

EFCC Raids and the Legal Dilemma of Illegally Obtained Evidence in Nigeria

By Fope Agbede

In the early hours of a recent day, tragedy struck during an EFCC (Economic and Financial Crimes Commission) operation. Officers stormed a residence around 4 a.m., allegedly failing to identify themselves as law enforcement personnel. The homeowner, under the impression that he was under attack by armed robbers, opened fire in self-defense. In the chaotic exchange that followed, one EFCC officer lost his life. This deeply unfortunate incident underscores a troubling issue in Nigeria's law enforcement practices: the alarming frequency of unauthorized or improperly executed raids, and the broader implications for justice and the rule of law.

At the heart of this problem lies a critical flaw in Nigeria's legal system: the admissibility of illegally obtained evidence. Under the *Evidence Act, 2011*, evidence is considered admissible as long as it is relevant, regardless of how it was obtained. This approach has emboldened law enforcement agencies to engage in questionable practices, including warrantless searches, midnight raids, and outright violations of citizens' constitutional rights. The belief that "the end justifies the means" has taken root in the pursuit of evidence, creating a culture of impunity where the rule of law is often overshadowed by expedience.

This issue is not merely legal—it is deeply societal. Citizens subjected to such raids often find their privacy and dignity violated, with little recourse or accountability for the actions of law enforcement agencies. Moreover, the public perception of justice is eroded when law enforcement officers operate outside the bounds of legality, even when their actions are ostensibly aimed at combating crime.

The tragic outcome of the EFCC raid highlights an urgent need for reform. Beyond the immediate consequences of reckless law enforcement actions, the long-term implications for Nigeria's justice system are profound. Allowing illegally obtained evidence to be admissible in court not only perpetuates a disregard for due process but also undermines the very principles of fairness, accountability, and the rule of law.

This article will examine the legal framework surrounding the admissibility of evidence in Nigeria, the dangers posed by the current standard, and the pressing need for reforms. Drawing comparisons with global best practices, it will advocate for a system that upholds the rights of citizens while ensuring that law enforcement agencies operate within the confines of

legality. By addressing this issue, Nigeria has the opportunity to restore public trust in its justice system and create a legal framework that prioritizes fairness, accountability, and the protection of human rights.

1.0 Understanding the Legal Framework for Evidence Admissibility in Nigeria

At the core of Nigeria's legal system is the *Evidence Act, 2011*, which governs the admissibility of evidence in court. Section 1 of the Act establishes that evidence is admissible as long as it is relevant to the matter in question. This principle, however, does not take into account the manner in which the evidence was obtained. Whether it was acquired through lawful means or by violating the rights of individuals, the Act prioritizes relevance over legality.

This principle has been repeatedly upheld by Nigerian courts. For instance;

In *Ezeugo v. State*¹, the Supreme Court ruled that the admissibility of evidence depends solely on its relevance and not the means of acquisition.

Similarly, in *Rabiu v. State*², the court emphasized that evidence obtained illegally does not automatically become inadmissible, provided it is relevant to the case.

Internationally, this approach contrasts sharply with legal frameworks in other jurisdictions. For example;

In the United States, the “exclusionary rule” under the Fourth Amendment bars evidence obtained in violation of the constitutional protection against unreasonable searches and seizures.³

Similarly, Article 6 of the European Convention on Human Rights emphasizes the right to a fair trial, often excluding evidence obtained through rights violations. The European Court of Human Rights, in cases such as *Jalloh v. Germany*⁴, has consistently upheld this principle.

These jurisdictions recognize that the integrity of the judicial process must be preserved by discouraging illegal conduct by law enforcement agencies.

In Nigeria, however, the admissibility of illegally obtained evidence has created a perverse incentive for law enforcement agencies. Knowing that such evidence will likely be accepted

¹ (2013) LPELR-19984(SC)

² (1980) 8-11 SC 130

³ *Mapp v. Ohio*, 367 U.S. 643 [1961]

⁴ (2006) ECHR 721

in court, agencies like the EFCC often bypass due process, resorting to warrantless searches, midnight raids, assault, and other questionable methods. This not only infringes on the constitutional rights of citizens (as guaranteed under Sections 34 and 37 of the *1999 Constitution of the Federal Republic of Nigeria, as amended*) but also undermines public confidence in the justice system.

The legal framework, as it stands, raises important questions: Should relevance always outweigh legality in the admission of evidence? Does this approach not encourage a culture of impunity among law enforcement agencies? These are the questions that Nigeria must address to ensure that its justice system upholds the principles of fairness, accountability, and respect for human rights.

2.0 The Implications of Illegally Obtained Evidence on Law Enforcement Practices

In Nigeria, the admissibility of illegally obtained evidence has significant implications for law enforcement practices. The principle that relevance, rather than legality, determines admissibility has shaped how agencies like the Economic and Financial Crimes Commission (EFCC) operate. This section explores how this legal stance has contributed to questionable law enforcement tactics and its broader societal impact.

Encouraging Procedural Misconduct

The knowledge that courts prioritize the relevance of evidence over its method of acquisition creates a loophole for law enforcement agencies to bypass due process. Midnight raids, warrantless searches, and arbitrary arrests have become recurring strategies, as seen in the EFCC's practices. These actions not only undermine constitutional guarantees but also foster a culture of impunity among law enforcement officials.

For instance, Section 37 of the *Constitution of the Federal Republic of Nigeria, 1999 (as amended)* protects the privacy of citizens' homes, correspondence, and communications. Section 44 further prohibits arbitrary deprivation of property. Yet, these constitutional safeguards are often disregarded when law enforcement resorts to illegal methods to obtain evidence. The recent EFCC raid that led to the death of an officer underscores how these tactics can escalate into tragic outcomes.

Erosion of Public Confidence

The perception of law enforcement as a tool of oppression rather than justice has eroded public trust in Nigeria's legal system. Citizens increasingly view agencies like the EFCC as entities that prioritize results over respect for human rights. This distrust extends to the judiciary, which is perceived as complicit when it admits illegally obtained evidence.

Disregard for Human Rights

The admissibility of illegally obtained evidence indirectly normalizes the violation of fundamental human rights. The courts' stance implies tacit approval of unlawful actions by law enforcement, creating a dangerous precedent. In jurisdictions where procedural integrity is prioritized, such as the United States and Europe, the exclusion of evidence obtained through illegal means acts as a deterrent against human rights violations. Nigeria's current framework, however, does not offer such protections, leaving citizens vulnerable.

2.1 Judicial Precedents

Nigerian courts have consistently upheld the principle of relevance over legality. In *Abubakar v. Chuks*⁵, the Supreme Court reiterated that "the law is concerned with whether the evidence is relevant, not whether it was obtained properly." While this stance aligns with the statutory framework of the *Evidence Act, 2011*, it also highlights the judiciary's limited role in curbing law enforcement misconduct.

2.2 Global Comparisons and Lessons

Nigeria's approach diverges from the practices in many other countries. The "fruit of the poisonous tree" doctrine in the United States, established in *Silverthorne Lumber Co. v. United States*⁶, ensures that evidence derived from an illegal act is inadmissible in court. Similarly, Article 6 of the European Convention on Human Rights has been interpreted to exclude evidence obtained in violation of fundamental rights.

These international standards emphasize the need for procedural integrity and accountability in law enforcement. Nigeria can draw lessons from these practices to reform its legal framework, ensuring that evidence admissibility does not come at the expense of citizens' rights.

3.0 Reforming the Legal Framework on Admissibility of Illegally Obtained Evidence

⁵ (2007) LPELR-52(SC)

⁶ 251 U.S. 385 (1920)

To address the issues arising from the admissibility of illegally obtained evidence, Nigeria's legal framework requires urgent reforms. Such changes should prioritize procedural integrity, respect for human rights, and accountability in law enforcement practices. This section outlines key recommendations for reform.

➤ **Amend the Evidence Act to Prohibit Illegally Obtained Evidence**

The *Evidence Act, 2011* must be amended to include a provision that explicitly excludes evidence obtained in violation of constitutional rights. This reform would align Nigeria with international best practices and act as a deterrent against unlawful law enforcement activities.

For instance, Section 37 of the *Constitution of the Federal Republic of Nigeria, 1999 (as amended)* guarantees the right to privacy. Adopting an exclusionary rule similar to that in the United States, established in⁷, would ensure that evidence obtained through unlawful searches or seizures is inadmissible in court. Such a rule would uphold the sanctity of constitutional rights and promote accountability.

➤ **Introduce Independent Oversight of Law Enforcement**

The establishment of an independent body to oversee law enforcement practices is essential. This body should have the authority to investigate complaints of procedural misconduct, including warrantless raids and other unlawful activities. By ensuring that law enforcement agencies adhere to due process, such oversight can curb abuses of power.

➤ **Strengthen Judicial Training and Accountability**

Judges play a critical role in safeguarding procedural fairness. Comprehensive training programs should be implemented to equip judicial officers with the tools to balance the relevance of evidence with the protection of constitutional rights. Additionally, judicial accountability mechanisms should be enhanced to ensure that courts do not inadvertently encourage law enforcement misconduct.

➤ **Public Awareness and Advocacy**

Citizens must be educated about their rights under the Constitution and the limitations placed on law enforcement agencies. Public awareness campaigns can empower individuals to challenge unlawful searches and seizures. Civil society organizations and the legal community must also advocate for reforms to the *Evidence Act, 2011*, and related laws.

⁷ *Mapp v. Ohio*, 367 U.S. 643 (1961)

➤ **Learning from International Practices**

Nigeria can draw valuable lessons from jurisdictions that have implemented robust exclusionary rules. For example;

In Canada, Section 24(2) of the *Charter of Rights and Freedoms* allows courts to exclude evidence if its admission would bring the administration of justice into disrepute.

Similarly, the European Court of Human Rights, in *Jalloh v. Germany*⁸, ruled against the use of evidence obtained through rights violations, emphasizing the need for procedural fairness.

Adopting these practices would signal Nigeria's commitment to upholding the rule of law and protecting citizens' rights.

➤ **Incentivizing Lawful Conduct by Law Enforcement**

Introducing policies that reward law enforcement agencies for procedural compliance could reduce instances of misconduct. For instance, performance metrics could include adherence to due process, rather than solely focusing on successful prosecutions.

4.0 Conclusion

Reforming the admissibility of evidence laws is not just a matter of legal necessity; it is a moral imperative to protect the rights of citizens and restore public trust in the justice system. The tragic outcomes of procedural misconduct, such as the EFCC raid that resulted in loss of life, underscore the urgency of these reforms. By ensuring that illegally obtained evidence is inadmissible, Nigeria can set a higher standard for law enforcement practices and strengthen the rule of law.

⁸ (2006) ECHR 721

