

# Krispy Legal's NEWSLETTER



## **JURISDICTION AS STRATEGY: CHOOSING WHERE TO FIGHT**

A Critical Examination of  
Strategic Jurisdiction in  
Nigerian Litigation

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## **JURISDICTION AS STRATEGY: CHOOSING WHERE TO FIGHT**

### *A Critical Examination of Strategic Jurisdiction in Nigerian Litigation*

#### **INTRODUCTION**

In the field of litigation, the choice of court is rarely a procedural walkover. It is, more often than not, the opening war of a carefully considered strategy. The seasoned litigant understands that jurisdiction is not merely a requirement to be satisfied, it is a weaponry, a shield for defence, and sometimes a war field in itself. The court in which a dispute is filed can determine the speed of the proceedings, the applicable procedural rules, the likelihood of injunctive relief, and in some cases, the disposition of the bench itself. To choose well is to gain an advantage even before pleadings are exchanged.

In Nigeria, the strategic dimension of jurisdiction is particularly imperative. The country operates a multi-layered court system, a constitutional framework or template that distributes judicial power among courts of varying subject-matter competence, territorial reach, and institutional character.<sup>1</sup> The Federal High Court, State High Courts, the National Industrial Court, the Court of Appeal, and the Supreme Court each occupy a distinct space in this hierarchy and are often referred to as court of records. Beneath them sit Magistrate and District Courts. Where a cause of action is capable of fitting within the jurisdiction of more than one court, the litigant confronts a serious choice and that choice carries consequences and effect.

This article examines the concept of jurisdiction as a litigation strategy in Nigeria. It interrogates the structural features of Nigerian courts that create space for strategic forum selection, traces the judicial response to forum shopping, and evaluates the legitimacy of deliberate jurisdictional choices from the standpoint of professional ethics and access to justice.

#### **THE ARCHITECTURE OF JURISDICTION IN NIGERIA**

Jurisdiction, in its most fundamental and literal sense, is the authority of a court to hear and determine a cause of action. As Black's Law Dictionary defines it, jurisdiction refers to “*a government's general power to exercise authority over all persons and things within its territory*”

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<sup>1</sup> Constitution of the Federal Republic of Nigeria 1999 (as amended), s 6; see also s 232 (Supreme Court), s 249 (Federal High Court), s 270 (State High Courts). Available at: <https://www.nigeria-law.org/ConstitutionOfTheFederalRepublicOfNigeria.htm> accessed on 2<sup>nd</sup> April, 2026.

as well as a court's power to decide a case or issue a decree.”<sup>2</sup> In the Nigerian legal system, this authority is not monolithic but carefully parceled out by the Constitution and statute.

At the apex of the civil court hierarchy is the Supreme Court, followed by the Court of Appeal, and then the Federal High Court and the State High Courts at the trial level. The Federal Capital Territory High Court, the National Industrial Court, as well as Customary and Sharia Courts of Appeal in applicable states, further complicate this landscape. Each court exists within a web of constitutional and statutory grants, and each has a defined scope beyond which its orders may be void for want of jurisdiction.

The Federal High Court, established under section 249 of the Constitution, is a court of limited but exclusive civil jurisdiction. Section 251(1) vests in it exclusive competence over matters ranging from federal revenue, taxation of companies, banking and currency, intellectual property, and admiralty, to constitutional interpretation in so far as the Federal Government or its agencies are involved.<sup>3</sup> The State High Courts, by contrast, are courts of general jurisdiction. Section 272(1) of the Constitution confers on them “*unlimited jurisdiction to hear and determine any civil proceedings in which the existence or extent of a legal right, power, duty, liability, privilege, interest, obligation or claim is in issue.*”<sup>4</sup> The critical qualifier, however, is that this unlimited jurisdiction is 'subject to the provisions of section 251 and other provisions of this Constitution.'<sup>5</sup>

This expansive and broad State High Court jurisdiction constrained and restricted by a carve-out for the Federal High Court is an important source of litigation strategy. The Supreme Court has settled that the Federal High Court is a court of 'limited' civil jurisdiction in the sense that it may only exercise power in matters specified under section 251(1), while the State High Court retains residual jurisdiction over civil matters outside that catalogue.<sup>6</sup> The practical implication is that a claimant who can characterize a dispute as touching on federal revenue, company taxation, or the executive acts of a federal agency may legitimately invoke the Federal High Court, even where an ordinary breach of contract might otherwise belong to the State High Court.

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<sup>2</sup> Bryan A Garner, *Black's Law Dictionary* (10th edition, West Publishing Group 2014) 868.

<sup>3</sup> Constitution of the Federal Republic of Nigeria 1999 (as amended), s. 251(1)(a)-(s). Available at: <https://www.nigeria-law.org/ConstitutionOfTheFederalRepublicOfNigeria.htm> accessed on 2<sup>nd</sup> April, 2026.

<sup>4</sup> Constitution of the Federal Republic of Nigeria 1999 (as amended), s. 272(1).

<sup>5</sup> Chike B Okosa, “Jurisprudence of Jurisdiction: Relationship and Jurisdiction as Between the Federal and State High Courts” (2022) COOU Journal 1, 6. Available at: <https://journals.ezenwaohaetorc.org/index.php/coou/article/download/3069/3199> accessed on 2<sup>nd</sup> April, 2026.

<sup>6</sup> Onuorah v Kaduna Refining & Petrochemical Co. Ltd [2005] 6 NWLR (Pt 921) 393 (SC); see also Aluko & Oyebode, “Exclusive Jurisdiction of the High Court Over Simple Contracts” (June 2025). Available at <https://www.aluko-oyebode.com/insights/exclusive-jurisdiction-high-court-simple-contracts-cbn-v-adani/> accessed on 3<sup>rd</sup> April, 2026.

## **THE STRATEGIC CALCULUS OF FORUM SELECTION**

Strategic forum selection involves more than identifying which court 'can' hear a matter. It requires a careful assessment of which court is most likely to produce a favourable outcome, within the shortest time-frame, at the lowest cost, and with the greatest procedural leverage. In Nigeria, several variables inform this calculus.

First, there is the matter of **procedural sophistication and speed**. The Lagos Division of the Federal High Court, and the Lagos State High Court operating its fast-track procedure, offer markedly different experiences from courts in states with limited judicial infrastructure. The Lagos fast-track procedure allows commercial claims of not less than N100 million to be disposed of within 90 days.<sup>7</sup> A claimant seeking urgent resolution of a high-value commercial dispute would be well-advised to consider whether venue in Lagos, with its more modern procedural machinery, is available and justified.

Second, there is the question of **exclusive jurisdiction clauses in commercial contracts**. Nigerian courts recognise and enforce forum selection clauses contractual agreements specifying the court before which disputes shall be tried.<sup>8</sup> Such clauses have become standard features of sophisticated commercial agreements in Nigeria, and their enforcement represents a form of pre-litigation strategic jurisdiction planning. Where a party successfully invokes an exclusive jurisdiction clause, it can resist proceedings commenced in an alternative court on the ground that the parties have already settled the forum question by agreement or sometimes will give option for resolution via arbitration in case of dispute.

Third, the availability and character of **interim and injunctive relief** vary across courts. The Federal High Court, by the terms of its civil procedure rules, has developed a robust practice of granting ex parte orders in matters within its exclusive jurisdiction, including admiralty and banking disputes.<sup>9</sup> A claimant seeking to arrest a vessel or freeze a bank account pending trial would think carefully about whether the Federal High Court's admiralty division is the appropriate venue, given its established practice and specialised procedure.

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<sup>7</sup> Hon. Justice Adenike J. Coker, Accessing the fast track procedure under the high court of Lagos state (civil procedure) rules 2012: The journey so far. <https://dnlegalandstyle.com/dnl/accessing-fast-track-procedure-high-court-lagos-state-civil-procedure-rules-2012-journey-far-hon-justice-adenike-j-coker-mrs/> accessed on 3<sup>rd</sup> April, 2026.

<sup>8</sup> ICLG, 'Litigation & Dispute Resolution Laws and Regulations Nigeria 2024-2025' (February 2024). Available at <https://iclg.com/practice-areas/litigation-and-dispute-resolution-laws-and-regulations/nigeria> accessed on 3<sup>rd</sup> April, 2026.

<sup>9</sup> Messrs NV Scheep v MV S Araz [2000] 15 NWLR (Pt 691) 622 (SC). See also Federal High Court of Nigeria, 'About Us'. Available at <https://fhc.gov.ng/about-us/> accessed on 3<sup>rd</sup> April, 2026.

Fourth, practitioners increasingly exploit the concurrent jurisdiction of certain courts in matters of fundamental rights enforcement. Section 46(1) of the Constitution vests in both the Federal High Court and the State High Courts concurrent jurisdiction to enforce fundamental rights.<sup>10</sup> This creates a choice and sometimes a race to the most favourable division. A respondent in criminal proceedings who also faces civil regulatory action may file a fundamental rights application in a court perceived as more sympathetic, or in a distant division, precisely to complicate the opposing party's logistics.

Fifth, the **geographical spread of federal court divisions** is itself a strategic tool. The Federal High Court, though constitutionally a single court, maintains judicial divisions across the country. A party may legitimately commence proceedings in the Abuja, Lagos, or Port Harcourt division, depending on where elements of the cause of action arose. The choice of a distant division can impose significant costs and inconvenience on the opposing party, an advantage sometimes deliberately exploited in commercial and pre-election litigation.

### **THE NATIONAL INDUSTRIAL COURT: A COMPELLING CASE STUDY**

The evolution of the National Industrial Court (NIC) illustrates how the shifting boundaries of exclusive jurisdiction can alter the strategic landscape for litigants. The NIC was established in 1976 under the Trade Disputes Act. For decades, it shared jurisdiction over employment matters with State High Courts, producing a period of inconsistent decisions and judicial uncertainty. The Third Alteration to the Constitution in 2010 transformed this landscape by inserting section 254C, which vests in the NIC exclusive jurisdiction over all matters relating to or connected with labour, employment, trade unions, industrial relations, and workplace conditions.<sup>11</sup>

Scholars have described the Third Alteration Act as a 'watershed moment' in Nigerian labour jurisprudence, establishing the NIC as *'the prime and exclusive judicial body for the resolution of all labour, employment and industrial relations affairs in the country.'*<sup>12</sup> Prior to this, courts of appeal rendered inconsistent decisions, with some divisions holding that the NIC had exclusive jurisdiction in labour matters and others favouring concurrent jurisdiction with State High

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<sup>10</sup>Constitution of the Federal Republic of Nigeria 1999 (as amended), s 46(1); see also Federal High Court of Nigeria, 'About Us' (n 9).

<sup>11</sup> Constitution of the Federal Republic of Nigeria 1999 (as amended), s 254C(1) (as inserted by the Constitution (Third Alteration) Act 2010).

<sup>12</sup> O. D Amucheazi and Paul Abba, *The National Industrial Court of Nigeria: Law, Practice and Procedure* (University of Huddersfield Research Portal 2015). Available at <https://pure.hud.ac.uk/en/publications/the-national-industrial-court-of-nigeria-law-practice-and-procedure> accessed on 4<sup>th</sup> April, 2026.

Courts.<sup>13</sup> Following the Third Alteration, a claimant pursuing wrongful dismissal or breach of employment terms cannot strategically choose between the NIC and the State High Court. The exclusive jurisdiction of the NIC forecloses that option. However, the strategy has merely shifted: disputes may now be framed as employment matters to attract the NIC's jurisdiction, or conversely, characterised as tortious or contractual claims with no employment nexus so as to keep them before the State High Court. The question of 'what is an employment matter' has itself become a site of strategic argumentation.

### **FORUM SHOPPING: STRATEGIC ADVANTAGE OR LEGAL ABUSE AND LOOPHOLE?**

The line between legitimate forum selection and impermissible forum shopping is one of the most contested in Nigerian procedural law. The Court of Appeal has defined forum shopping as *'the practice of choosing the most favourable territorial jurisdiction or court in which a matter or cause may be entertained or adjudicated upon.'*<sup>14</sup> Nigerian courts have consistently condemned the practice in strong terms. In *Idemudia v Igbinedion University, Okada*, the Court of Appeal described it as a 'rather reprehensible practice' that manifests by filing a suit in a jurisdiction known for generous monetary awards, or bringing multiple actions before different courts over the same subject matter.<sup>15</sup>

The doctrinal control mechanism for forum shopping is the **principle of priority**. Where two courts of concurrent jurisdiction are both seized of a dispute, the court that first obtained jurisdiction retains priority over the adjudication of the matter. As Okosa has observed, *'the practice of forum shopping allows litigants to file their actions in jurisdictions they perceive they have a comparative advantage either in terms of remedies, procedure, evidence, judicial attitude or prospect of obtaining the best outcome.'* However, this practice 'is subject to the principle of priority as controlling the exercise of concurrent jurisdiction.'<sup>16</sup>

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<sup>13</sup> Mondaq, 'The Exclusive Jurisdiction of the National Industrial Court in Labour and Employment Matters' (November 2018). Available at <https://www.mondaq.com/nigeria/employment-and-hr/758306/the-exclusive-jurisdiction-of-the-national-industrial-court-in-labour-and-employment-matters> accessed on 4<sup>th</sup> April, 2026.

<sup>14</sup> *Southwestern Law School & Ors v President* [2022] LPELR-58985 (CA).

<sup>15</sup> *Idemudia v Igbinedion University, Okada & Ors* [2015] LPELR-24514 (CA).

<sup>16</sup> Chike B Okosa, "Jurisprudence of Jurisdiction: Relationship and Jurisdiction as Between the Federal and State High Courts" (2022) COOU Journal 1, 226. Available at: <https://journals.ezenwaohaetorc.org/index.php/coou/article/download/3069/3199> accessed on 2<sup>nd</sup> April, 2026.

The President's Policy Directions issued by the Chief Justice in Nigeria at various times, notably in relation to electoral disputes, represent a legislative-administrative response to rampant forum shopping.<sup>17</sup> These directions required all suits touching on particular electoral matters to be filed exclusively in the High Court of the Federal Capital Territory, a measure designed to centralize jurisdiction and prevent the proliferation of conflicting orders from courts in different states.

Despite judicial condemnation, practitioners have persistently exploited jurisdictional ambiguity particularly the unsettled boundary between the Federal High Court and State High Courts. Legal commentators have noted that 'sometimes what should have been done at the Abia State High Court, you see them bring it to the Federal High Court, Abuja' because the question of Federal-State court jurisdiction has not been finally settled across all subject matters.<sup>18</sup> The Chief Justice of Nigeria, Justice Kudirat Kekere-Ekun, speaking at the opening of the 2024/2025 legal year of the Supreme Court, expressly condemned the practice, warning that 'forum shopping by some legal practitioners is rampant' and promising punitive consequences for offenders.<sup>19</sup>

In criminal proceedings, the Administration of Criminal Justice Act 2015 provides a structural answer to forum selection by stipulating that an offence shall be tried ordinarily in the court within the local limits of which the offence was committed, its consequences ensued, or the suspect or victim is found.<sup>20</sup> This territorial anchor reduces strategic choices in criminal matters, though it does not eliminate them entirely particularly where multiple elements of an offence occur in different jurisdictions.

## **WEAPONISING JURISDICTION: ETHICAL LIMITS**

There is a growing concern in Nigerian legal discourse about the weaponisation of jurisdictional challenges the deliberate invocation of preliminary objections not to vindicate a genuine jurisdictional argument, but to delay proceedings, exhaust the opposing party's resources, or obtain interim orders from sympathetic benches. This phenomenon has been starkly illustrated in

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<sup>17</sup>Chike B Okosa, 'The Challenge of Forum Shopping and the Principle of Priority as Controlling Concurrent Jurisdiction' (2023) Journal of COOU 222, 224. Available at <https://journals.ezenwaohaetorc.org/index.php/coou/article/download/3460/3591> accessed on 4<sup>th</sup> April, 2026.

<sup>18</sup>The Whistler, 'Lawyer Blames Jurisdictional Ambiguity for Forum Shopping in Nigeria' (October 2024). Available at <https://thewhistler.ng/lawyer-blames-jurisdictional-ambiguity-for-forum-shopping-in-nigeria/> accessed on 4<sup>th</sup> April, 2026.

<sup>19</sup>The whistler Newspaper. Chief Justice Kudirat Kekere-Ekun, Remarks at the Opening of the 2024/2025 Legal Year of the Supreme Court, as reported in The Whistler. <https://thewhistler.ng/lawyer-blames-jurisdiction-ambiguity-for-forum-shopping-in-nigeria/amp/> accessed on 4<sup>th</sup> April, 2026.

<sup>20</sup>Administration of Criminal Justice Act 2015, s 93(1).

political and pre-election litigation, where litigants have secured far-reaching ex parte injunctions from courts in distant states, effectively paralysing institutional processes across the country.<sup>21</sup>

The ethical dimension is significant. The Rules of Professional Conduct for Legal Practitioners in Nigeria require lawyers to act in the best interest of their clients, but not at the expense of the integrity of the judicial process. A practitioner who advises a client to file in a distant court, not because the cause of action is connected to that jurisdiction, but to exploit a particular judge's disposition or to impose hardship on the opponent, risks professional sanction. The courts have shown a growing willingness to characterise such conduct as an abuse of process, particularly where the same subject matter is already pending elsewhere.<sup>22</sup>

### **LEGITIMATE STRATEGY: A PRACTITIONER'S GUIDE**

Not all jurisdictional strategy is illegitimate. There is a meaningful and legally recognised difference between selecting the most advantageous available forum in good faith, and manufacturing a jurisdictional connection where none genuinely exists. The former is sound lawyering; the latter is an abuse of process.

Legitimate jurisdictional strategy in Nigeria encompasses the following: correctly characterising the subject matter of a dispute so that the appropriate court whether the Federal High Court or the State High Court is identified and approached; selecting the judicial division of the Federal High Court where the cause of action is most closely connected, especially where procedural infrastructure and judicial efficiency favour one division; negotiating robust forum selection clauses in commercial contracts before disputes arise; and invoking concurrent jurisdiction in fundamental rights matters before the most accessible competent court.

Practitioners must also be alert to the emerging role of the Arbitration and Mediation Act 2023<sup>23</sup>, which has expanded the procedural toolkit available to parties seeking interim relief while their dispute is pending in an arbitral forum. The courts' willingness to act as a 'supporting jurisdiction' in arbitration proceedings creates new strategic options, particularly for parties who seek urgent preservation orders but wish to keep the substantive dispute in a private forum.

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<sup>21</sup>Legal Nigeria, 'NBA Elections and the Weaponisation of Courts Against a Democratic Contest' (March 2026). Available at <https://www.legalnigeria.com/nba-elections-and-the-weaponisation-of-courts-against-a-democratic-contest>

<sup>22</sup>Chike B Okosa, "Jurisprudence of Jurisdiction: Relationship and Jurisdiction as Between the Federal and State High Courts" (2022) COOU Journal 1, 233. Available at: <https://journals.ezenwaohaetorc.org/index.php/coou/article/download/3069/3199> accessed on 2<sup>nd</sup> April, 2026.

<sup>23</sup> Arbitration and Mediation Act 2023



## **CONCLUSION**

Jurisdiction is simultaneously the foundation of judicial authority and a terrain of strategic advantage. In Nigeria, the multi-layered court system, the existence of concurrent and exclusive jurisdictions, and the incomplete settlement of jurisdictional boundaries at the Federal-State interface have created an environment in which the choice of court is among the most consequential decisions a litigant makes. Where that choice is informed by a genuine and legitimate analysis of the legal connection between the dispute and the chosen forum, it represents the highest form of legal craftsmanship. Where it degrades into manipulation the selection of a court not because it is the proper forum but because it offers the most favourable outcome regardless of merit it becomes an abuse that corrodes public confidence in the justice system.