with the secondary data to justify the relationship of Forensic Science evidence admissibility. The researcher comparatively analysed the importance of Forensic Science evidence in administering justice during criminal proceedings using applicable case studies. The research findings revealed that proper Forensic Science evidence should be used to grant justice as it is a scientific method of justifying truth in a criminal investigation and prosecution both in the court of law and law enforcement agency office. The study recommended amongst others; Forensic Science to be included as an academic discipline in higher institutions in Nigeria, particularly in Nigeria Police Colleges and Law Schools where proper techniques and their application should be taught in grooming more Forensic Experts The paper also recommended and stressed the need to establish more forensic laboratories in Nigeria with proper funding as well as the enactment of a law for the admissibility of forensic evidence in the court of law”.

Keywords: Forensic Science, Evidence Admissibility, Criminal Persecution, Justice Process

I. INTRODUCTION:

In court proceedings as stated by law, before any piece of evidence is tendered by forensic experts, it is expected that such evidence should have admissibility status and probative value. Hence, it is the duty of the Judge and Jury to perform their functions of carrying out these two evidential responsibilities, separately or together, to discover whether this evidence has all it takes in tendering towards truth. The Judge’s function to determine the admissibility

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of evidence and the Jury’s function to assess the importance of evidence ensure that admissibility will not preclude weight, in separating the relationship between admissibility and weight. The objective of the foregoing judicial separation of functions between the judge and Jury is to ensure that evidence brought before the court is scientifically valid and reliable. The process of attaining justice in court has been a challenge for most juries, especially when faced with cases that are of a complicated criminal investigation. Forensic science is a branch of science that deals with the application of science and scientific processes to criminal and civil laws prosecution in order to generate genuine results as an outcome, as governed by the legal standards of admissible evidence.

Juries, especially those from developed countries who understand the role of forensic science evidence in dealing with complicated matters never stop consulting the services of forensic experts in their works; and this is why some authors acknowledge forensic science as criminalistics, where forensic scientist collects, preserves and analyzes scientific evidence during the course of an investigation. This study will verify whether the Jury’s conclusion about the weight of forensic evidence aligns with the Judge’s decision that considered the forensic evidence as being admissible. Is there any significant relationship between the Judge’s method of determining the admissibility of forensic evidence and the Jury’s method of assessing the weight of forensic evidence? Hence, is there any level of professionalism between what is presented for the judge to use in making a decision compared to what the judge pronounced as the conclusion of the case? Finally, the finding will show whether Magistrates, Judges, and Jury have the full knowledge of Forensic Science during proceedings of evidence in the law court.

Usually, an expert's evidence may be an oral testimony adduced in court or it may be by way of a written report. The author being an expert in this field with over thirty years (30yrs) experience, uses this study to highlight lapses discovered in the court proceedings in our society and states why forensic science evidence should be adopted as a tool in our judicial

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processes compared to that of developed nations. Most judges and juries do not know the importance of forensic science evidence in criminal proceedings, as observed by the author, and there is no expert testimony in some criminal cases. In some cases, owing to ignorance or negligence evidence tendered was not checkmated for having admissibility status and probative value leading to the conviction of many innocent people.

Hence, this paper is focused on forensic science evidence as evidence scientifically designed and used to prove the state of committed crime in the court of law. It is carried out by a forensic expert who gives results as evidence in court in accordance with the set standards of admissibility. Forensic science and medical techniques are used routinely in criminal investigation proceedings with one of the fundamental conditions of forensic science evidence admissibility being that the evidence must be relevant. That means it must be capable of rationally influencing the assessment of facts in the issue being treated.

II. OBJECTIVE OF THE STUDY:

The major objective of this study is to determine the importance of admissibility of forensic science evidence in Nigerian court of law by investigating if some criminal prosecutions were concluded with forensic science evidence tendered by forensic experts. Other objectives are

1. To determine the relevance and reliability of allowing forensic science evidence in the Nigerian court.
2. To determine whether the evidence provided by forensic science evidence has genuine admissibility status and probative value.

III. STATEMENT OF THE PROBLEM:

1. The major problem in the field of forensic science in sub-Saharan Africa depends on the full practice and application of this discipline to real-life criminal investigation cases. In developing countries, including Nigeria, forensic science is underutilized

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and its standard is not yet as developed and sophisticated as the ones used in developed nations of the world.

2. This lack of full application of forensic science is a result of a lack of enough expertise in this field, which makes this field still not fully tapped and fertile, especially in the West African Sub-region, as a result, many pieces of evidence usually tendered in court are often not admissible and weighty and thus giving rise to the question as to whether any significant relationship exists between admissibility and weight of forensic evidence. Therefore, the main issue to be addressed in this paper is the unprofessionalism existing in the practice of forensic science.

IV. RESEARCH QUESTIONS:

The following research questions were used to give direction to this study:

1. Does the Nigerian court of law allow forensic experts to handle forensic science evidence admissibility during criminal prosecution?
2. Does the Forensic Science evidence usually accepted in the Nigerian court have attributes of believability, relevance and reliability?
3. Does Forensic Science evidence provided in the Nigerian court have genuine admissibility status and probative value?

V. LITERATURE REVIEW:

Evidence is anything that supports or is against the genuineness of a proposition, an event, or a fact. Different authors have different opinions on evidence but in all, it is the information given or provided in the law court to help in making a decision on a committed crime; it is anything that tendered to prove the truth or probability of truth about facts put before any law enforcement agency, the court and the jury. Inyang and Femi (2020) opined that evidence is anything that proves that a crime has been committed. Though, there are different kinds of evidence such as direct evidence that directly links a person to a crime, without the need of any inference (for example, they were seen committing the crime), circumstantial evidence

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not drawn from direct observation of a fact in issue (If a witness testifies that he saw a defendant fire a bullet), primary *Evidence* which is original document that is presented to the court for its inspection and secondary evidence that is the main source of *Evidence*, forensic evidence that is the application of science within legal proceedings as well as the analysis of key data within court proceedings, and expert evidence used to assist the court when the case before it involves matters on which it does not have the requisite technical or specialist.

It is based on this fact that an expert’s role has become a very important role in forensic science evidence admissibility. A forensic expert’s role presentations might come from different disciplines depending on the discipline where the criminal matter was performed. Therefore, a forensic expert must possess the necessary skills and knowledge required for the assignment to be carried out. Most of the forensic science evidence considered in this study is opinion evidence and subject to exclusionary rules operating in all of our jurisdictions. Because of its great potential to assist the tribunals in discovering facts, all jurisdictions maintain an exception for the opinions of experts or for opinions based on specialized knowledge. Though not all require evidence about the reliability of the method or technique or the expert’s ability for admissibility purposes.

Ballistics, blood test, DNA test, and other relevant scientific methods are used to obtain forensic evidence (USlegal.com, 2020). To ascertain justice in any criminal investigation, the importance of forensic science evidence cannot be forgotten or overemphasized; because, in any witness testimony, it is the forensic science evidence that will bring out the real and genuine facts and not the person giving the evidence (Bangerter, 2016). Forensic science evidence helps in solving both violent and non-violent cases without bringing false and unrelated issues into play. For example, DNA tests are useful for solving cases relating to murder and sexual assault. Furthermore, ballistics are useful for testing weapons used at crime scenes while close circuit cameras, phones, and computer circuits are useful for solving cases relating to white-collar crimes and cybercrimes.

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Forensic science evidence can be grouped or categorized into the following:

- a. Direct (eye witness confessions or statements), circumstantial (suspect’s fingerprints or hair found at crime scenes).
- b. Physical (non-living or organic items like fingerprints, shoe and tyre impression, etc).
- c. Biological (blood, saliva, urine, semen, etc).
- d. Reconstructive (broken glass, open doors or windows, etc.)
- e. Associative (objects, and substances that tie a suspect to a crime scene like gun, paint or soil, etc.).

Gary, et.al. (2014) in their study came up with a proposition that once expert opinion evidence is deemed admissible, the expert witness is subject to make a direct presentation; the process of allowing evidence to pass through the admissibility procedure is to limit redirection by the parties who may wish to call the witness back for cross-examination owing to the perception of bias. It may seem common for an expert’s report to be tendered as his or her evidence-in-chief but in most adversarial jurisdictions the trial judge maintains discretion to exclude otherwise admissible evidence if its reception would result in unfairness or the value of the evidence is outweighed by any unfair prejudice it might engender. In practice, where expert opinion evidence satisfies the exception to the opinion rule, trial and appellate judges rarely resort to discretionary powers to exclude incriminating evidence (Gary, et.a., 2014).

This researcher is yet to come across any previous work which specifically attempted to determine the level of professionalism in the practice of forensic science in a developing world like Nigeria. This research will attempt to fill this gap in order to promote the practice of forensic science in Nigeria. The study put forward in this paper will also attempt at verifying the type of relationship that exists between admissibility of forensic evidence and weight of forensic evidence, to uncover the type of relationship existing between admissibility as determined by the Judge and weight as assessed by the Jury, this aspect will give direction to this current research.

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VI. CONCEPTUAL FRAMEWORK:

Evidence is admissible in the court of law if it is relevant and reliable and it is weighty if it is believable, persuasive, and has probative value. The Jury assesses the weight of forensic science evidence after the Judge has determined its admissibility of the forensic science evidence. Therefore, the specific circumstances or factors that the Jury used in assessing the weight of forensic science evidence depend on the factors that have enabled the Judge to consider the forensic science evidence admissible. This is the fundamental reason why the study of forensic science evidence admissibility and the weight of forensic science relationship have become necessary. Owing to the necessity of admissibility and weight relationship, this study adopted the research model of Inyang and Femi in 2020, which shows the relationship where the verification of whether or not the methods used by the Judge in admitting evidence in court, have any influence on the methods used by the Jury in assessing the weight of evidence brought before the law court. That research model also shows that admissibility-related factors can lead to weight-related factors thereby causing admissibility to influence weight. Therefore, it was based on the importance of admissibility- evidence influence that this study deemed it wise to investigate the process via which forensic science evidence is generated before presenting them to the judge and jury during criminal investigations.

VII. THEORETICAL FRAMEWORK:

This framework will adopt the fraud scale theory of 1984 propounded by Howe and Romney. The theory associates personal integrity with each individual personal code of ethical behavior. When an individual makes a decision or partakes in a decision-making process, his personal integrity becomes observable. The forensic accountants, forensic scientists, the Judge, and Jury all need to demonstrate a high level of integrity because of the tendency to commit fraud (Inyang, 2019; Inyang and Femi, 2020). Also, the Fraud diamond theory of 2004 propounded by Wolfe and Hermanson, provided the theoretical foundation for this work. The other three elements of the fraud triangle theory namely pressure, opportunity, and rationalization cannot lead to fraud when the fourth element called ‘capability’ is absent. The

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unlimited authority sometimes possessed by forensic accountants or experts, the Judge, and the Jury can make them become dishonest. 44 percent of people who perpetrate fraud in corporate institutions have enormous authority (Mathuva, 2009; Inyang, 2019; Inyang and Femi, 2020).

VIII. EMPIRICAL FRAMEWORK:

This paper’s empirical studies will capture those studies that support the theoretical basis of this study, as well as on studies that have attempted to provide answers to the following questions:

- i.*** What are the empirical factors that make forensic science evidence admissible in the court of law?
- ii.*** What are the empirical factors that make forensic science evidence weighty in the court of law?
- iii.*** What type of relationship exists between admissibility of forensic evidence as determined by the Judge and weight of forensic evidence as assessed by the Jury?

Inyang and Femi (2020) in their study tried to investigate the relationship existing between admissibility and weight of forensic science evidence used by judges in Nigerian law courts. The study revealed that there is a little significant relationship between the admissibility of forensic science evidence determined by jury and the weight of forensic science evidence administered by a judge, suggesting that factors that make evidence admissible do not have logical connections with factors that make evidence weighty. It was, therefore, recommended that reliable and valid court verdicts be obtained using proactive methods and principles that will reveal faulty evidence before they are tendered in court. The findings of that study imply that judges and juries should be encouraged to shift their attention from roles alignment to roles distinction and this will further encourage the engagement of competent forensic accountants and forensic experts in order to improve forensic science practices in Nigeria. Fisher (2017) argued that forensic science evidence is valuable in court cases and should be conducted by forensic experts, even without statistics to assess its worth. He made this statement in reacting or responding to the claim made by critics that expert opinion should

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depend on objective data. Arguing against this claim, he said that expert opinion or forensic science evidence should not depend on only statistics in order to make such evidence admissible in court, that since expert conclusions on legal matters are based on professional training, knowledge, skills, and experience all of which are also based on empirical data. The author further argued that requiring forensic science evidence to be supported with statistical data on cases is like saying that all expert testimony on such cases should also depend on statistical evidence. Opinion evidence according to the author, which is based on subjectivity, should not be rejected out of hand since any information presented to the court to make decisions depending on the admissibility and the weight of the evidence. Despite the statistical evidence claim made by critics of forensic science evidence cases, the Judge who is the gatekeeper is still the one to decide what is admissible and what is not for the jury to assess.

Watney (2009) focused his attention on rules that govern the admissibility of electronic forensic science evidence in relation to the South African legal framework in the law of evidence. The author argued that admissibility should center on the establishment of the type of electronic forensic science evidence which is being used in law court whether it is documentary or real evidence. The author asserted that the admissibility of electronic forensic science evidence is fully functional similar to traditional forensic science evidence in South Africa and that the country does not have special rules governing electronic forensic science evidence. He further made it clear that South African law of evidence is bedeviled by the absence of procedures regulating the collection, storage, and presentation of electronic forensic science evidence when if addressed, will make the country successfully face the 21st-century challenges and its role in proving electronically committed crimes will be improved.

Jerrold (2015) attempted in his style of writing but, aa very important article to answer these two questions: what makes some forensic science evidence admissible? And who makes this decision? In providing answers to the above questions, the author argued that generally

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accepted things have many ways of treatment or handling and experts who engage in condemning one another at trials fall as the real culprits. He asserted that errors are inevitable, and having differing views and approaches are not failures but, can be regarded as norms or beliefs and approaches that have gained general acceptance. He agreed with an article that stated that junk science finds its way into the courtroom because Judges and Jurors have too much responsibility in deciding expert testimony that is or is not admissible and weighty. The author’s work has something in common or slightly similar to the position held by Idhiarhi (2018) wherein an attempt to discuss the role of forensic science experts in criminal investigation, the author used the decision taken by Attorney-General, Oyo State v. Fairlakes Hotels case to conclude that it is not the duty of the court to raise matters of inadmissibility or non-compliance and that it is the opposite party’s duty to raise an objection and if an objection is not raised, the non-compliance will be taken as having been waived.

IX. RESEARCH METHODOLOGY:

This study used both primary and secondary data. The primary data was generated through the use of survey design, which is a systematic method for gathering information through observation from a sample of the population. Owing to the nature of the survey design, the researcher has to use an ex-post-facto approach in order not to manipulate variables. The researcher also used a qualitative research design to conduct and a one-on-one interview was used for data collection.

The researcher then proceeds to compare the results of primary data with that of the existing secondary data generated from other existing analysis to justify the accuracy of the information presented in this study analysis. Qualitative research design is a research method used extensively by scientists and researchers studying human behavior, opinions, themes, and motivations (<https://explorable.com>). The population of this study consisted of professional accountants, professional auditors, forensic experts, financial analysts, and legal practitioners that constituted the targeted courts, Police, and other law enforcement agency

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offices within Lagos state. The sample size of this research study was limited to the number of respondents that attended the interview session. During the course of the study the researcher visited ten Police Stations, five Magistrate Courts and two High Courts within the Lagos State; and encountered seventy-five professionals who serve in the field of Lawyers, Police Officers, Naval Officers, etc. and conducted one-on-one interview with them. The Researcher continued to ensure that the data generated were bias-free by using open-ended techniques.

X. DATA ANALYSIS:

The description of data from the conference with the sample size shows that the practice of forensic science is underutilized by those involved in handling criminal cases. Though, the majority of the respondents agreed that the application of forensic science evidence in the courts during the criminal prosecution will be an awesome method for granting justice to citizens, especially to those that felt that they were wrongly convicted during and after proceedings. These respondents also strongly agreed that the practice of admissibility of Forensic Science evidence will bridge the loopholes in the traditional investigative techniques and also enhance the judges and jury’s decision-making process during criminal prosecutions.

XI. DISCUSSION OF FINDINGS:

This study reveals that the lack of forensic laboratories, equipment, and expertise has limited the law enforcement agencies and courts in Nigeria to rely on heavily the traditional ways of eyewitnesses’ accounts and confessions made available during investigations and prosecution as a method of gathering information during prosecutions, leaving them to no option than the application of other mechanical forces. This information is in concordant with the statement made by Ojo (2005) that opined that the lack of forensic science practice in criminal investigation has led to the use of force and torture techniques by the Police. The consequence of this is that during prosecutions, virtually all the confessional statements are challenged on grounds of Police coercion. The researcher, a Professional and Expert with huge experience in the field, upholds highly that the application of forensic science evidence

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admissibility during a criminal investigation of cases will be instrumental to proper criminal prosecution in justice processes.

XII. FORENSIC SCIENCE LIMITATIONS IN NIGERIA:

Presently with the great number of higher institutions in Nigeria, only a few offers forensic science as a discipline or as part of the study covered in the field of Criminology. These few offerings forensic sciences lack the required expertise and equipment, even with the dazzling necessity of forensic science within the globe, Nigeria still lacks enough professionally trained forensic experts. Most explorations in this field that require the assistance of forensic scientists end up not being explored, even when explored, will require highly extortionate to hire professionals from abroad. Some Prosecutors in Nigeria, especially those working in the Law Enforcement Agency lack proper and requisite skills, there are some who constantly demonstrate consummate maladroitness while handling criminal cases at the lower courts. They flaunt unprofessionalism when handling evidence necessary to prove a case, thereby either halting the case or allowing a guilty person to be acquitted.

As complex as Nigeria is this country has only three forensic science laboratories; two are located in Lagos and one located in Abuja. However, these labs are still not well equipped with modern equipment for crime detection and investigation with a shortage of relevant chemicals and reagents and poorly motivated staff. Although in the constitution of the Federal Republic of Nigeria, 1999, made provisions for forensic science evidence but unfortunately, the executive has not been able to draft any bill with regard to forensic science.

Nigeria's law enforcement agencies lack funding for research and development as it relates to forensic science in this 21st century. The only obvious funding associated with the criminal justice sector is the provision of money for the purchase of new vehicles, renovation of offices, and increment of salaries. There is really a need for continuous research and development in the areas of forensic science.

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XIII. FORENSIC SCIENCE TECHNIQUES IMPROVEMENT IN NIGERIA:

This state of affairs of this nation has called for the need for adequate training of forensic experts and crime investigators. There should be an introduction of forensic science as a discipline in higher institutions with the aim of enhancing the training of experts in the field of forensic science. There is an urgent need for the establishment of well-equipped forensic laboratories in all the states across the nation as the existing few lack the basic required equipment, chemicals, and manpower. In a densely populated country like Nigeria with an alarming increase in crime rate such as kidnapping, armed robbery, etc. Nigeria is constantly plagued with all forms of sophisticated crimes and attacks. In investigating and combating these crimes, forensic science laboratories should be established in at least one location in each state of Nigeria. This would tremendously help in terms of ascertaining and preserving evidence necessary for forensic science investigation and criminal justice.

There should be an enactment of laws by the government so as to cater to forensic science and also its admissibility in court. In a country like Nigeria, there is no law regulating forensic science application and enforcement. Even the Evidence Act, Penal Code, and Criminal Code made no provision for forensic science-based analogy in criminal or general law. Just as Alisigwe and Oluwafemi (2019) opined that the country should borrow a leaf from its African counterpart such as South Africa or from other developed countries such as Australia and the United State of America. These countries have a law that fundamentally caters to Forensic Science. The head of law enforcement agencies should also establish rules concerning forensic science procedures and enforcement considering the fact that the state of the nation has truncated badly and needs urgently forensic science to curb crime and fast-track trials. The criminal justice sector in partnership with the Ministry of Information should ensure that proper awareness is given to society in relation to how crime scenes can be managed. People are to be told how to stay clear of crime scenes. The investigators should also ensure that they do not loiter about the scene. The government should ensure that it

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funds the criminal justice sector with research grants on forensic science so as to ensure that the society is not constantly threatened by new trends of crimes especially those that are forensically inclined. In a country like the USA, the government provides sufficient funding to the FBI, CIA, BJS, and NIJ, and this is obviously the reason why America is developing rapidly because crime is being monitored, controlled, and eliminated as a result of the alertness and up-to-datedness of the law enforcement agencies.

XIV. SUMMARY:

The study of the state of forensic science in criminal investigation and its administration of justice in Nigeria shows that Forensic science has not thrived in Nigeria when compared to countries such as Australia, the United States of America, and even South Africa because the Nigerian law enforcement agencies still embrace and prefer the traditional eyewitnesses accounts and confessions for crime investigations. The Nigerian law enforcement agencies, the legal practitioners, and the citizenry of Nigeria are not fully aware of the core or significant roles of forensic science in criminal investigation and the administration of justice. The law enforcement agencies and the legal system have not developed an enabling environment for forensic science to thrive. The irregularities and delays in the administration of justice in Nigeria is as a result of the failure to embrace forensic science which has become indispensable in crime investigation and administration of justice as criminals are becoming sophisticated in their operations.

XV. CONCLUSION AND RECOMMENDATIONS:

Nigerian law enforcement agencies should be properly trained on the significance of forensic science and its admissibility in crime investigation. There should be a standard for the scientific interpretation of results in forensic science labs to serve as a guide to the framing of expert reports, the terminology to be used, and how conclusions should be expressed. It should be disseminated both among experts and the courts, with appropriate training. Forensic Science as an academic discipline should be introduced into Nigeria’s higher

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institutions, particularly in Nigeria Police Colleges and Law Schools where proper techniques and their application should be taught, while grooming up more Forensic Experts and at the same time Lawyers, Magistrates, Judges, and Jury should be taught about the value of all forensic science principles and practices. Significant efforts must be made to enable all those involved in the judicial system to be fully aware of the strengths and weaknesses of forensic reports to improve applications. Hence, this awareness exercise may be achieved through workshop and seminars where forensic science practices will be fully taught, though, it is not their area of specialization but it helps in understanding and improving the judicial system instead of depending on and adopting the traditional way of using assumption and probability.

There is an urgent need for establishing more forensic laboratories in Nigeria considering how densely populated the country is and the alarming increase in crime rate, and the proper funding of the available ones. Furthermore, there should be proper funding for research in forensic science in the country. Finally, there is a need for the establishment of a framework or body regulating the forensic practice in Nigeria enforcing the proper code and ethics for the conduct of forensic investigations.

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