A CRITICAL ANALYSIS OF THE ATTITUDE OF NIGERIAN COURTS TOWARDS IMPROPERLY OBTAINED EVIDENCE AND ITS IMPLICATIONS FOR THE PROTECTION OF FUNDAMENTAL HUMAN RIGHTS

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Abstract

The increasing incidence of unlawful investigative practices, including torture, illegal searches, arbitrary detention, and other violations of constitutional rights, has raised serious concerns about the admissibility of improperly obtained evidence in Nigeria and its implications for the protection of fundamental human rights and the integrity of the criminal justice system. This study aims to critically analyze the attitude of Nigerian courts towards improperly obtained evidence and its impact on fundamental human rights. The study adopts a doctrinal and analytical research methodology through an examination of relevant constitutional provisions, the Evidence Act 2011, judicial authorities, and comparative materials from selected jurisdictions. The study finds that although the Nigerian legal framework provides safeguards against the admission of evidence obtained through rights violations, judicial attitudes have evolved from a rigid relevance-based approach to a more fairness-oriented approach that recognizes judicial discretion in excluding evidence obtained in circumstances that compromise the fairness of proceedings. However, the application of these principles remains inconsistent, with courts occasionally admitting evidence despite procedural irregularities, thereby weakening constitutional protections and encouraging

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investigative misconduct. The study concludes that a consistent rights-based approach to the admissibility of improperly obtained evidence is essential to safeguarding fundamental human rights and preserving public confidence in the administration of criminal justice. It recommends stricter judicial enforcement of constitutional safeguards, mandatory electronic recording of interrogations, enhanced training for judicial officers and law enforcement personnel, and stronger accountability mechanisms for rights violations.

Keywords: Human Rights, Evidence, Attitude, Court and Improperly

1. INTRODUCTION

The admissibility of improperly obtained evidence has long generated divergent opinions among lawyers, jurists, and legal scholars.[1] Central to this debate is whether evidence procured in violation of legal or constitutional safeguards should nonetheless be admitted in criminal proceedings. Judicial authorities have often taken differing positions on this question, thereby producing a body of jurisprudence marked by tension between crime control and the protection of individual rights.[2] At common law, courts have traditionally leaned towards admissibility, placing emphasis on the relevance of evidence rather than the manner of its procurement. This position was clearly articulated in *Kuruma v R*,[3] where the Privy Council upheld the conviction of the accused for unlawful possession of ammunition, notwithstanding the fact that the ammunition was discovered during an illegal search.

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[1] IKE Oraegbunam, BE Ewulum and I Agwuncha, 'Illegally Obtained Evidence in Nigeria: Juxtaposing the Provisions of the Evidence Act 2011 and the Administration of Criminal Justice Law 2010 Of Anambra State' *African Journal of Criminal Law and Jurisprudence* [2016] (1) 59.

[2] A Ashiru, 'Right to Privacy and Illegally Obtained Evidence in Nigeria: Has the Law Moved Beyond Kuruma v R?' *ESUT Law Journal* [2021] 3(1) 97.

[3] [1955] AC 197.

Similarly, in *Jeffrey v Black*,[4] drugs discovered during an unlawful search of the accused's premises were admitted in evidence and relied upon in securing a conviction for illegal possession. Nigerian courts have also grappled with the prejudicial effect of improperly obtained evidence, as illustrated in *Igbinovia v State*,[5] where it was contended that the highly prejudicial nature of the evidence, having regard to the circumstances under which it was obtained, ought to have led to its rejection or, at the very least, a reduction in the weight attached to it. Notwithstanding this general inclination toward admissibility, the courts retain a discretionary power, particularly in criminal proceedings, to exclude improperly obtained evidence where its admission would occasion injustice or unfair prejudice to the accused.[6] This discretion is rooted in the broader judicial duty to ensure fairness in criminal trials.[7] The exercise of this discretion, however, has not been uniform and has attracted significant academic commentary, especially following the decision in *R v Sang*.[8] Much of the scholarly discourse has concentrated on English-speaking and Western jurisdictions, often neglecting the experiences of other common law jurisdictions, including Nigeria, whose legal system, though rooted in the common law, has evolved within a predominantly statutory framework.

Nigeria's adjectival law on criminal procedure and evidence is largely governed by statutes, notably the Evidence Act 2011 (as amended 2023), the Administration of Criminal Justice Act 2015 and the Administration of Criminal Justice Laws of the various states of the Federation of Nigeria. In addition, successive constitutions adopted

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[4] [1977] 3 WLR 895.

[5] [1981] JELR 46378 (SC).

[6] IKE Oraegbunam, BE Ewulum and I Agwuncha, 'Illegally Obtained Evidence in Nigeria: Juxtaposing the Provisions of the Evidence Act 2011 and The Administration of Criminal Justice Law 2010 of Anambra State' *African Journal of Criminal Law and Jurisprudence* [2016] (1) 59.

[7] Section 36 of the CFRN 1999 (as amended)

[8] [1979] UKHL 3.

since independence in 1960, particularly the Constitution of the Federal Republic of Nigeria 1999 (as amended), contain an extensive catalogue of fundamental human rights,[9] including the right to fair hearing in all judicial proceedings.[10] Although Nigerian courts have not expressly grounded the admissibility of improperly obtained evidence on constitutional provisions, they have consistently invoked the general principle that justice must not only be done but must manifestly be seen to be done, while also emphasizing the accused person's right to a fair trial.[11]

The prevailing Nigerian position on the admissibility of improperly obtained evidence is traceable to *Kuruma v R*.[12] Despite the Evidence Act purporting to deal exhaustively with the law of evidence by prescribing detailed rules on relevance and admissibility, it contains no express prohibition against the admission of evidence solely on the ground of illegality in its procurement. The Act is largely inclusionary rather than exclusionary, permitting the admission of evidence that is relevant and not expressly or impliedly excluded by its provisions. [13] It is therefore a trite law in Nigeria that improperly obtained evidence is not rendered inadmissible merely by reason of the manner in which it was obtained. This principle echoes the oft-cited dictum of Crompton J in *R v Leatham*,[14] where he stated that how a piece of evidence was obtained does not matter. This rule is the same even if the piece of evidence was stolen. Once a piece of evidence is relevant, it is admissible irrespective of how it was obtained. This approach was affirmed in *Elias v Disu*,[15] where Brett FJ held that the decisive

[9] Chapter IV of the CFRN 1999 (as amended).
[10] Section 36 of the CFRN 1999 (as amended).
[11] See *Garba v FCSC* [1988] 1 NWLR (Pt 71) 449.
[12] [1955] AC 197.
[13] Sections 1-3 of the Evidence Act 2011 (As amended in 2023).
[14] [1861] 8 Cox CC 498, 501.
[15] [1962] 1 SCNLR 361.

consideration is the relevance of the evidence, and not the means by which it was procured.[16]

2. CONCEPTUAL REVIEW OF IMPROPERLY OBTAINED EVIDENCE

This section examines the key concepts underpinning the legal framework governing improperly obtained evidence within the Nigerian criminal justice system. It provides a conceptual clarification of evidence, the principles regulating its admissibility, and the distinctions between improperly obtained, illegally obtained, and unconstitutionally obtained evidence. The section further explores related legal doctrines, including relevance, abuse of process, and judicial discretion, all of which significantly influence the admissibility and evaluation of contested evidence. These concepts are intrinsically connected to the constitutional guarantees of a fair trial and the protection of fundamental human rights. A thorough understanding of these foundational concepts provides the analytical basis for assessing judicial approaches to improperly obtained evidence and evaluating the implications of such approaches for the administration of justice in Nigeria.

2.1. Evidence

It is pertinent to state that the term "evidence" like other legal concepts does not yield easily to one acceptable definition. The Black's Law Dictionary[17] defines evidence as something including testimony, documents and tangible objects that tends to prove or disprove the existence of an alleged fact.[18] The Court of Appeal, Per Salami JCA, in *Citizens Int. Bank Ltd v SCOA & Anor*,[19] adopted the Black's Law

[16] ibid.
[17] BA Garner (ed), *Black's Law Dictionary* (8th Ed. Minn St Paul: Thompson West Publishing Co., 2004) 595.
[18] ibid.
[19] [2006] 8 NWLR Pt 101, p. 353, para-D-E.

Dictionary definition of Evidence and thus held evidence to be "any species of proof or probative matters legally presented at the trial of an issue by the act of the parties and through the medium of witnesses, records, documents, exhibits, concrete objects, for the purpose of inducing belief on the mind of the Court".[20] In a broader sense, evidence performs both a procedural and a substantive function.[21] Procedurally, it guides the court in determining what facts can be considered.[22] Substantively, it influences the outcome of disputes by establishing truth or probability. Not every piece of information qualifies as evidence.[23] It must meet certain legal thresholds such as relevance and admissibility.[24] This ensures that judicial decisions are based on reliable material rather than speculation or prejudice.[25] The concept also reflects a balance between truth seeking and fairness.[26] While courts at all levels aim to discover the truth, they must do so within the limits imposed by law. This is where rules of exclusion become important. They prevent the use of certain materials even if they appear useful. The goal is to protect the integrity of the judicial process. In essence, the above definitions show that evidence is any fact or set of facts by which the existence or non-existence of facts is proved or disproved.[27] It is pertinent to state that evidence may be classified in several ways. Some of the classification of evidence include direct, circumstantial, oral, documentary and real evidence.

[20] ibid.
[21] B Abdullahi, 'Admissibility of Evidence Obtained Through Illegal Search and Seizure under Nigerian Laws: A Critique' *African Journal of Criminal Law and Jurisprudence* [2021] (6) 190.
[22] Section 1 of Evidence Act 2011 (as amended in 2023).
[23] Section 1 of Evidence Act 2011 (as amended in 2023).
[24] ibid.
[25] B Abdullahi, 'Admissibility of Evidence Obtained Through Illegal Search and Seizure under Nigerian Laws: A Critique' *African Journal of Criminal Law and Jurisprudence* [2021] (6) 190.
[26] MB Adeyemi, 'Admissibility of Illegally Obtained Evidence in Nigeria: The Journey So Far' *SSRN* (2026) 8 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5909683> Accessed 8 July 2026.
[27] IKE Oraegbunam, BE Ewulum and I Agwuncha, 'Illegally Obtained Evidence in Nigeria: Juxtaposing the Provisions of the Evidence Act 2011 and The Administration of Criminal Justice Law 2010 Of Anambra State' *African Journal of Criminal Law and Jurisprudence* (2016) (1) 59.

2.2. Admissibility of Evidence

Admissibility of evidence constitutes the foundational threshold determination within the law of evidence, denoting the legal question of whether a particular item of testimony, document, or physical object may lawfully be received and considered by a court or tribunal in the resolution of a disputed fact. It is, in essence, a gatekeeping mechanism: a legal filter that separates material which the fact-finder is permitted to weigh from that which the law excludes on grounds of policy, procedure, or reliability. The classical articulation of the concept in common law jurisprudence proceeds from the proposition that all evidence which is relevant to a fact in issue is admissible unless excluded by an operative rule of law.[28] Admissibility is thus a binary legal conclusion evidence is either admitted or rejected as distinct from the qualitative and quantitative assessments of weight and credibility, which arise only after admission and belong to the province of the tribunal of fact.

The determination of admissibility is a question of law reserved for the trial judge, exercisable through a preliminary inquiry, and is amenable to appellate review. This structural separation between the judge's admissibility ruling and the fact-finder's evaluative function is a defining feature of adversarial systems, particularly those retaining jury trials, where the exclusion of prejudicial or unreliable material serves to insulate the lay tribunal from improper influence. In Nigeria, the Supreme Court has repeatedly emphasized that the admissibility of a document is governed exclusively by whether it is pleaded, relevant, and admissible under the Evidence Act.[29]

The term "admissibility" derives from the Latin admitters to allow to enter and its doctrinal evolution mirrors the maturation of the

[28] Director of Public Prosecutions v. Kilbourne [1973] AC 729 (HL)
[29] Abubakar v. Chuks [2007] 18 NWLR (Pt. 1066) 386

adversarial trial. The English law of evidence developed principally through the exclusionary technique: rather than defining what may be received, the common law historically operated by cataloguing categories of evidence that must be kept out, such as hearsay, opinion, and improperly obtained confessions. This exclusionary architecture was, as Thayer famously observed, the product of the jury system, wherein rules of evidence functioned as prophylactic devices to shield untrained jurors from material of doubtful probative worth. The nineteenth-century codification impulse, exemplified by Sir James Fitzjames Stephen's Indian Evidence Act 1872, transformed this diffuse body of common law principle into systematic statutory form, articulating relevance and admissibility as discrete, codified concepts.[30]

2.3. Improperly Obtained Evidence

Improperly obtained evidence refers to evidence acquired through methods that violate legal or ethical standards, though not necessarily amounting to a direct breach of the law.[31] It may involve irregular procedures, unfair tactics, or conduct that undermines due process. Such evidence raises concerns about the legitimacy of the judicial process. Also, this concept captures situations where the method of obtaining evidence falls short of acceptable standards, even if it does not clearly breach a specific statute. For example, evidence obtained through deception or undue pressure may fall within this category.[32] The issue then becomes whether the court should admit such evidence despite the impropriety involved. Courts often adopt a flexible approach in dealing with improperly obtained evidence.[33] The focus is

[30] Ibid
[31] A Ashiru, 'Right to Privacy and Illegally Obtained Evidence in Nigeria: Has the Law Moved Beyond Kuruma v R?' *ESUT Law Journal* [2021] 3(1) 110.
[32] B Abdullahi, 'Admissibility of Evidence Obtained Through Illegal Search and Seizure under Nigerian Laws: A Critique' *African Journal of Criminal Law and Jurisprudence* [2021] (6) 190.
[33] *Kuruma v R* [1955] AC 197.

usually on relevance and probative value. However, there is growing recognition that admitting such evidence may encourage misconduct by law enforcement agencies.[34] This has led to increased calls for stricter standards that prioritize fairness and the protection of rights.

2.3.1. Unconstitutionally Obtained Evidence

Unconstitutionally obtained evidence refers to evidence acquired in violation of constitutionally guaranteed rights.[35] These rights include the right to privacy,[36] right to dignity of the human person,[37] and freedom from unlawful search and seizure. Such violations strike at the core of the legal system.[38] Unlike ordinary illegality, constitutional breaches carry greater significance. They involve fundamental rights that form the basis of democratic governance.[39] When evidence is obtained in violation of these rights, its admission raises serious concerns about fairness and legitimacy. Courts are therefore expected to adopt a more cautious approach. There is an increasing argument that such evidence should be excluded to uphold constitutional supremacy. Admitting it may render constitutional protections meaningless. It also weakens public confidence in the justice system. A rights-based approach would prioritize the protection of individuals over the mere utility of evidence.

3. HISTORICAL DEVELOPMENT OF THE LAW ON IMPROPERLY OBTAINED EVIDENCE IN NIGERIA

[34] ZL Bambale, 'Search and Seizure as a Derogation of the Human Right to Privacy: Perspectives from the Laws of the U.S. and Nigeria on the Admissibility of Evidence' *Academia* 2 <https://www.academia.edu/39628488/Search_and_Seizure_as_a_Derogation_of_the_Human_Right_to_Privacy_Perspectives_from_the_Laws_of_the_U_S_and_Nigeria_on_the_Admissibility_of_Evidence> Accessed 20 July 2026.

[35] Chapter four of the CFRN 1999 (as amended).

[36] Section 37 of the CFRN 1999 (as amended).

[37] Section 34 of the CFRN 1999 (as amended).

[38] Section 1 CFRN 1999 (as amended).

[39] B Abdullahi, 'Admissibility of Evidence Obtained Through Illegal Search and Seizure under Nigerian Laws: A Critique' *African Journal of Criminal Law and Jurisprudence* [2021] (6) 190.

The evolution of the law relating to improperly obtained evidence in Nigeria is deeply rooted in the philosophical tension between the protection of individual liberty and the necessity of effective crime control, a tension that has existed long before the formal emergence of modern Nigerian jurisprudence.[40] The idea that a person possesses an inherent right to privacy, sometimes described as the right to be left alone or the right to private and family life,[41] developed from natural law thinking which presumes that human beings are rational entities entitled to certain inalienable rights that precede the state. This philosophical foundation influenced early legal systems and later constitutional frameworks by insisting that state actions, including criminal investigations, must conform to higher moral standards that respect dignity and autonomy.[42]

In pre-colonial and early colonial Nigeria, although formal doctrines on improperly obtained evidence were not clearly articulated, customary systems emphasized fairness and communal justice, often discouraging oppressive methods of extracting evidence even if not codified in strict legal terms.[43] However, with the introduction of English law during colonial administration, Nigeria inherited a rigid evidentiary framework that prioritized the relevance of evidence over the manner in which it was obtained, thereby laying the groundwork for what later became known as the inclusionary rule.[44] This early

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[40] ZL Bambale, 'Search and Seizure as a Derogation of the Human Right to Privacy: Perspectives from the Laws of the U.S. and Nigeria on the Admissibility of Evidence' *Academia* 2 <https://www.academia.edu/39628488/Search_and_Seizure_as_a_Derogation_of_the_Human_Right_to_Privacy_Perspectives_from_the_Laws_of_the_U_S_and_Nigeria_on_the_Admissibility_of_Evidence> Accessed 20 July 2026.

[41] Section 37 of the CFRN 1999 (as amended).

[42] ibid.

[43] NE Nwafor and OC Aduka, 'Problems of the Administration of Criminal Justice System in Nigeria and the Applicability of Alternative Dispute Resolution' *Nnamdi Azikiwe University Journal of Commercial and Property Law* [2020] 7(2) 131.

[44] DU Ekumankama, 'Admissibility of Secondary Evidence under the Evidence Act 2011: A Critical Analysis' International Journal of Legal Developments and Allied Issues [2023] 9(3) 17.

transplantation of English evidentiary principles meant that Nigerian courts became more concerned with whether evidence could prove a fact in issue rather than whether its procurement violated individual rights.[45]

During the colonial era, the enactment of the Evidence Ordinance of 1945 marked a significant turning point in the formal regulation of evidence in Nigeria, as it codified rules largely derived from English common law without sufficient adaptation to local realities.[46] The Ordinance, and later the Evidence Act that succeeded it, did not expressly address the issue of improperly obtained evidence, thereby leaving courts with broad discretion to admit evidence so long as it was relevant to the matter before them.[47] This omission had far reaching implications because it effectively sanctioned investigative practices that might otherwise have been considered abusive, including unlawful searches, coercive interrogations, and violations of personal liberty.[48] Judicial decisions during this period reinforced the principle that admissibility was primarily governed by relevance, a position that was consistent with English authorities but increasingly controversial in light of emerging human rights norms.[49] The courts repeatedly emphasized that evidence, once relevant, should not be excluded

[45] K Adele, 'Illegally Obtained Evidence and Admissibility under Nigerian Criminal Law' *Academia* (2025) <https://www.academia.edu/145739298/illegally_obtained_evidence_and_admissibility_under_nigerian_criminal_law> accessed 26 July 2026.

[46] DU Ekumankama, 'Admissibility of Secondary Evidence under the Evidence Act 2011: A Critical Analysis' *International Journal of Legal Developments and Allied Issues* [2023] 9(3) 17.

[47] AA Akanji, 'A Critical Appraisal of the Relevancy and Admissibility of Electronically Generated Evidence in Nigeria' *SSRN* (2025) 1 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5021012> Accessed 20 July 2026.

[48] K Adele, 'Illegally Obtained Evidence and Admissibility under Nigerian Criminal Law' *Academia* (2025) <https://www.academia.edu/145739298/illegally_obtained_evidence_and_admissibility_under_nigerian_criminal_law> accessed 20 July 2026.

[49] OHC Oyeneke, 'Relevancy- Admissibility of Documents' *SSRN* (2013) 1 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2207876> Accessed 20 July 2026.

merely because it was obtained improperly, thereby entrenching an approach that placed the interests of crime detection above procedural fairness.[50] Consequently, the colonial legal framework laid a strong foundation for an inclusionary approach that would continue to influence Nigerian law long after independence.[51]

Following independence in 1960, Nigeria retained much of its inherited legal system, including the evidentiary rules established under colonial rule, and this continuity meant that the approach to improperly obtained evidence remained largely unchanged. The courts continued to apply the principle that relevance was the primary determinant of admissibility, often admitting confessional statements and other forms of evidence even where allegations of coercion or illegality were raised.[52] This period also saw the gradual emergence of constitutional protections, particularly under successive constitutions, which guaranteed rights such as personal liberty,[53] dignity of the human person,[54] fair hearing,[55] and privacy.[56]

Despite these constitutional safeguards, there was an apparent reluctance on the part of the judiciary to exclude improperly obtained evidence solely on the basis of rights violations, as the prevailing judicial attitude favored the effective prosecution of offenders. The Supreme Court and other superior courts frequently underscored the

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[50] KA Agary, 'Improperly Obtained Evidence' *Punch Newspaper* (2018) <https://punchng.com/improperly-obtained-evidence/> accessed 20 July 2026.

[51] MM Abdulkadir, 'Admissibility of Evidence Generated by Cell Phones and its Kinds under the Evidence Act, 2011' *Global Scientific Journals* [2023] 11(10) 1363.

[52] K Adele, 'Illegally Obtained Evidence and Admissibility under Nigerian Criminal Law' *Academia* (2025) <https://www.academia.edu/145739298/illegally_obtained_evidence_and_admissibility_under_nigerian_criminal_LAW> Accessed 20 July 2026.

[53] Section 35 of the CFRN 1999 (as amended).

[54] Section 34 of the CFRN 1999 (as amended).

[55] Section 36 of the CFRN 1999 (as amended).

[56] Section 37 of the CFRN 1999 (as amended).

importance of evidence in the adjudicatory process, noting that the determination of disputes must be based on the materials presented before the court rather than on abstract considerations.[57] This judicial philosophy created a persistent tension between constitutional rights and evidentiary practices, a tension that has continued to define the development of this area of law.[58]

The role of the courts in shaping the law on improperly obtained evidence became more pronounced through judicial pronouncements that clarified the principles of relevance and admissibility within the Nigerian legal system.[59] In cases such as *Sagay v Sajere*,[60] the Supreme Court emphasized that judicial decisions must be grounded in evidence properly evaluated, thereby reinforcing the centrality of admissible evidence in the administration of justice.[61] However, the courts also maintained that the manner in which evidence was obtained did not necessarily affect its admissibility, a position that distinguished Nigerian law from jurisdictions that adopted stricter exclusionary rules.[62] This approach was further reflected in decisions where confessional statements obtained under questionable circumstances were admitted, provided they were deemed voluntary within the meaning of the law.[63] The emphasis on voluntariness, rather

[57] BE Oniha, 'Evidence: Standards of Proof, Relevance and Admissibility' (Being a paper presented at the National Judicial Institute (NJI) Induction Course for newly Appointed Judges of Lower Courts (Batch A), 19-23rd May, 2025 at Andrew Otutu Obaseki, Auditorium, NJI, Abuja), 2.

[58] KA Agary, 'Improperly Obtained Evidence' *Punch Newspaper* (4 March 2018) <https://punchng.com/improperly-obtained-evidence/> Accessed 20 July 2026.

[59] OHC Oyeneke, 'Relevancy- Admissibility of Documents' *SSRN* (2013) 1 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2207876> Accessed 20 July 2026.

[60] [2000] 6 NWLR (Pt. 661) 360.

[61] ibid.

[62] K Adele, 'Illegally Obtained Evidence and Admissibility under Nigerian Criminal Law' *Academia* (2025) <https://www.academia.edu/145739298/illegally_obtained_evidence_and_admissibility_under_nigerian_criminal_law> Accessed 20 July 2026.

[63] KA Agary, 'Improperly Obtained Evidence' *Punch Newspaper* (2018) <https://punchng.com/improperly-obtained-evidence/> Accessed 20 July 2026.

than legality, became a key criterion in determining admissibility, particularly in criminal trials. As a result, Nigerian courts developed a body of case law that consistently prioritized the probative value of evidence over concerns about the methods used in its procurement. The enactment of the Evidence Act 2011 marked a significant milestone in the historical development of the law, as it introduced statutory provisions that directly addressed the issue of improperly obtained evidence for the first time in Nigerian legal history.[64] Section 14 of the Act provides that evidence obtained improperly or in contravention of a law shall be admissible unless the court is of the opinion that the desirability of admitting the evidence is outweighed by the undesirability of admitting it.[65] This provision introduced a balance test into the determination of admissibility.[66] Section 15 further elaborates on this principle by listing factors that the court must consider, including the probative value of the evidence, the gravity of the impropriety, and whether the violation was deliberate or reckless.[67] These provisions represent a departure from the strict inclusionary approach of the past by granting courts the discretion to exclude evidence in appropriate circumstances. However, the Act stops short of establishing a strict exclusionary rule, as it still allows improperly obtained evidence to be admitted where its probative value is considered significant.[68] This statutory framework reflects an attempt to strike a balance between competing interests, although critics argue that it still tilts in favor of the prosecution.

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[64] AA Akanji, 'A Critical Appraisal of the Relevancy and Admissibility of Electronically Generated Evidence in Nigeria' *SSRN* (2025) 1 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5021012> Accessed 20 July 2026.

[65] Section 14 of Evidence Act 2011 (as amended in 2023).

[66] KA Agary, 'Improperly Obtained Evidence' *Punch Newspaper* (2018) <https://punchng.com/improperly-obtained-evidence/> Accessed 27 April 2026.

[67] Section 15 of Evidence Act 2011 (as amended).

[68] Section 14 of Evidence Act 2011 (as amended in 2023).

4. NATURE AND SCOPE OF IMPROPERLY OBTAINED EVIDENCE

The conceptual foundation of improperly obtained evidence within Nigerian law rests on a broad understanding of evidence that is procured through illegality, irregularity, unfairness, or procedural violation, yet remains potentially receivable in judicial proceedings depending on statutory and judicial thresholds.[69] This reflects a system that does not automatically invalidate evidence merely because of the manner of its acquisition but instead interrogates its relevance and the justice of its admission in the context of the case at hand.[70]

The notion captures evidence derived from acts such as unlawful search and seizure, coercive interrogation, deception, trespass, or non-compliance with prescribed investigative procedures, thereby giving the concept a wide operational ambit that extends beyond mere illegality into questions of fairness and propriety in the administration of justice.[71] It is therefore not confined to a single mode of misconduct but embraces diverse factual situations where the process of obtaining evidence offends legal or ethical norms while still producing material capable of proving or disproving facts in issue. This expansive meaning underscores the dual character of such evidence as both legally tainted and evidentially relevant, which is the central tension embedded in its nature.[72] The governing statutory framework in Nigeria is anchored on sections 14 and 15 of the Evidence Act 2011,

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[69] EO Onoja, 'Issues on Exclusionary Rules of Evidence under the Evidence Act 2011' *AJLHR* [2018] (2) 83.

[70] ibid.

[71] IKE Oraegbunam, BE Ewulum and I Agwuncha, 'Illegally Obtained Evidence In Nigeria: Juxtaposing the Provisions of the Evidence Act 2011 and The Administration of Criminal Justice Law 2010 Of Anambra State' *African Journal of Criminal Law and Jurisprudence* [2016] (1) 61.

[72] ZL Bambale, 'Search and Seizure as a Derogation of the Human Right to Privacy: Perspectives from the Laws of the U.S. and Nigeria on the Admissibility of Evidence' *Academia* 9 <https://www.academia.edu/39628488/Search_and_Seizure_as_a_Derogation_of_the_Human_Right_to_Privacy_Perspectives_from_the_Laws_of_the_U_S_and_Nigeria_on_the_Admissibility_of_Evidence> Accessed 7 February 2026.

which provide the clearest articulation of the legal character of improperly obtained evidence and its admissibility in Nigeria courts.
Section 14 provides that:
Evidence obtained-

a. improperly or in contravention of a law; or

b. in consequence of an impropriety or of a contravention of a law shall be admissible unless the court is of the opinion that the desirability of admitting the evidence is outweighed by the undesirability of admitting evidence that has been obtained in the manner in which the evidence was obtained.[73]

Section 15 further stipulates that:
For the purposes of section 14, the matters that the court shall take into account include-

a. the probative value of the evidence;
b. the importance of the evidence in the proceeding;
c. the nature of the relevant offence, cause of action or defense and the nature of the subject matter of the proceeding;
d. the gravity of the impropriety or contravention;
e. whether the impropriety or contravention was deliberate or reckless;
f. whether any other proceeding whether or not in a court has been or is likely to be taken in relation to the impropriety or contravention;
g. and the difficulty if any of obtaining the evidence without impropriety or contravention of law.[74]

These provisions define the scope of the concept by embedding discretion and evaluative balancing at the heart of admissibility. A

[73] Section 14 of the Evidence Act 2011 (as amended).
[74] Section 15 of the Evidence Act 2011 (as amended).

central element in understanding the nature of improperly obtained evidence is the dominance of relevance as the primary criterion for admissibility, which historically shaped and continues to influence Nigerian evidentiary jurisprudence.[75] The classical formulation of this principle is captured in the dictum of the Privy Council in *Kuruma Son of Kanio v R*[76] where it was held that:

> *"In their Lordships' opinion the test to be applied in considering whether evidence is admissible is whether it is relevant to the matters in issue if it is it is admissible and the court is not concerned with how the evidence was obtained".*[77]

This statement encapsulates the traditional orientation that places logical probative value above procedural propriety in determining admissibility.[78] The same approach was echoed in Nigerian judicial pronouncements such as *Musa Sadau v State*[79] where the court held that:

> *"there is no general rule of law in civil and criminal cases that evidence which is relevant is excluded merely by the way in which it has been obtained".*[80]

This means that evidence obtained improperly should not automatically be rejected by the court but it may still be admitted depending on the circumstances.[81] The scope of improperly obtained

[75] ibid.
[76] [1955] AC 197.
[77] ibid.
[78] IKE Oraegbunam, BE Ewulum and I Agwuncha, 'Illegally Obtained Evidence in Nigeria: Juxtaposing the Provisions of the Evidence Act 2011 and the Administration of Criminal Justice Law 2010 of Anambra State' *African Journal of Criminal Law and Jurisprudence* [2016] (1) 61.
[79] [1968] 1 All NLR 124.
[80] ibid.
[81] B Abdullahi, 'Admissibility of Evidence Obtained Through Illegal Search and Seizure under Nigerian Laws: A Critique' *African Journal of Criminal Law and Jurisprudence* [2021] (6) 196.

evidence also extends significantly into the domain of confessional statements, which occupy a critical position in criminal trials due to their direct evidential value. Section 28 of the Evidence Act defines a confession, while section 29 provides the conditions for admissibility of confessional statements and expressly protects against involuntary confessions. Section 29(2) of the Evidence Act specifically states that:

> *29 (2) If in any proceeding where the prosecution proposes to give in evidence a confession made by a defendant it is represented to the court that the confession was or may have been obtained -*

a. by oppression of the person who made it, or

b. in consequence of anything said or done which was likely, in the circumstances existing at the time, to render unreliable any confession which might be made by him in such consequence, the court shall not allow the confession to be given in evidence against him except in so far as the prosecution proves to the court beyond reasonable doubt that the confession (notwithstanding that it may be true) was not obtained in a manner contrary to the provisions of this section.[82]

However, the scope is widened again by section 31 of the Evidence Act which provides verbatim that:

If a confession is otherwise relevant it does not become irrelevant merely because it was made under a promise of secrecy or in consequence of a deception practiced on the defendant for the purpose of obtaining it or when he was drunk or because it was made in answer to questions which he need not have answered whatever may have been the form of these questions or because he was not warned that he

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[82] Section 29(2) of the Evidence Act 2011 (as amended in 2023).

was not bound to make such statement and that evidence of it might be given.[83]

This provision demonstrates that certain forms of impropriety do not invalidate confessional evidence. In essence the provision enlarges the operational scope of admissible improperly obtained evidence.[84] Furthermore, judicial interpretation further clarifies the nature of such confessional evidence, particularly in relation to undercover operations and deceptive practices.[85] In *Igbinovia v The State*,[86] the Supreme Court per Obaseki JSC stated that:

> *If a policeman does not present himself as a policeman but as a wild and vicious criminal, and other suspected criminals take him as such and in order to boost their ego and establish better understanding with him open their mouths and pour out stories of what to them are brave deeds of courage but which to civilized human societies are atrocious acts of violence against society and humanity, that information cannot become inadmissible only by reason of the concealment of the status of the disguised policeman.*[87]

The court further emphasized that:

> *"Being an undisclosed police officer, he does not fall within the category of persons in authority who can infuse fear of evil into the suspect or inspire hope of advantage in them".*[88]

This judicial pronouncement illustrates that the scope of improperly obtained evidence includes statements elicited through strategic

[83] Section 31 of the Evidence Act 2011 (as amended in 2023).
[84] EO Onoja, 'Issues on Exclusionary Rules of Evidence under the Evidence Act 2011' *AJLHR* [2018] (2) 83.
[85] ibid.
[86] [1981] CLR 2(a) (SC).
[87] ibid.
[88] ibid.

deception, provided voluntariness is preserved in law. Another significant dimension of the scope relates to derivative evidence, particularly evidence discovered as a result of inadmissible confessions, which reflects a nuanced approach within Nigerian law. Section 30 of the Evidence Act provides that facts discovered as a result of a confession remain admissible notwithstanding the inadmissibility of the confession itself.[89] This creates a doctrinal separation between the primary illegality and the secondary evidence obtained from it. The implication is that the evidential system recognizes the independent probative value of discovered facts, even when the source is tainted.[90] This feature significantly broadens the scope of improperly obtained evidence by allowing courts to rely on material outcomes of unlawful processes without necessarily endorsing the process itself.[91]

Improperly obtained evidence also encompasses material derived from search and seizure operations, whether conducted lawfully or unlawfully. Evidence obtained through searches that violate privacy rights still falls within the admissibility framework, subject to judicial evaluation of fairness and probative worth. The underlying tension is between the state interest in crime detection and the individual interest in privacy, both of which shape the operational boundaries of the concept. This duality reinforces the idea that improperly obtained evidence is not a narrow technical category but a broad evidential phenomenon arising from the intersection of investigative necessity and legal restraint. The scope therefore includes both physical

[89] Section 30 of the Evidence Act 2011 (as amended).
[90] ZL Bambale, 'Search and Seizure as a Derogation of the Human Right to Privacy: Perspectives from the Laws of the U.S. and Nigeria on the Admissibility of Evidence' *Academia* 9 <https://www.academia.edu/39628488/Search_and_Seizure_as_a_Derogation_of_the_Human_Right_to_Privacy_Perspectives_from_the_Laws_of_the_U_S_and_Nigeria_on_the_Admissibility_of_Evidence> accessed 20 July 2026.
[91] EO Onoja, 'Issues on Exclusionary Rules of Evidence under the Evidence Act 2011' *AJLHR* [2018] (2) 83.

evidence and testimonial evidence obtained through contested methods.

5. CONSTITUTIONAL FRAMEWORK ON HUMAN RIGHTS

The protection of human rights in Nigeria is structurally anchored on a constitutional order that places individual liberties at the Centre of state authority, particularly through Chapter IV of the Constitution of the Federal Republic of Nigeria 1999 (as amended).[92] Within this framework, rights are not presented as abstract ideals but as enforceable guarantees that directly regulate state conduct, especially in criminal justice administration.[93] Among these guarantees, the Right to Life[94] stands as the most fundamental protection against arbitrary deprivation of existence, subject only to lawful execution following conviction; self-defense; killing in order to effect a lawful arrest or to prevent the escape of a person lawfully detained; or for the purpose of suppressing a riot, insurrection or mutiny.[95] While it is not directly linked to evidentiary admissibility, its procedural implication lies in the insistence that criminal trials leading to the gravest outcomes must be conducted strictly within lawful bounds, thereby reinforcing the expectation that evidence used to sustain a conviction must not be tainted by illegality or unfairness. Closely tied to this is the Right to Dignity of the Human Person,[96] which expressly prohibits torture, inhuman or degrading treatment, slavery, and forced labor.[97]

This provision becomes directly relevant in the evidentiary context where confessional statements are obtained through coercion, brutality

[92] Sections 33-43 of the CFRN 1999 (as amended).
[93] IM Oju, 'National Legal Frameworks for the Protection of Human Rights in Nigeria' *Rivers State University Journal of Public Law* [2022] 9(2) 67.
[94] Sections 33 of the CFRN 1999 (as amended).
[95] Section 33(1) and (2) of the CFRN 1999 (as amended).
[96] Sections 34 of the CFRN 1999 (as amended).
[97] ibid.

or psychological pressure.[98] In such circumstances, the dignity clause operates as a constitutional filter against the admissibility of evidence derived from abusive investigative methods, since evidence obtained through torture is inherently unreliable and constitutionally suspect.[99] A more directly operational connection between human rights and law of evidence emerges from the Right to Personal Liberty[100] and the Right to Fair Hearing.[101] The liberty guarantee ensures that no person is deprived of freedom except in accordance with lawful procedure, which extends to arrest, detention, and interrogation processes that often generate evidentiary materials.[102] Where a suspect is unlawfully arrested or detained, any statement or evidence obtained during such illegality is placed under constitutional suspicion because the foundation of lawful procedure has already been breached.[103] The fair hearing right under Section 36 operates at the core of admissibility debates, as it requires that judicial proceedings be conducted in a manner that is independent, impartial, and consistent with due process.[104] This right implicitly influences the treatment of improperly obtained evidence because courts are constitutionally obliged to ensure that the trial process itself remains fair, not merely that the evidence is relevant.[105] Accordingly, evidence obtained in violation of procedural safeguards, especially where it undermines voluntariness or due

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[98] NO Obiaraeri, 'Paradigm Shift in Recording of Confessional Statement Under the Administration Of Criminal Justice Act, 2015 - Case Law Review Of *FRN V Nnajiofo*r' *Nnamdi Azikiwe University Awka Journal of Private Property Law* [2024] 1(2) 27.

[99] See Section 29 of the Evidence Act 2011 (as amended).

[100] Sections 35 of the CFRN 1999 (as amended).

[101] Section 36 of the CFRN 1999 (as amended).

[102] BE Umukoro and EK Okiti, 'The Power of Arrest under the Administration of Criminal Justice Act 2015: Emerging Issues and Challenges' *African Journal of Criminal Law and Jurisprudence* [2022] (7) 52.

[103] ibid.

[104] Sections 36(1) of the CFRN 1999 (as amended).

[105] ZL Bambale, 'Search and Seizure as a Derogation of the Human Right to Privacy: Perspectives from the Laws of the U.S. and Nigeria on the Admissibility of Evidence' *Academia* <https://www.academia.edu/39628488/Search_and_Seizure_as_a_Derogation_of_the_Human_Right_to_Privacy_Perspectives_from_the_Laws_of_the_U_S_and_Nigeria_on_the_Admissibility_of_Evidence> Accessed 20 July 2026.

process, raises serious questions about whether its admission would compromise the integrity of the entire adjudicatory process.[106]

The Right to Private and Family Life[107] introduces another critical constitutional constraint on investigative and evidentiary practices. It guarantees the privacy of homes, correspondence, telephone conversations, and communications. This provision directly places legal limits on surveillance, search and seizure operations. In practice, evidence obtained through unlawful searches, unauthorized interception of communications, or intrusive surveillance without judicial authorization directly violate this provision. The relevance to admissibility lies in the constitutional tension between relevance under the Evidence Act and legality under constitutional privacy protections. Even where such evidence is probative, its procurement in breach of privacy rights raises constitutional concerns that may affect judicial willingness to admit it, particularly where admitting it would amount to legitimizing unlawful state intrusion. Alongside this is the Right to Freedom of Thought, Conscience and Religion,[108] which protects internal belief systems and their external manifestation. While less directly tied to evidentiary exclusion, it becomes relevant where evidence is obtained through compelled disclosure of beliefs, ideological coercion, or investigative practices that intrude into protected conscience-related spaces.[109]

Further reinforcing the constitutional structure are the Rights to Freedom of Expression,[110] Assembly and Association,[111] and

[106] ibid.
[107] Sections 37 of the CFRN 1999 (as amended).
[108] Sections 38 of the CFRN 1999 (as amended).
[109] IM Oju, 'National Legal Frameworks for the Protection of Human Rights in Nigeria' *Rivers State University Journal of Public Law* [2022] 9(2) 67.
[110] Sections 39 of the CFRN 1999 (as amended).
[111] Section 40 of the CFRN 1999 (as amended).

Freedom of Movement,[112] which collectively safeguard civic autonomy and interaction with the state. These rights may indirectly intersect with evidentiary issues where law enforcement obtains information through surveillance of communications, infiltration of associations, or restriction of movement that leads to compelled disclosures. In such situations, the legality of the investigative method becomes central to whether the resulting evidence should be treated as constitutionally sound.

5. ATTITUDE OF NIGERIAN COURTS TO IMPROPERLY OBTAINED EVIDENCE

The attitude of Nigerian courts to improperly obtained evidence is deeply rooted in a historically entrenched inclusionary doctrine which privileges relevance as the central criterion for admissibility, even where the evidence is tainted by illegality in its procurement. The reform introduced by the Evidence Act 2011 on the admissibility of illegally obtained evidence largely centers on legislative recognition of judicial discretion to admit or reject improperly obtained evidence as was the case in England. It is thus a step towards additional recognition of the exclusionary rule in criminal proceedings which was a long standing principle under the common law in relation to criminal evidence.[113] Accordingly, in criminal cases, there is no doubt that the trial judge has a discretion at common law to exclude admissible evidence tendered by the prosecution, on the ground that the probative value of such evidence is substantially outweighed by its likely effect of prejudicing the mind of the court against the defendant.[114] It is important to note that the discretion relates only to evidence tendered by the prosecution, and not to evidence tendered by co-accused.[115] The

[112] Section 41 of the CFRN 1999 (as amended).
[113] A Abiodun, *The Evidence Act 2011: An Appraisal* (Being A Paper Presented On Thursday, 11th July, 2013 at the Ogun State Bar and Bench Forum, Held at the June 12 Cultural Centre, Abeokuta) 7.
[114] ibid.
[115] ibid.

exclusionary discretion is given statutory force in England by section 78 of Police and Criminal Evidence Act (PACE), which provides that:

1. In any proceedings, the court may refuse to allow evidence on which the prosecution proposes to rely to be given if it appears to the court that, having regard to all the circumstances, including the circumstances in which the evidence was obtained, the admission of the evidence would have such an adverse effect on the fairness of the proceedings that the court ought not to admit it.

2. Nothing in this section shall prejudice any rule of law requiring a court to exclude evidence.[116]

The statutory and common law background demonstrates that judicial discretion in evidentiary exclusion is conceptually acknowledged, yet its application in Nigeria remains cautious and strongly influenced by relevance-based reasoning rather than rights-based exclusion. By section 82(1) of PACE, the word 'proceedings' as it applies to section 78 is confined to criminal proceedings, but includes summary trial and committal proceedings.[117] At common law, the authorities appeared to have established that the judge was required to weight the probative value of the evidence tendered against its potential prejudice to the accused person. That balancing process determined whether the admissible evidence tendered should be excluded as a matter of discretion. In Nigeria, the position of the law as regard the standard governing exclusion of improperly obtained evidence seems that Nigerian judges are still quite conservative in holding tenaciously to the age long common law principle on the admissibility of illegally obtained evidence irrespective of the manner in which the evidence was obtained. Quite still, cases decided after the coming of the

[116] Section 78 of Police and Criminal Evidence Act [PACE] 1985.
[117] Section 82(1) of Police and Criminal Evidence Act 1985.

Evidence Act 2011 indicates inclination by the Nigerian judges to admit illegally obtained evidence on the basis of relevancy.

This inclination is clearly demonstrated in *Ibrahim v Ogunleye*,[118] which is an election petition case, the court held that illegally or unlawfully obtained evidence if relevant is admissible. Thus, the fact that a ward supervisor of a political party who is not one of the categories of persons specifically mentioned in section 46(1) and 62(1) of the Electoral Act and the INEC Manual for the 2007 election would not by that fact alone automatically make the evidence of such a person inadmissible. The illegality of his presence at the polling station would not automatically translate to inadmissibility of the evidence of what he saw, experienced or witnessed at that polling station. Such evidence is analogous to evidence illegally or unlawfully obtained, which if relevant is admissible. Thus, in reinstating the applicable test on admissibility of evidence, the court stated that: "The test to be applied in considering whether evidence is admissible is whether it is relevant to the matters in dispute. If it is admissible, the court is not concerned with how the evidence was obtained."[119]

5.1. Challenges faced by the Court and the Implications on Human Rights

The adjudicatory response of Nigerian courts to improperly obtained evidence reveals a persistent tension between procedural fairness and evidentiary pragmatism, particularly in the face of constitutional guarantees that are often invoked but not always decisively enforced.[120] One major difficulty confronting the courts is the absence of a consistently applied exclusionary standard, which leaves judges with wide discretion under sections 14 and 15 of the Evidence Act

[118] [2012] 1 NWLR 489 at 508 paras. C-D, C.A.
[119] *Ibrahim v Ogunleye* [2018] 1 NWLR [Pt. 1282] 489 p. 508, paras. C-D.
[120] MB Adeyemi, 'Admissibility of Illegally Obtained Evidence in Nigeria: The Journey So Far' *SSRN* (2026) 5 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5909683> Accessed 20 July 2026.

2011. This results in uneven outcomes depending on judicial inclination rather than a firm doctrinal rule.[121] This discretion becomes particularly problematic where evidence is obtained through methods that implicate core constitutional protections such as dignity, privacy, and fair hearing, yet are still admitted on the basis of relevance, thereby creating a jurisprudential conflict between legality and utility. The result is a judicial environment where courts are required to balance competing values without clear hierarchical guidance, making it difficult to maintain consistency in protecting human rights while ensuring effective criminal adjudication.[122] Another significant challenge is the evidentiary dependence on law enforcement narratives, which are often presented in court as completed facts rather than processes subject to constitutional scrutiny. This limits the court's practical ability to interrogate the manner in which evidence is obtained, especially in cases where investigative misconduct is not directly visible on the face of the evidence itself. The implication is that human rights violations occurring at the investigative stage are frequently decoupled from admissibility determinations, thereby weakening judicial oversight over executive enforcement actions. In such circumstances, courts are placed in a structurally constrained position where exclusionary remedies are rarely invoked, not necessarily due to judicial unwillingness, but due to doctrinal ambiguity and evidentiary reliance on relevance as a dominant threshold.

5.2. Effects of Improperly Obtained Evidence on the Protection of Human Rights

The continued admissibility of improperly obtained evidence has a direct and far reaching impact on the protection of constitutional

[121] ibid.

[122] NH Worluh-Okolie and CO Joseph-Asoh, Legal and Institutional Frameworks for Human Rights Protection in Nigeria: Challenges and Pathways to Effective Enforcement' *Fountain University Law Journal (FULAJ)* [2024] 1(2) 200.

rights, particularly those guaranteed under Chapter IV of the Constitution of the Federal Republic of Nigeria 1999 (as amended).[123] Rights such as dignity of the human person,[124] privacy,[125] and fair hearing[126] are conceptually strong within the constitutional framework, yet their practical enforcement becomes weakened when courts admit evidence obtained through processes that infringe those very protections.[127] Section 34, which prohibits torture and inhuman treatment, and Section 37, which guarantees privacy of persons, homes, and communications, are especially implicated when investigative methods involve coercion, unlawful searches, or surveillance without authorization.[128]

The protection of fair hearing under Section 36 is also affected, particularly where improperly obtained confessions or statements are admitted without rigorous scrutiny of voluntariness or investigative legality. Although courts occasionally exclude involuntary confessions, the broader acceptance of illegally obtained but relevant evidence dilutes the protective scope of fair trial guarantees, as the focus shifts away from the integrity of the process toward the usefulness of the outcome.[129] This approach risks reducing fair hearing to a procedural formality rather than a substantive safeguard against state overreach, especially in criminal proceedings where the imbalance of power between the state and the accused is pronounced.

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[123] F Agbede, 'EFCC Raids and the Legal Dilemma of Illegally Obtained Evidence in Nigeria' (2025) 1 <https://www.researchgate.net/publication/388221423_EFCC_Raids_and_the_Legal_Dilemma_of_Illegally_Obtained_Evidence_in_Nigeria> Accessed 20 July 2026.
[124] Sections 34 of the CFRN 1999 (as amended).
[125] Section 37 of the CFRN 1999 (as amended).
[126] Section 36 of the CFRN 1999 (as amended).
[127] A Ashiru, 'Right to Privacy and Illegally Obtained Evidence in Nigeria: Has the Law Moved Beyond Kuruma v R?' *ESUT Law Journal* [2021] 3(1) 110.
[128] ibid.
[129] NO Obiaraeri, 'Paradigm Shift in Recording of Confessional Statement Under the Administration Of Criminal Justice Act, 2015 - Case Law Review of *FRN V Nnajiofor' Nnamdi Azikiwe University Awka Journal of Private Property Law* [2024] 1(2) 27.

Consequently, the constitutional promise of fairness becomes contingent rather than absolute, depending heavily on judicial discretion under statutory interpretation.

The normalization of improperly obtained evidence also influences the operational behavior of law enforcement agencies, who may perceive limited judicial deterrence against investigative illegality.[130] Where evidence obtained through questionable means is routinely admitted on the basis of relevance, law enforcement agencies may prioritize evidentiary success over procedural compliance, thereby weakening internal discipline and accountability structures. This creates a feedback loop in which judicial admissibility standards indirectly shape investigative culture, potentially encouraging shortcuts in the evidence gathering process. The resulting institutional environment reduces the practical effectiveness of constitutional safeguards as behavioral constraints on state actors.

6. RECOMMENDATIONS

To address the challenges identified in this study, the following recommendations are suggested

1. Strengthening Constitutional Compliance during Criminal Investigations: The effectiveness and legitimacy of criminal investigations depend substantially on strict adherence to the constitutional guarantees of fundamental rights. Accordingly, law enforcement agencies should ensure full compliance with the provisions of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), particularly those safeguarding the rights to dignity of the human person, personal liberty, fair hearing, and protection against self-incrimination. Investigative practices involving torture, coercion,

[130] MB Adeyemi, 'Admissibility of Illegally Obtained Evidence in Nigeria: The Journey So Far' *SSRN* (2026) 5 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5909683> Accessed 20 July, 2026.

intimidation, prolonged or unlawful detention, and other forms of cruel, inhuman, or degrading treatment should be unequivocally prohibited. Beyond ensuring legal compliance, strict observance of constitutional standards enhances the credibility of criminal investigations, preserves the integrity of evidence, and reinforces public confidence in the administration of criminal justice.

2. Adopting a More Principled Judicial Approach to Improperly Obtained Evidence: Although the Evidence Act 2011 grants Nigerian courts discretion in determining the admissibility of improperly obtained evidence, the exercise of that discretion should be guided by constitutional values and the overarching objective of preserving the fairness and integrity of judicial proceedings. Courts should subject evidence alleged to have been obtained through torture, oppression, unlawful detention, unconstitutional searches, or other violations of fundamental rights to rigorous judicial scrutiny. Where the admission of such evidence would compromise the fairness of the proceedings or appear to legitimize unconstitutional investigative practices, judicial discretion should be exercised in favor of exclusion. Such an approach would not only strengthen constitutionalism and the rule of law but would also reinforce judicial accountability while discouraging systemic abuses by investigative authorities.

3. Institutionalizing Mandatory Electronic Recording of Interviews and Confessional Statements: The mandatory electronic recording of all suspect interviews and confessional statements should be institutionalized as a fundamental procedural safeguard within Nigeria's criminal justice system. Audio-visual recording from the commencement to the conclusion of interrogations would provide an objective and verifiable account of the investigative process, thereby reducing disputes concerning the voluntariness and authenticity of confessional statements. This reform would protect suspects from

coercive interrogation practices while simultaneously safeguarding investigating officers against unfounded allegations of misconduct. Furthermore, electronically recorded interviews would enhance evidential reliability, facilitate judicial fact-finding, and contribute significantly to the transparency and accountability of criminal investigations.

4. Enhancing Capacity Building for Criminal Justice Actors: Continuous professional education should be prioritized for law enforcement officers, prosecutors, judicial officers, and other criminal justice stakeholders to promote a deeper understanding of constitutional safeguards and the legal principles governing improperly obtained evidence under the Evidence Act 2011. Such training should extend beyond procedural compliance to include human rights-based investigative techniques, comparative jurisprudence on the exclusion of improperly obtained evidence, ethical standards in criminal investigations, and the constitutional implications of unlawful evidence-gathering practices. Sustained capacity-building initiatives would foster a culture of legality and professionalism, minimize investigative misconduct, and improve the overall quality, fairness, and credibility of Nigeria's criminal justice system.

7. CONCLUSION

This study demonstrates that the effective administration of criminal justice requires a careful balance between the prosecution of offenders and the protection of constitutionally guaranteed fundamental rights. While the Evidence Act 2011 provides safeguards against the admission of improperly obtained evidence, their effectiveness depends on consistent judicial application and lawful investigative practices. The study concludes that strengthening constitutional compliance, promoting judicial consistency, improving investigative standards, and ensuring accountability for rights violations are essential to enhancing public confidence in the justice system and ensuring that criminal convictions are founded on lawful, reliable, and fairly obtained evidence.