

Re-Appraising the Statutory and Ethical Roles of Lawyers Pursuant to Nigeria's Administration of Criminal Justice Act, 2015

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Abstract

Breach of fundamental human rights and rule of law are challenges that have tainted Nigeria's image and impaired sustainable development of her justice system. These breaches are: torture, distorting bail procedures among others. These illegal practices if unchecked may culminate in the denial of justice. The lawyer's role therefore, is vital in fostering a culture of enduring dispensation of justice, especially in the light of the many challenges bedeviling Nigeria's criminal justice system. The paper re-appraises the statutory and ethical roles of lawyers pursuant to the Nigeria's Administration of Criminal Justice Act, 2015 in facilitating stringent compliance with the Act to safeguard the rule of law. The study is a doctrinal legal research with a library based approach. It adopts primary sources such as statutes, judicial authorities and secondary sources such as textbooks, journals/articles and internet sources. The research recommends among others, reform and strengthening of the judiciary to promote its independence in the administration of criminal justice system. Lawyers must ensure that the Administration of Criminal Justice Act, 2015 fosters dexterous management of cases by all adjudicatory bodies for speedy dispensation of justice, promotion of rule of law, and to end abuse of court processes. The study finds that Nigerian criminal law appears flawed in this regards. This research revealed series of human rights violations in Nigeria and equally highlighted the roles of lawyers in combating these abuses and suggest the use of modern forensic technologies in all courts in Nigeria which is currently lacking and made some recommendations.

Keywords: Abuses; Human rights, Roles of lawyers; Torture; Justice; Nigeria.

JEL Classification Code: K3; K4; K14; K19; K38; K40; K41; and K42.



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1. Introduction

The legal profession contributes in significant respects to the legal, social and economic development of a nation. It thus suffices to say, that lawyers are primary stakeholders in preserving the sanctity of the socio-economic polity, particularly in an evolving country such as Nigeria. In this regard, the unfolding complexities associated with the Nigerian context, further amplifies the considerable efforts that must be deployed by lawyers towards curbing the endemic trend of human rights abuses, injustices and corruption. Hence, lawyers have the responsibility of fostering a legal system that guarantees the presumption of innocence until a guilty verdict can be established in the law court. Section 36(5) Constitution of Federal Republic of Nigeria 1999 (As Amended). Also in the case of *the Federal Republic of Nigeria V. Usman (2012) LPELR-SC.283/201*.

Lawyers also facilitate citizens' right to equal protection under the law, a centre-piece of the lawyers' functions and which manifests in different respects. The major complaints of accused persons in police custody include; acts of brutality, inhuman torture, poor feeding and unhealthy environment ([Amnesty International, 2014](#)). It is thus the role of a lawyer, to ensure that his client is protected from such illegal and unreasonable treatment.

The Criminal Procedure Act or the Criminal Procedure Code are adopted by each State in Nigeria to combat crimes but these statute have been enacted for some years devoid of any momentous development in the administration of criminal justice in Nigeria due to weak enforcement ([Iyoha et al., 2017](#)).

However, the aim of the new Administration of Criminal Justice Act (ACJA) 2015 is to enhance the efficiency of criminal justice organisation through alacritous administration of justice to guaranteed the fortification of the general public from anti-social behaviour and safeguard the civil liberties and concerns of the indicted, the respondents, the targets of the crime and to fill the gaps identified under the repealed Criminal Procedure Act Chapter C.42. Laws of the Federation of Nigeria, 2004.

The following are constitutionally guaranteed fundamental human rights that are constantly disregarded by the law enforcement agencies in Nigeria among others: Right to life as stated under section 33 of 1999 Constitution of the Federal Republic of Nigeria (As Amended) (Omonijo and Olujobi, 2018).

Right to dignity of an individuals as contained in section 34 of the Constitution, right to personal freedom as stated under section 35(1) of the Constitution, while section 36 (4) provide the right to heard, right to privacy and family life section 37, section 39(1) provide for correspondences. Section 38(1) guaranteed liberty of opinion, conscience and belief of one's choices, liberty of communication and the media, freedom of non-violent assembly and organisation, liberty of movement section 41, liberty from prejudice, Section 44 of the same Constitution guarantee liberty to procure or own permanent property in anyplace in Nigeria. Right to compensation where one's property is compulsory acquired by the government as stated under section 44(1)(a) and section 29 Land Use Act, 1978.

The rates of abuses of accused persons' rights in custody, by the police, especially in relation to obtaining confessional statements in Nigeria are alarming. Harassment, pre-judicial confessional statements are coerced from these accused persons by the police. The presence of a lawyer tends to reduce these unlawful and dehumanizing acts. Extracting or recording statements of any arrested person is unambiguously as stated in Sections 15 (4) of the Administration of the Criminal Justice Act (ACJA) and the Section 9 (3) Lagos State Administration of Criminal Justice Law (ACJL), Nigeria without the presence of the accused's choice of counsel or his family members and despite the accused insistence or demand for his counsel to be present before such statement are made and often times this is ignored and the suspect is made to forcefully and perfunctorily make statements and the processes of making those statements are usually not recorded and the statements are not usually being endorsed by a superior police officer after the making of the purported statement such statement is deemed to be void for lack of voluntariness and it "shall" be discountenanced by the Courts.

The word "shall" is used to express command or exhortation. See the following cases OMOKEODO V. I.G.P (1999) 6NWLR (PT 607) 467, ENOCHIE V. ODOGWU (2006) 6 NWLR (PT 975) 65, BAMAIYI V AGF (2001) 38 WRN P.1 AT 12 R.12 AND ACHINEKU V. ISHAGBA (1988) 4 NWLR (PT 89) 411. The sections stated above from the extant criminal law specifically remove the mischief about the use of force, inducement and intimidation of the police and other security agents while obtaining statements from suspects. Once the provisions of those laws are strictly followed, the doubt or question of involuntariness of confessional statements is removed, and the court of law is saved a lot of time from conducting trial within trial.

Unfortunately, some lawyers particularly the some investigators are yet to be attuned with this noble ideal enshrined under these new laws. Once a Defendant or a suspect make his statement in the presence of his lawyer or relation and or he is video recorded during the making of the statement, the argument that such statement was not made voluntarily is removed but many of our law enforcement agents are still rooted in the old criminal law.

What more does the court need to know about the involuntariness of those statements? Nobody needs to strain or stress his imaginative and intellectual powers to get to the right meaning and intention of the law when a calm community of sections 15 (4) of the Administration of the Criminal Justice Act (ACJA), section 9 (3) Lagos State Administration of Criminal Justice Law (ACJL), 2015, sections 17 and 18 of the Administration of Criminal Justice Law 2016, Oyo State, Nigeria are read.

The goal of this study is to re-appraising the Statutory and ethical roles of lawyers pursuant to Nigeria's Administration of Criminal Justice Act, 2015. The paper is apportioned into five categories, section one contain introduction, section two discusses theoretical framework, literature review and statement of the problems, section three, methods of research. Section four discusses results and section five ended with conclusion and recommendations.

2. Literature Review

The Federal government has been rated low concerning respect for fundamental human rights of its populace due to recorded series of arbitrary arrest and detention of suspects after their bail conditions have been satisfied and order for their release have been granted by the courts (Sahara Reporters, 2018). The case of the former National Security Adviser, Sambo Dasuki who is accused of mismanaging the sum of S\$2.1b meant for purchase of fire arms to fight the dread terrorist group called Boko Haram. He was arrested and detained without being charged to court since December 2015. The Federal High Court, Abuja on July 2, 2018 granted his bail application and likewise the ECOWAS court declared his continue detention illegal but the State Security Service ignored the order to release him (Okakwu, 2017). No investigation has been made on the alleged abuses by prosecuting the alleged government's agencies or officials who are allegedly to have committed violations of his fundamental human rights.

On December 12-14, 2015, the Nigerian Army was allegedly effectuate a massacre of 347 (Three Forty Seven) adherent of the Islamic Movement of Nigeria (IMN) in Zaria, Kaduna State and concealed their corpses in corpus vaults.

Another landmark incident was the case of Shittes religion leader El-Zakzaki who was also granted bail by the court of justice but he was not released by the securities agencies on the ground of national security which contravened his constitutional rights of presumption of innocence until proven guilty as stated under section 36 (5)1999 Constitution of the Federal Republic of Nigeria (As Amended).

There are series of human right violations through extra-judicial killings by security agencies in contravention of the provisions of the National Security Agency Act, Cap N74 LFN, 2004. It was also reported that over 20,000 (Twenty Thousand) people were killed and over 50,000 rendered homeless by the Joint Military Task Force (JTF) during the Niger Delta crisis (Ero, 2009). Over (Fifty) 50 people were said to have lost their lives due to the brutality

of the Nigerian police on February, 25, 2008 in Ogaminana, Okene, Kogi State (Adetoro, 2014). It was also reported that over Seventeen (17) people were killed by the police during the protest in Kaduna State on April 17, 2017 still no body has been prosecuted or convicted for these alleged offences.

The Odi village massacre in Bayelsa State on November 20, 1999 by the Nigerian military was another horrible incident and gross human right violation by the Nigerian securities agent (Nzarga, 2014). Also the case of case zaki biam massacre of over 100 (One Hundred) Nigerian by the soldiers (military men) in Benue State which contravened liberty provisions as stated under Section 33 of the 1999 Constitution of the Federal Republic of Nigeria.

Also in 2007, a school girl of three (3) years was allegedly to have been violated by a Mobile Police constable in Gwogwalada, Abuja (National Human Rights Commission, 2011). This is a clear case of infringement of fundamental human right and desecration of right to self-esteem of human person as enshrined in the 1999 Constitution (as amended).

It was also allegedly that One Lawal Ganiyu age (Fifty) 50 years was detained and brutalized by the Police for an unproven offence of (N4,000,000) fraud due to this incident he was said to have suffered memory lost since April 25, 2013 after the incident (The Nation Newspaper, 2013). This is a breach of his Constitutional rights to dignity of his human person as stated under section 34 of the 1999 Constitution (as amended) among other serious incidents of violation of fundamental inalienable human rights in Nigeria.

3. Methods of Research

The study is a library-based doctrinal legal research, supported by a contextual analysis, including reference to internet sources, an extensive review of academic literature, examination of case studies, and the analysis of relevant statutory and judicial provisions. The study adopts secondary sources such as journals, textbooks written by renowned legal scholars, relevant International Conventions, as well as a point-by-point comparative approach of the Administration of Criminal Justice Act 2015 and the Repealed Criminal Procedure Act (CPA), Chapter C42, Laws of the Federation of Nigeria, 2004.

4. Theoretical Framework

An understanding of the two theories utilised in this study can lend insight into solutions to these problems and, in the context of this study, can assist in understanding the ethical roles of lawyers in fostering a culture of enduring dispensation of justice, especially in the light of many challenges bedeviling Nigeria's criminal justice system in facilitating stringent compliance with the Act to safeguard the rule of law in Nigeria.

The theory of Conflict developed by Karle Max in 1800 century at the time of feudal period it emphasized that the interrelationship between the lords and serfs distorted due to conflict in law and in fact which lead to a new social system that altered the arrangement on social relations. Max argued that due to conflict between sub-groups, the system of administration may collapse. The theory focuses on capitalisms and societal class which resulted to change of relations within the existing social structure.

He said that the social system required transformation through conflict and that each societal structure comprises of strain and potential conflicts. Marx's argument that the change from feudalism to another social system is well appreciated through the study of stress and strain within the system and whether this will occasioned change in the societal system depending on the efficiency of the system and opposition to change and flexibility of the law of the society and sometimes the rigidity of the law may suppresses conflicts and rebellion in the society. The emphasized is that the need for conflict management mechanisms and ability to use them at the occurrence of conflict by lawyers in the administration of justice is important to reduce incidents of human rights violations in Nigeria.

4.1. Expectant Theory

It was developed by Vroom (1964), but it was refined by Porter, Lawler in 1986 among others. It emphasis the psychological antecedents that go into motivation and the way they are identify with each other. It is a concept of motivation that stress the link between the efforts put into work and accomplishment of the set goals and the rewards derived from the work performance especially in respect of litigations and series of human right violations. Lawyers will be encouraged if they perceive that good efforts will prompt decent incentives and excellent efforts will prompt needed results such as securing conviction of the accused or by obtaining damages for the innocent party in the event of abuse their fundamental human rights.

The elements of this theory are expectancy, which efforts of lawyers as member of the bar in ensuring administration of justice will result to good outcome where clients pay their lawyers very well, disclose all relevant material facts and make available relevant evidence to proof the claims brought before the court.

The instrumentality and valence are the credence that positive outcomes will produce rewards. Clients are expected to have faith in their lawyers' capability of protecting their interests. This can only be achieved by chosen lawyers with the required skills and knowledge in the subject matter of concerned or litigation. Compensation mechanism is another powerful incentive in liking lawyers' performance to rewards in handling their cases in court. Lunenburg (2011), argued that where a person is motivated efforts will lead to acceptable standard of performance. It is the duty of a lawyers having been briefed to ensure that their client case are handle professionally with reasonable diligence expected of every lawyer in handling their cases.

5. Statement of the Problems

The effects of inalienable fundamental rights abuses in Nigeria are lack of patriotism, poverty, unemployment increase in crime rate and hindrance to national development and social justice. Due to poverty and high cost of legal representation many Nigerians whose fundamental human rights have been violated hardly seek legal redress. Non-existence of the political will on the part of the Federal Government (Olujobi, 2017), to combat fundamental human rights abuses in Nigeria due to political conspiracy or fear of losing political relevance or losing the next general election in the country.

Generally, a lawyer is a person who has had the opportunity and privilege of legal education and training, which may vary in terms of areas of practice, expertise and years of experience. In Nigeria, there are solicitors, advocates and academics contributing in their own respects to the advancement of the legal profession. Also, legal services are rendered by legal practitioners for stipulated fees or *pro bono* in the legitimate furtherance of personal interests and public good (Alito, 1998). The traditional role of lawyers is that of defender of justice and representative of individuals before the court to ensure that justice is done at all time but sometimes the reverse is the case in Nigeria.

5.1. The Tasks of Lawyers Pursuant to the Administration of Criminal Justice (AOCJ) Act, 2015

The Administration of Criminal Justice (AOCJ) Act, 2015 was assented to by President Goodluck Jonathan in May, 2015. It is geared towards the administration of criminal justice and connected issues in the Courts of the Federal Capital Territory (FCT) and other Federal Courts in Nigeria (FHC). It repealed the Criminal Procedure Act (CPA) 1945 that was accepted in the Southern part of Nigeria and the Criminal Procedure Code (CPC) 1963 that was used in the Northern part of Nigeria and the Administration of Justice Commission Act. The Act offers Nigerians a unique and unified law on crimes comprised in Federal statutes.

One of the roles of a lawyer is to defend an accused person that is considered by the Constitution to be innocent until proved guilty as stated in section 36(5) of the 1999 Constitution of the Federal Republic of Nigeria (as amended). A lawyer, subject to his client fulfilling the requisite conditions, is expected to secure the bail of same which will enable him to conduct the case in a diligent manner. As stated under the 1999 Constitution (as amended), a suspect can insist on having contact with his lawyer on arrest. Section 35(2) offers that any individual who is arrested or incarcerated have the justification to remain taciturn as stated in section 36(11) of the 1999 Constitution (As amended) or circumvent replying any interrogation pending consultation with his or her counsel or any other individual of his own choice as enshrined in section 36(6)(c). See the case of *Awolowo .v. Minister of Internal Affairs (1962) All NLR p. 157*.

The rights of an accused person as enshrined in section 36(4) of the 1999 Constitution (as amended) provide for fair trial within a reasonable time. This rule in essence provides for expediency and impartiality in the dispensation of criminal justice in Nigeria. *Uzodinma v. Commissioner of Police, [1982] 1 NCR 27. Josiah v. The State [1985] 1 NWLR (Pt. 1) 125. In Okotogbo v. State (2004) All FWLR (Pt. 222) 1652 at pp. 1659-1660*. The accused person was charged with the offence of armed robbery and murder. He was not represented by lawyer and he was subsequently convicted. The Supreme Court held that failure of the Appellant to be represented by counsel amounted to a denial of fair hearing (Akpambang, 2016).

The new Administration of Criminal Justice Act, 2015 now provide that that where a counsel who represent the defendant fails to appear in court on two sittings of the court, the court must ask the defendant if he intend to get another counsel and to allow the defendant within thirty days to secure the service of another lawyer for his or her defence or may direct that a lawyer from Legal Aid Council appear for him as provided for under sections 349, 267(4), 349(6) Administration of Criminal Justice Act, 2015.

Lawyers' interest, especially the State's Prosecutor is to primarily present the facts as they are and to ensure that justice is done. This is contrary to the general view that the primal goal of a prosecuting counsel is to secure a conviction of an accused at all cost. In *R.v. Sugarman (1936) 25 CR. APP. R. 109*. the Criminal Appeal Court held as follows: "The business of the State lawyer is to equitably and objectively to unveil all the evidences to the judges. The government has no benefit in procuring a conviction but that the right person is convicted to serve as deterrence to others. (Emphasis is our). Where a lawyer refuses to admit the actual strong point of his or her matter and thinks he can fortify it by things that collateral in a way that contravened the law, he only weakens his case and may prevent a verdict which ought to be obtained".

The Act merged the major sections of the Criminal Procedure Act and Criminal Procedure Code and preserves the existing criminal procedures. The Act is important in the development of Nigerian criminal justice system. The Act introduces new sections that will increases the effectiveness of Nigerian justice system *modus operandi*. It will fill the gaps observed in the repealed Criminal Procedure Act (CPA). The *rationale* for the Act is to encourage effective administration of criminal justice, accelerated trials, fortification of Nigerians from offence and secured the rights and interests of the indicted, the respondents, and the injured persons in Nigeria (Akinseye-George, 2016).

6. Results

Table-1. Comparison of the Administration of Criminal Justice Act 2015 and the Repealed Criminal Procedure Act Chapter C42, Laws of the Federation of Nigeria 2004

S/N	Administration of Criminal Justice Act 2015 (ACJA)	The Repealed Criminal Procedure Act (CPA) Chapter C42. Laws of	Remarks
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		the Federation of Nigeria 2004.	
1.	The ACJ Act has deleted the section 10 CPA that authorised the law enforcement to arrest devoid of warrant any individual who has no means of support and who cannot offer any suitable explanation of himself.	Section 10(1), empowered the police to arrest devoid of warrant, any person who has no source of revenue and who cannot offer any reasonable justification of himself and means of livelihood.	It was allegedly abused by the police under the repealed Criminal Procedure Act.
2.	Section 7 explicitly prohibits arrest of the suspect relations in lieu of the suspect where he cannot be found.	There are series of allegations of the police arresting the accused relations/families where he cannot be found.	It was greatly abused by the police under Criminal Procedure Act.
3.	Section 6 states that a suspect shall be notified of the aim for his apprehension.	This section existed before now, but the ACJ Act added emphasis on it to prevent abuse.	Existed before the ACJ Act 2015 but the Act emphasis more on it to prevent abuse.
4.	Section 8 humane treatment of the arrested person.	It existed before the ACJ Act 2015 but it emphasis more on it.	This is in conformity with section 34 of the 1999 Constitution (As Amended).
5.	Section 8 (2) prevent a suspect being arrested on mere civil wrong or breach of contract.	Existed before the ACJ Act 2015 but the Act emphasis more on it.	Existed before the ACJ Act 2015 but it emphasis that police are not to be used as debt recovery agents. <i>Ogbonna v. Ogbonna (2014) LPELR - 22308 CA (2014) 23 WRN 48.</i> <i>In Mclarence v. Jennings (2003) 3 NWLR (Pt. 808) 470, Ibiyeye & Anor V. Gold & Ors, Appeal NO_ CA/IL/M.95/2010,</i> delivered on 7/12/2011. Also in <i>Anogwie & Ors v. Odom & Ors. (2016) LPELR-40214 (CA).</i>
6.	Section 469(1) establish the Administration of Criminal Justice Monitoring Committee to promote efficient compliance with the Act.	Not provided for explicitly.	There is the need for periodic evaluation of their compliance strategies and procedure for effective enforcement of the Act.
7.	Section 10 provide for inventory of all items received from the suspects.	Existed before the ACJ Act 2015 but the Act emphasis more on it.	Enforcement will promote transparency and accountability of proceeds of crimes.
8.	Section 337 states the procedure for seizure of property (assets) during arrest or investigation.	Existed before the ACJ Act 2015 but it emphasis more on it	Compliance with this procedure will promote transparency and accountability of proceeds of crimes.
9.	Section 15(4) state that where an accused offers to make a confessional statement, the testimony shall be in writing and may be audiovisual for detailed.	Not explicitly provided for.	This an innovation that will end trial within trials and the problem of involuntariness of confessional statements of the accused if enforced in Nigeria.
10.	Section 16 establishes the Police Central Criminal Registry.	Not explicitly provided for under the repealed Criminal Procedure Act.	An innovation that will end absence criminal data/record of convicted persons in Nigeria.

11.	Section 15 offers three-monthly register of apprehensions to the Attorney-General of the Federation.	Not explicitly provided for under the repealed Criminal Procedure Act.	An innovation to decongest the police station and prisons to prevent unlawful arrest and detention of persons by law enforcement agencies if enforced strictly.
12.	Section 29(5) authorizes the Attorney-General of the Federation to create database/ registers of apprehended individuals at the Federal and State level.	Not explicitly provided for under the repealed Criminal Procedure Act.	An innovation to prevent unlawful arrest and detention of suspects if enforced strictly.
13.	Section 33 requires monthly report by the Police to the supervising magistrate suspect on all persons arrested with or without warrant.	Not explicitly provided for under the repealed Criminal Procedure Act.	If enforced it will prevent unlawful arrest, detention and it will decongest the prisons and police stations.
14.	Section 111 provides that Comptroller-General of Prisons must make available record/register to the AGF and Chief Judge FCT every 90 days on awaiting trials inmates.	Existed before the ACJ Act 2015 but the Act emphasis more on it.	If enforced it will prevent unlawful arrest, detention and it will decongest the prisons.
15.	Section 106 limits the power to prosecute criminal cases to the following: AGF, legal officers in Ministry of Justice and lawyers authorized by the AGF.	Prosecutions were carried out by the police's prosecutors who are not trained as lawyers. In <i>Osahon v. Federal Republic of Nigeria [2006] 2SC (Pt.II)</i> 16. This judgement has been overtaken by the Act therefore it is no longer a good law in Nigeria. Section 23 of the Police is also not a good law in Nigeria. It has been repealed by this Act.	This is expected to bring professionalism to prosecution of criminal cases thereby leading to true justice and promote professionalism in the police force.
16.	Section 196 (2) provide that charge sheet must contain the picture of the defendant and finger prints if available.	There was no provision for such under the repealed Criminal Procedure Act.	The finger prints will help to ascertain the identity of the accused or convicted persons.
17.	Section 110(3) prevents unnecessary delay of criminal trials.	It has been in existence before the ACJ Act 2015 but the Act emphasis more on it	It will promote speedy trials of criminal cases.
18.	Section 167 (3) provide for women sureties.	This is absent under the repealed Criminal Procedure Act.	This will eliminate discrimination against Women sureties.
19.	Section 396 provide for everyday hearing of criminal matters for speedy conclusion.	This is not explicitly stipulated under the repealed Criminal Procedure Act.	The Act will accelerate criminal trials and thereby promote true justice in the sector.
20.	Sections 306 and 396 put an end to stay of proceeding and Interlocutory appeals by fusing all preliminary objections for determination during the final judgment with the substantive matter.	CPA entertains stay of proceeding applications and Interlocutory appeals which often delay criminal trials.	The Act will enhance speedy trial of criminal cases if enforced.
21.	Section 364 provide for electronic record of proceedings.	Not provided for explicitly under the repealed Criminal Procedure Act.	The Act will enhance speedy trial of criminal cases if enforced.
22.	Section 319 provides compensation to victims of crime in addition to fine or other punishment that may be imposed	Not provided for explicitly under the repealed Criminal Procedure Act.	It will promote prison decongestion and compensation to victims of crimes.

	by the court.		
23.	Section 453, 460 and 468 provide for non-custodial sentences such as: Suspended sentence, community service, parole and probation.	Not provided for explicitly under the repealed Criminal Procedure Act.	It will promote prison decongestion.
24.	Section 477 makes provisions for the trial of companies with its representative appearing on its behalf.	Not provided for explicitly under the repealed Criminal Procedure Act.	It will deter crimes and enhance true justice.

7. Discussions and Conclusion

Section 106 of the Administration of Criminal Justice Act, renders the trial of cases the sole reservation of counsel. Law enforcement agent who are not trained as lawyers have forfeited the right to arraign an accused persons in the Courts where the AOCJ Act applies, thereby suspending Section 23 of the Police Act which authorizes Nigerian Police officers to arraign matters in Court. This Section has overruled the Supreme Court verdict in *Federal Republic of Nigeria v. Osahon (Supra)*. Where the Court held that a police officer has the power to initiate criminal proceedings before any Court in Nigeria without first obtaining the Attorney-General of the Federation's fiat.

Another innovation introduced by the Act, centers on the denial of an application for stay of proceedings on criminal matters before the Court. This extraordinary section prohibit adjournments of trial by frivolous interlocutory applications to stay proceedings while awaiting appeal on preliminary issues even when the main subjects before the courts are yet to be tried on the merits. See Section 306, Administration of Criminal Justice Act, 2015.

The Act conclusively settled the argument as to whether a woman can stand surety for a bail applicant in Nigeria. Henceforth, the applicable rule is that; "No one shall be deprived of, disallowed or constrained from standing as surety for any suspect on the ground that the individual is a woman. See section 167 (3) Administration of Criminal Justice Act, 2015. In effect, a lawyer is now enabled by law to preclude discriminatory actions against his client's surety on the grounds of gender, race, ethnic and religion etc.

It is also noteworthy that, prior to the Act, where the suspect was found culpable of purported offence; the solitary remedy available to an aggrieved party was limited to sentencing. The Act has given reliefs to such injured party by widening the discretionary authorities of the court to grant proportionate damages in justifiable instances to them. See section. 314 (1) (2) of the Act. Where the court fails to exercise this discretion, it is the duty of a lawyer to call the attention of the court to it as a matter of law and necessity.

The Act provides that a confessional testimony may be produced by electronic videotaping as stated in section 15 (4) of the Act to prevent refutation of confessional testimonies. The practice is that either the defendant is negating ever made the testimony or contending that the testimony was done under coercion or under other vitiating elements. In such circumstances, the court is usually compelled to stop the hearing of the main issue before it, so as to do "trial within trial". This process may be time consuming and often results to a situation where the confessional testimony is quashed due to the fact that such testimonies were captured only in written format. However, a lawyer is entitled under the legal regime of the Act, to further establish his case with the use of relevant electronic or documentary evidence, in conformity with the sections of the Evidence Act, 2011.

Over the years, corporate entities have been relatively immune from criminal liability. However, section 477 of the Act corporate legal entities can now be charged with crime through its directors as long as there is an established *prima facie* evidence of culpability. Any complaint as to the rationality of the arraignment as stated in section 396 (2) or evidence raised by the defendant shall only be take into consideration with the main issues and the court will rule on it at the time the court will deliver its judgment.

Under the Administration of Criminal Justice Act, 2015, the law enforcement agencies cannot apprehend individuals instead of the suspects as stated in section 7 of the Act. Section 7 of the Act by implication nullifies the erroneous practice by members of the Nigeria Police Force, where an individual unconnected to an offence is apprehended in instead of another. Where arrest is effected the defendant must be told reason for the arrest section 6 and shall be treated with dignity as stated in section 8(1) of the Act and as well provided for under section 34(1) (a)-(c) of the 1999 Constitution (as amended).

Section 8(2) of the Act thwarts situations where the police are being used as debt recovery agent to apprehend parties to commercial disputes (*Olujobi et al., 2018*). Also stated in *Ibiyeye & others v. Gold & others (2012) LPELR 1 at 38-39* that: "A defendant shall not be apprehended simply because of civil wrongs or infringement of contracts." Where a lawyer's client is arrested by the police for indebtedness on the instructions of the creditor, it is the duty of such a lawyer to challenge such an action in Court.

Section 9(1) (a) of the Act offers that the apprehension of accused should be done with "reasonable force" required for that aim. Therefore, in case of non-compliance, a lawyer can readily challenge the police in court for breach of his client's right to self-respect and dignity of human person.

The Act, in furtherance of its reformatory and restorative outlook, provides for community service sentence as the court may direct. However, the court's discretion should be exercised bearing in mind that the crime for which the offender was put on trial does not comprise the use of dangerous weapon, or a crime whose penalty exceeds incarceration for three (3) years. The underlying reason in this instance is to contribute towards decongesting the

prisons; to reorientate convicts through their participation in practical work and to discouraged convicts who perpetrated simple offences from associating with recidivist.

The Act provides that an accused shall not be remand beyond 14 days at first request and can be renew for another term not beyond 14 days with cogent justifications shown. After the end of remand terms if no legal advice is available, the court will order hearing notice to be served on the Inspector General of Police and Attorney General of the Federation or the Commissioner of Police or any other organization that have the accused in their custody to find out the status of the matter and may adjourn for 14 days for the officials concerned to give reasons why the accused should not be set free unconditionally by the court.

Failure to comply with this, a lawyer can bring an application before the Court for the enforcement of his client's fundamental human right to freedom as guaranteed by the Constitution.

The Act offers that the court may, during the judgment, order the offender to reimburse the complainant or pay the medical bill of the victim of the crime. Section 319(1)(a) of the Act. This is a very beneficial provision as it does not only seek to chastise the offender, but it also aimed to mitigate the losses caused by the crime committed by the accused.

8. Suggestions

There is the need to optimize the capacity of Nigeria's justice delivery system. The process should be inclusive in addressing issues of adequate remuneration, welfare packages and other conditions of service for judiciary workers and lawyers. This approach, if sustained will help to discourage corruption within the judiciary and the bar. There is also the need to enhance physical entrance to justice through the provision of Legal Aid Council to the indigent citizens, human right education with legal remedies and there is the need to reposition the National Human Rights Commission for efficiencies in discharge of its statutory functions of protecting and defending the citizens' fundamental human rights.

Constant funding of the judiciary is essential to ensure its independence or autonomy as the third arm of government and as the last hope of common man to instill discipline in the bar by sanctioning stringently erring lawyers by the Legal Practitioners Disciplinary Committees without fear or favour.

Also, government must strengthen and promote legal education and awareness of the citizens through the mass media. The civil societies group must re-energize their responsibilities in terms of promoting access to justice in Nigeria so as to rekindle the public confidence in the judiciary and the bar.

Judicial misconducts by any judicial officer that can impinge on the integrity of the judicial system and undermine criminal justice in Nigeria should be stringently punished by the National Judicial Council after first being subjected to investigation and disciplinary action then such judicial officer can be arraigned in court. *Nganjiwa .V. Federal Republic of Nigeria (2017) LPELR – 43391* where the court of appeal held that sections 153(1)(i)(2) section 271(1), section 292(1)(a)(ii) and paragraph 21 of part 1 of the Third Schedule to the 1999 Constitution(as amended) must be read together to mean that any judicial officer accused of an offence, must be subjected to investigation and disciplinary action by the National Judicial Council.

The courts should enforce victims' remedies through restorative and reformatory justice and to ensure that such remedies are adequate and commensurate with the nature of the offence committed and to promote strict adherence to the provisions of the Administration of Criminal Justice Act, 2015 for accelerated hearing of criminal cases without entertaining any frivolous applications to delay criminal trials. Finally, there is the need for the courts to encourage procedural fairness and equal application of the law to all Nigerians without discrimination.

There is the need for re-orientation of law enforcement agencies in Nigeria on the concept of rule of law and respect for fundamental human rights of the citizens as part of their statutory duties when called upon to restore law and order especially during internal crisis. There is the need for increased in access to legal aid an indigent citizens whose rights are being violated. Non-Governmental Organisations should assist more in the combat of human rights violations in Nigeria. There is the need for stringent enforcement of the provisions of the National Human Rights Act, 2010 to combat series of human rights violations in Nigeria especially by the law enforcement agencies.

9. Conclusions

This research shown series of human rights violations in Nigeria and equally highlighted the roles of lawyers in combating these abuses and suggest the use of modern forensic technologies in all courts in Nigeria which is currently lacking and made some recommendations to bring the administration criminal justice in conformity with the international best practices in the advance jurisdictions and to reduce the various incidence of breach of fundamental human rights in Nigeria.

The study has succeeded in bringing to the lime light the major innovations that the new Act brought into the administration of criminal justice in Nigeria, the flaws of the Act and the need to overhauled the Act to combat frivolous applications by lawyers to delay criminal trials or to abuse court processes.

Lawyers must ensure that the Administration of Criminal Justice Act, 2015 encourages effective administration of criminal cases by the relevant adjudicatory institutions. Also, speedy dispensation of justice should be promoted. Hence, any intention to abuse court processes by lawyers should be discouraged in strong terms.

The rationale for the new Administration of Criminal Justice Act, 2015 was to address all the anomalies and *lacunae* in the criminal laws as well as all the connected administrative issues (Olujobi, 2017). Hence, a major challenge envisaged in undertaking such a venture, lies primarily in the due implementation of the provisions of the Act (Olujobi *et al.*, 2018).

The responsibilities of enforcing the Act lies with the police, lawyers, judges, magistrates and other stakeholders in the administration of criminal justice in Nigeria for efficiency in the administration of criminal justice system to strengthen the rights of the defendants and to reduce delays associated with criminal trials in Nigeria. The Act is apt and it is in compliance with the global best practices in criminal justice system in other relatively advances jurisdictions. Hence, the modalities as may be necessary for integrating same, bearing in mind the prevailing local circumstances such as absence political will to implement the law without fear or favour by the law enforcement agencies in Nigeria should be resolved now for the greater good of Nigerians and lawyers must uphold the ethics and moral virtues of the profession for efficient administration of criminal justice system in Nigeria and the rule of law.

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