SUMMARY OF SOME OF THE INNOVATIVE PROVISIONS OF THE ADMINISTRATION OF CRIMINAL JUSTICE ACT (ACJA) 2015

BY

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1. Introduction

Criminal Procedure in Nigeria was governed by two principal legislations which were handed down to us by the British Colonial Administration, namely: the Criminal Procedure Act (CPA)[1] and the Criminal Procedure Code (CPC)[2]. Each state in Nigeria adopted the CPA or the CPC. These laws have been applied for many decades without significant improvement. As a result, the criminal justice system has lost its capacity to respond quickly to the needs of the society: To check the rising waves of crime, speedily bring criminals to book and protect the victims of crime. The ACJA 2015 responds to Nigeria's dire need of a new legislation that will transform the criminal justice system to reflect the true intents of the Constitution and the demands of a democratic society, eliminate unacceptable delays in disposing of criminal cases and improve the efficiency of criminal justice administration in the country. It is hoped that the newly-elected Administration of President Mohammadu Buhari, GCFR would urgently commence and prioritise the implementation of the ACJA to prosecute its campaign against corruption and allied crimes.

[1]The Act came into being as ordinance N0. 42 of 1945 was re-enacted as ordinances N0 43 of 1948 and was at various times "amended". It was subsequently incorporated as Cap. 80 Laws of the Federation of Nigeria (LFN 1990 and later as Cap. C41 LFN 2004. The Criminal Procedure Act is the principal enactment governing criminal procedure in the Southern States of Nigeria.

[2] The Criminal Procedure Code was enacted by the Northern of Nigeria in 1960 and applied only to the Northern Region and later when states were created, to all the Northern States of Nigeria.

The provisions for the reform of Administration of Criminal Justice were first developed in 2005 by the National Working Group on the Reform of Criminal Justice Administration in Nigeria. The Group which was established by the then Hon. Attorney-General of the Federation and Minister of Justice, Chief Akin Olujinmi, SAN was maintained by his successor, Chief Bayo Ojo, SAN. The Group consisted of individuals drawn from all segments of the criminal justice sector. In 2011, the then Attorney-General of the Federation, Mohammed Bello Adoke, SAN upon assumption established the Panel on Implementation of Justice Reform (PIJR) to implement the proposals for reform produced by the National Working Groups under the earlier administrations. The Panel conducted a detailed review of the proposals, brought them up-to-date and adopted an improved version.

The ACJA merges the main provisions of the two principal legislations, CPA and CPC into one principal federal Act which is intended to apply uniformly in all federal courts across the entire Federation. Substantially, it preserves the existing criminal procedure systems. But it introduces innovative provisions that could enhance the efficiency of the justice system. In other words, the ACJA 2015 builds upon the existing framework of criminal justice administration in the country. However, it fills the gaps observed in these laws over the course of several decades. The contents as revised and updated by the Panel on Implementation of Justice Reform (PIJR), with the support of the Centre for Socio-Legal Studies (CSLS) have now been enacted into law.

2. Purposes of the Act

The main purposes of the ACJA 2015 include the following: To promote efficient management of criminal justice institutions and speedy dispensation of justice, protect the society from crime, and protect the rights and the interest of the defendant and the victim. The purposes of the Act are captured in section 1. These indicate a deliberate shift from punishment as the main goal of the criminal justice to restorative justice

which pays attention to the needs of the society, the victims, vulnerable persons and human dignity.

The general provisions of the Act apply to criminal trials in court except where express provision is made in the Act or in any other law in respect of any particular court or form of trial. Specifically, section 2 of the Act provides that its provision shall not apply to a Court Martial.

3. Unlawful Arrests

Unlawful arrest is one of the major problems of our criminal process. It is one of the reasons why police stations and prisons are overcrowded. Arrests are sometimes made on allegation that are purely civil in nature or on a frivolous ground. By section 10(1) of the CPA, the police could arrest without a warrant, any person who has no ostensible means of sustenance and who cannot give a satisfactory account of himself. This particular provision has been greatly abused by the police who use it as a ground to arrest people indiscriminately. The ACJA has deleted this provision.

There were several instances where the police arrested relations or friends or close associate of a crime suspect to compel the suspect to give himself up even though that person was not linked in any way to the crime alleged against the suspect. Section 7 of the ACJA specifically prohibits arrest in lieu.

Apart from the police, other agencies vested with power of arrest e.g. the Economic and Financial Crimes Commission (EFCC), National Drug Law Enforcement Agency (NDLEA), National Agency for Food and Drug Administration and Control (NAFDAC), etc. had abused this power to arrest and detain relatives and close associates of criminal suspect in lieu of the suspects where they had challenges in apprehending the suspects. Section 7 should curtail this kind of abuses.

4. Notification of cause of arrest

Sections 5 of the CPA and 38 of the CPC provide that a police officer or a person making an arrest is to inform the arrested person of the reason for

the arrest, except where he is being arrested in course of the commission of the offence or is pursued immediately after the commission of the offence or escaped from lawful custody. It has been argued that this provision falls short of the contemporary requirement[3]. The ACJ Act 2015 retains this provision in section 6. However there is a proviso which mandates the police officer or any other person to inform the suspect of his right to:

a. remain silent or avoid answering any question until after consultation with a legal practitioner or any other person of his own choice;
b. consult a legal practitioner of his choice before making, endorsing or writing any statement or answering any question put to him after arrest;
c. Free legal representation by the Legal Aid Council of Nigeria where applicable.

This provision re-affirms section 35(2) of the Constitution of the Federal Republic of Nigeria, which provides that any person who is arrested or detained shall have the right to remain silent or answering any question until after consultation with a legal practitioner or any other person of his choice.

It is necessary to state here that the proviso in section 6 (2) is quite laudable since the suspect will have the benefit of not only being informed of the offence he has committed but also an additional advantage of counsel assisting in securing his immediate release on bail and ensuring expeditious trial. This would in turn prevent prolonged detention of suspects and hopefully bring about decongestion of the prisons.

5. Humane treatment of an arrested Person and prohibition of arrest on civil cases

The ACJA 2015 reiterates the constitutional provision of the right to dignity of person. Section 8(1) of the Act provides that:

[3] Ani C. C. Reforms in the Nigerian Criminal Procedure Laws, Nigeria Institute of Advance Legal Studies Journal on Criminal Law and Justice, Vol. 1 2011.

a suspect shall-

(a) Be accorded humane treatment, having regard to his right to the dignity of his person.

(b) Not be subjected to any form of torture, cruel, inhuman or degrading treatment.

Section 8 (2) deals with the longstanding problem whereby people employ the machinery of criminal justice wrongly for civil matters. It is not uncommon for people to maliciously instigate the arrest and detention of others for a breach of contract, failure to pay debt owed or for other civil wrongs. This provision that "a suspect shall not be arrested merely on a civil wrong or breach of contract." is a laudable one. It is believed that it would check arbitrary arrest of persons by law enforcement and security agencies.

6. Mandatory Inventory of Property

In order to encourage accountability and transparency, the ACJA introduces in section 10 a provision which states that a police officer making an arrest or to whom a private person hands over a suspect, shall take an inventory of all items or properties recovered from the suspect. The inventory must be duly signed by the police officer and the suspect. However, where the suspect refuses to sign, it shall not invalidate the inventory. This provision also directs that a copy of the inventory shall be given to the suspect, his legal practitioner, or such other person as the suspect may direct.

This provision permits the police to release such property upon request by either the owner of the property or parties having interest in the property pending the arraignment of the suspect before a Court. Where a police officer refuses to release the property to the owner or any person having interest in the property, the police officer shall make a report to the court of the fact of the property taken from the arrested suspect and the particulars of the property.

It is now entirely for the court to decide whether to release the property or any portion of it in the interest of justice to the safe custody of the owner or person having interest in the property. This provision further provides

that where any property has been taken from a suspect under section 10 of the ACJA, and the suspect is not charged before a court but is released on the ground that there is no sufficient reason to believe that he has committed an offence, the property taken from the suspect shall be returned to him, provided the property is neither connected to nor a proceed of crime.

7. Recording of Arrest

The ACJA makes provisions for mandatory record of personal data of an arrested Person. This is contained in section 15 of the Act. Such personal data of the arrested person shall include:

(a) the alleged offence*(s)*;
(b) the date and circumstances of the arrest;
(c) name, occupation and residential address of the suspect; and
(d) The suspect's identification which include his height, photograph, fingerprint impressions, or such other means of identification.

Subsection 2 of section 15, further provides that the process of recording shall be concluded within a reasonable time, not exceeding forty-eight hours. This is intended to check prolong pre-trial detention in the guise of recording the personal data of the arrested person.

8. Establishment of a Police Central Criminal Records Registry (CCRR)

Section 16(1) of the Act makes provision for the establishment, within the Nigeria Police, a Central Criminal Record Registry. Subsection 2 of section 16 provides that there shall be established at every state police command, a Criminal Records Registry which shall keep and transmit all such records to the Central Criminal Records Registry.

Subsection 3 mandates the Chief Registrar of the courts to transmit the decisions of the court in all criminal trials to the Central Criminal Records Registry within thirty-days after delivery of judgment. Where there is default by the Chief Registrar to transmit records within thirty days after judgment, he shall be liable to disciplinary measures by the Federal Judicial Service Commission for misconduct.

The establishment of Central Criminal Record Registry will ensure that all arrests and judgments are well documented. This is intended to avoid a repeat of what happened in the case of Agbi v. Ibori[4]. The central figure in this case was Chief James Onanefe Ibori, the then Governor of Delta State. At the time of commencement of this action at the High Court of the Federal Capital Territory, Abuja he was a candidate for the 2003 General Elections. In an action before the said High Court two persons suing as Plaintiffs began a joint action to challenge Ibori's qualification to stand as a gubernatorial candidate for the 2003 election having been an ex-convict. The action did not succeed before the High Court. However on appeal to the Court of Appeal, the Court in a unanimous judgment allowed the appeal of the Plaintiffs, set aside the judgment of the High Court and ordered that the case be heard afresh by another Judge of the High Court.

The proceedings commenced at the High Court of the Federal Capital Territory and one of the main issues was whether the record of proceedings of Bwari Upper Area Court in case N0. CK 81-95 (Exhibit A) wherein one James Onanfe Ibori was convicted was sufficient to act against the 5th Defendant/Appellant (James Onanfe Ibori) as an ex-convict. During the trial the Upper Area Court Judge came to court and testified that James Onanfe Ibori was an ex-convict. James Onanfe Ibori on the other hand, contented that Exhibit A did not conform to section 157 (1) of the Criminal Procedure Code. The court gave judgment in favour of James Onanfe Ibori and the matter was dismissed.

With the new provision in the ACJA, cases like this would no longer pose a major problem as there would be sufficient information on all convicted persons which should make it easy to identify them in subsequent proceedings.

9. Electronic recording of confessional statement

[4] (2004) All FWLR (PT. 202) 1799

Section 15(4) of the Act provides that where a person arrested with or without a warrant of arrest volunteers to make a confessional statement, the police officer shall record the statement in writing or may record the making of the confessional statement electronically on a retrievable video compact disc or such other audio visual means. Subsection (5) of section 15 provides that notwithstanding the provision of subsection (4), an oral confession of arrested suspect shall be admissible in evidence. This provision of the ACJ Act conforms to the position of the law as contained in the Evidence Act.

The electronic recording of confessional statement was aimed at ensuring that the police do not use torture and other involuntary means to extract confessional statements from suspects. But it was observed that most police stations in the country do not have electronic recording machines. Even if such machines were provided, a suspect could be taken into a room where there are no recording equipment and tortured there. He could thereafter be taken to another room with recording equipment to make a confessional statement as if he has not been tortured. It was further observed that practical problems of implementation as these are already being experienced in Lagos State where electronic recording of the making of confessional statement is already provided for. The final provisions of section 15(4) and (5) of the ACJA took cognizance of the observed practical problems.

10. Recording of statement of suspect

Section 17 of the ACJA stipulates that where a person is arrested on allegation of having committed an offence, his statement shall be taken in the presence of a legal practitioner of his choice, or where he has no legal practitioner of his choice, in the presence of an officer of the Legal Aid Council, official of a Civil Society Organization, a Justice of the Peace or any other credible person of his choice. The Legal Practitioner or any other person mentioned in this provision shall not interfere while the suspect is making his statement.

Where a suspect does not understand or speak or write in the English language, an interpreter, shall record and read over the statement to the suspect to his understanding and the suspect shall then endorse the statement as having been made by him, and the interpreter shall attest to the making of the statement. The interpreter shall endorse his name, address, occupation, designation or other particulars on the statement. The suspect shall also endorse the statement with his full particulars.

11. Monthly report by Police to supervising magistrate

Section 28 of the ACJA provides that an officer in charge of a police station or an official in charge of an agency authorized to make an arrest shall on the last working day of every month report to the nearest magistrate the cases of all suspects arrested with or without warrant within the limit of their respective stations or agency whether the suspect has been admitted to bail or not. Such report is to contain the particulars of the persons as prescribed in section 15 of the ACJA. Upon receipt, the magistrate is to forward the report to the Administration of Criminal Justice Monitoring Committee. The Committee shall analyze the report and advice the Attorney-General of the Federation as to the trends of arrests, bail and related matters. This provision is quite commendable as it will serve as a form of check and balance on the activities of law enforcement agencies.

In addition to the above provisions, Section 34 of the Act provides that the Chief Magistrate or where there is no Chief Magistrate within the police division, any magistrate designated by the Chief Judge for that purpose, shall conduct monthly an inspection of police stations and other places of detention within his territorial jurisdiction. During the visit, the magistrate may:

(a) call for and inspect the record of arrests;
(b) direct the arraignment of the suspect
(c) where bail has been refused, grant bail to any suspect where appropriate.

12. Quarterly Report of arrests to the Attorney-General of the Federation

Section 29 of the ACJA provides that the Inspector General Police and heads of every agency authorized by law to make arrest shall remit quarterly to the Attorney-General of the Federation a record of all arrests made in relation to federal offences or arrests within Nigeria. Subsection (1) of section 29 of the Act also mandates the Commissioner of Police of a State to remit to the office of the Attorney-General of that State a record of all arrests. Such record is to contain the full particulars of the person arrested as prescribed in Section 15 of the Act. Section 29(5) empowers the Attorney-General of the Federation to establish an electronic and manual database of all records of arrested persons at the Federal and State level.

13. Returns by Comptroller-General of Prisons

By section 111 of the ACJA, the Comptroller-General of Prisons is to make returns every ninety days to the Chief Judge and the Attorney-General of the Federation of all persons awaiting trial held in custody for a period beyond one hundred and eighty days from the date arraignment. The returns shall be in a prescribed form and shall contain such information such as:

(a) the name of the suspect held in custody or Awaiting Trial Persons,
(b) passport photograph of the suspect;
(c) the date(s) of his arraignment or remand;
(d) the date(s) of his admission to custody;
(e) the particulars of the offence with which he was charged,
(f) the courts before which he was arraigned
(g) name of the prosecuting agency, and
(h) any other relevant information.

Upon the receipt of such return, the recipient shall take such steps as are necessary to address the issues raised in the return in furtherance of the objectives of the ACJ Act.

14. Right to Bail

Sections 30, 31, 32 and 158- 164 of the ACJA make an elaborate provision on rights of an arrested person to be admitted on bail. It permits an oral

application in non-capital cases[5]. The Act alsomade specific provisions on bail where a person is charged with a capital offence. Such a person can only be admitted to bail by a High Court Judge under exceptional circumstances. Such circumstance may include:

(a) ill health of the applicant which shall be confirmed and certified by a qualified medical practitioner employed in a Government hospital;

(b) extraordinary delay in the investigation, arraignment and prosecution for a period exceeding one year; or

(c) any other circumstances that the Judge may, in the particular facts of the case, consider exceptional.

A person charged with an offence exceeding 3 years imprisonment shall upon application to the court be released on bail, except in any of the following circumstances:

(a) where there is reasonable ground to believe that the defendant will, where released on bail, commit another offence;

(b) attempt to evade his trial;

(c) attempt to influence, interfere with, intimidate witnesses, and or interfere in the investigation of the case;

(d) attempt to conceal or destroy evidence;

(e) prejudice the proper investigation of the offence; or

(f) undermine or jeopardize the objectives or the purpose or the functioning of the criminal justice administration, including the bail system.

These provisions of the ACJ Actregarding conditions for grant of bail in capital offences are clearer and detailed.

[5] See section 32 of the ACJ Bill.

15. Women Sureties

The current practice in Nigeria where women are routinely denied the right to stand as sureties for the purpose of entering into recognizance for bail received the attention of the ACJA. By virtue of section 167 (3) "no person shall be denied, prevented or restricted from entering into any recognizance or standing as surety for any defendant or applicant on the ground only that the person is a woman". This provision is commendable as it is in line with the 1999 Constitution and the Convention on the Elimination of Discrimination against Women (CEDAW) which has been ratified by Nigeria.

16. Prosecution

Section 106 of the ACJA stipulates that prosecution of all offences in any court shall be undertaken by:

(a) the Attorney-General of the Federation or a Law Officer in his Ministry or Department;

(b) legal practitioner authorized by the Attorney- General of the Federation;

(c) a legal practitioner authorized to prosecute by law.

This provision is novel and commendable. It is a deliberate attempt to lay to rest the issue of lay prosecution as endorsed in case of *Federal Republic of Nigeria v. Osahon*[6]. The Supreme Court in this case reaffirmed the powers of the police prosecutor whether qualified as a legal practitioner or not to prosecute in any court. However, it is observed that lay prosecutors are ill-equipped to respond to questions of law when raised by defence counsel. The use of lay prosecutors has contributed to the delay of criminal trials in Magistrates courts which ordinarily ought to be courts of summary jurisdiction.

17. Professional Bondsperson

Section 187 of the ACJA makes provisions for professional Bondspersons It provides for the registration and use of Bondspersons and gives the Chief

[6] . (2006)5 NWLR (PT. 973) 361

Judge the powers to make regulations in developing details of the best practices in the use of Bondsperson. The Bondspersons may undertake recognizance, act as surety, or guarantee the deposit of money as required by the bail condition of any person granted bail by the court within the jurisdiction in which the bondsperson is registered.

The Chief Judge may withdraw the registration of a bondsperson who contravenes the terms of his licence. Where a Bondsperson arrests a defendant or suspect who is absconding or who he believes is trying to evade or avoid appearance in court he shall arrest him immediately and hand him over to the nearest police station. The defendant must be taken to the appropriate court within twelve hours of his arrest.

18. Remand proceedings

Remand Proceeding refers a process where a suspect who is yet to be charged with an offence is ordered by a court, to be kept in prison custody, pending his bail, trial or release. The arrest and remand must be only for 'probable cause'[7]. In considering whether "probable cause" has been established for the remand of a suspect, the court may take into consideration the following:

(a) the nature and seriousness of the alleged offence;

(b) reasonable grounds to suspect that the suspect has been involved in the commission of the alleged offence;

(c) reasonable grounds for believing that the suspect may abscond or commit further offence where he is not committed to custody; and any other circumstances of the case that justifies the request for remand.

Section 295 of the ACJA permits the court in considering an application for remand, to grant bail to the suspect, taking into consideration the provisions of Sections 158 to 188 of the Act relating to bail.

[7] See section 294 of the ACJA.

19. Time protocol for remand orders

The ACJA 2015contains a time frame for remand orders. Under section 296, an order of remand made by a court shall not exceed a period of fourteen (14) days in the first instance. The court may make an order for further remand of the suspect for a period not exceeding fourteen days, on application in writing, showing good cause why there should be an extension of the remand period. After the expiration of the 14 days extension, the court shall order the release of the person remanded unless good cause is shown why there should be further remand order for a period not exceeding 14 days. At the expiration of the further order, the court is to issue a hearing notice to the Inspector-General of Police, Commissioner of Police and/ or Attorney-General of the Federation as the case may be and adjourn the matter in order to inquire as to the position of the case and for the Inspector General of Police or the Commissioner of Police and the Attorney-General of the Federation to show cause why the suspect remanded should not be unconditionally released. This provision is novel and quite commendable as this will address the problem of 'holding charge'.

20. Guideline to prevent abuses in Plea Bargain

Plea bargaining is one of the tools employed in the criminal justice system. It helps the State to manage caseloads. It reduces the work workload of the prosecutor and saves resources for the State. Plea bargain refers to a situation where a defendant pleads guilty to a charge or a lesser charge in exchange for a lighter sentence.

By virtue of Section 270 of the Act, the Prosecutor has the power to consider and accept a plea bargain from a person charged with any offence where the prosecutor is of the view that the acceptance of such plea bargain is in the interest of justice, the public interest, public policy and the need to prevent abuse of legal process. In determining whether it is in the public interest to enter into a plea bargain, the prosecution must weigh all relevant factors, including:

i. the defendant's willingness to cooperate in the investigation or prosecution of others;
ii. the defendant's history with respect to criminal activity;
iii. the defendant's remorse or contrition and his willingness to assume responsibility for his conduct;
iv. the desirability of prompt and certain disposition of the case;
v. the likelihood of obtaining a conviction at trial, the probable effect on witnesses;
vi. the probable sentence or other consequences if the defendant is convicted;
vii. the need to avoid delay in the disposition of other pending cases; and
viii. the expense of trial and appeal.
ix. The defendant's willingness to make restitution or pay compensation to the victim where appropriate.

The ACJA further provides that the prosecutor can only enter into a plea or sentence agreement after consultation with the investigating police officer, and the victim or his representative, with due regard to the nature of and circumstances relating to the offence, the defendant and public interest. The prosecutor, where it is reasonably feasible, is to afford the complainant or his representative the opportunity to make representations to the prosecutor regarding the contents of the agreement and the inclusion in the agreement of a compensation or restitution order. Such agreements between the parties must be in writing and signed. The presiding Judge or Magistrate is not permitted to be part of the discussions.

Where there is an agreement between the parties, the prosecutor shall inform the court of the agreement reached by the parties. It is the duty of the presiding Judge or Magistrate to inquire from the defendant to confirm the correctness and the voluntariness of the agreement. After considering the agreed sentence, the presiding Judge or Magistrate may impose the sentence agreed upon, or impose a lesser sentence. Where presiding judge or magistrate is of the view that the offence requires a heavier sentence than the one agreed, he is to inform the defendant of his view. The

defendant may decide to abide by his plea of guilty and accept the sentence by the Judge or Magistrate, or he may decide to withdraw from his plea agreement. If he does so, the trial proceeds *de novo* before another presiding Judge or Magistrate.

The provision which allows the Judge or Magistrate to decline to be bound by sentence agreed to by the prosecutor and defendant is a safeguard for situations where public sensibility may be offended by the sentence agreed.

A number of influential Nigerians including Mr. Tafa Balogun, former Inspector-General of Police, Mrs. Cecilia Ibru, former MD of Oceanic Bank, Mr. Lucky Igbinedion, former Governor of Edo State and others have had plea bargaining applied to their cases. The cases show that the absence of clear guidelines on the application of plea bargaining may have led to abuses and discrepancies it its application. However, with the provisions of the ACJA 2015 it is hoped that plea bargaining will be effectively and scientifically utilised in the Nigerian criminal justice system.

21. Speedy trial

The ACJA in section 396 makes provision for day-to-day trial of criminal cases. This is to ensure that criminal cases are expeditiously dealt with in line with the provision of the Constitution. Where day-to-day trial is impracticable after arraignment, parties shall only be entitled to five adjournments each. The interval between each adjournment shall not exceed fourteen days. This section also provides that where it is impracticable to conclude a criminal proceeding after the parties have exhausted their five adjournments each, the interval between one adjournment to another shall not exceed seven days. The court may award costs in order to discourage frivolous adjournments.

The provision further states that a Judge of the High Court who has been elevated to the Court of Appeal shall have dispensation to continue to sit as a High Court Judge for the purpose of concluding any part-heard criminal matter pending before him at the time of his elevation and shall conclude

same within a reasonable time. This provision is intended to address the problem of trial *de novo*[8].

By virtue of section 306, an application for stay of proceedings in respect of a criminal matter before the Court shall not be entertained.

Section 109(4) of the Act provides that where a charge is preferred at the magistrate court and the trial does not commence within thirty days, or trial has commenced but has not been completed after one hundred and eighty days of arraignment on that charge, the Court shall forward to the Chief Judge the particulars of the charge and reasons for failure to commence the trial or to complete the trial.

Section 109(5) mandates Courts seized of criminal jurisdiction to make quarterly returns of the particulars of all cases, including charges, remand and other proceedings commenced and dealt with in a Court to the Chief Judge. In reviewing the returns, the Chief Judge shall have regard to the need to ensure that:

(a) criminal matters are speedily dealt with;
(b) congestion of cases in courts is drastically reduced;
(c) congestion of prisons is reduced to the barest minimum; and
(d) persons awaiting trial are, as far as possible, not detained in prison custody for a length of time beyond the prescribed period.

The Act further provides that the Administration of Criminal Justice Monitoring Committee shall have power to consider all returns made to the Chief Judge for the purpose of ensuring expeditious disposal of cases. The National Human Rights Commission shall also have access to the said return upon request to the Chief Judge.

Section 349(7) of the Act states that a legal practitioner, other than a law officer, engaged in a matter shall be bound to conduct the case on behalf of the prosecution or defendant until final judgment, unless allowed for any special reason to cease from acting by the Court of its own motion or upon

[8] De novo is a Latin expression meaning “from the beginning or afresh”.

application by the legal practitioner. Where a legal practitioner intends to disengage from a matter, he shall notify the Court, not less than three days before the date fixed for hearing and such notice shall be served on the Court and all parties.

Furthermore, section 382 provides that where an information has been filed in the court, the Chief Judge shall assign it for trial within fifteen working day of its filing. On assigning the information, the court to which the information is assigned shall within ten working days of the assignment issue notice of trial to the witnesses and defendants and a reproduction warrant properly endorsed by the Judge in respect of the defendant charged, where he is in custody, for the purpose of ensuring his appearance on the date of arraignment, and the Chief Registrar shall ensure the prompt service of the notice and information not more than three days from the date they are issued.

22. Time limit for issuance of legal advice

Section 376 makes provision for time limit for the issuance of DPP's legal advice. It states that the Attorney-General of the Federation shall, within fourteen days of receipt of police case file, issue and serve a legal advice indicating whether or not there is a prima facie case against a defendant. The provision further provides that where the Attorney-General of the Federation is of the opinion as contained in the legal advice that the suspect has no prima facie case to answer, he shall serve a copy of the legal advice on:

(a) the police or the head of the police legal unit through whom the police case file was sent to the Attorney-General of the Federation.

(b) the court before whom the suspect was remanded in prison, where he is in remand custody, or before whom the suspect was granted bail, where he is on bail; and

(c) the suspect in respect of whom legal advice is preferred through the prison authority, where the suspect is remanded in custody, or through his legal representative.

23. Witness Protection

Section 232 of the Act permits witnesses to some offences to give evidence in camera. These include:

(a) sexual related offences,
(b) Terrorism offences,
(c) offences relating to Economic and Financial Crimes,
(d) Trafficking in Persons and related offences, and
(e) any other offence in respect of which an Act of the National Assembly which permit the use of such protective measures.

Under this provision, the name and identity of the victims of such offences or witnesses shall not be disclosed in any record or report of the proceedings and it shall be sufficient to designate the names of the victims or witnesses with a combination of alphabets.

It further provides that where in any proceedings the court determines it is necessary to protect the identity of the victim or a witness the court may take any or all of the following measures:

(a) receive evidence by video link.
(b) permit the witness to be screened or masked.
(c) receive written deposition of expert evidence.
(d) any other measure that the court considers appropriate in the circumstance.

The Act also stipulates that anyone who contravenes the provisions of section 232 shall be sentenced to a minimum term of one year imprisonment.

24. Electronic Record of proceedings

Section 364 provides the legislative backing for court proceedings to be recorded electronically. It states that in certain exceptional circumstances, where the evidence of a technical, professional or expert witness would not ordinarily be contentious as to require cross-examination, the court may

grant leave for the evidence to be taken in writing or by electronic recording device.

Similarly, section 362 states that where it appears to the court that a person who is seriously ill or hurt may not recover, but is able and willing to give material evidence relating to an offence and it is not practicable to take the evidence the during trial, the Judge or Magistrate shall take in writing the statement on oath or affirmation of the person. The Judge or Magistrate shall preserve the statement and file it for record.

25. Compensation to victims of crime

Victims of crimes are often neglected and left without any form of compensation even when the offender has been found guilty and sentenced. The ACJA has addressed this ugly trend by broadening the powers of the court to award costs, compensation and damages in deserving cases, especially to victims of crime. The Act adopted and improved on the provisions of the Criminal Procedure Act and the Criminal Procedure Code.

By the provisions of section 319 of the ACJA, court may within the proceedings or when passing judgment, order the convict to pay compensation to any person injured by the offence, irrespective of any other fine or other punishment that may be imposed or that is imposed on the defendant, where substantial compensation is in the opinion of the court recoverable by civil suit. The court may order the defendant to pay a sum of money to defray expenses incurred in the prosecution. The court may also order the convict to pay compensation to an innocent purchaser of any property in respect of which the offence has been committed who has been compelled to give it up. The court may also order the convicted person to pay some money in defraying expenses incurred in medical treatment of any person injured by the convict in connection with the offence.

26. Non-Custodial sentences

The ACJAin sections 453, 460 and 468 attempted to address the problem of excessive use of imprisonment as a disposal method by introducing some

alternatives to imprisonment. These include the introduction of suspended sentence, community service, parole and probation. It also provides that the court, in exercising its power shall have regard to the need to:

(a) reduce congestion in prisons;

(b) rehabilitate prisoners by making them to undertake productive work; and

(c) Prevent convict who commit simple offences from mixing with hardened criminals.

By virtue of 467 courts may sentence and order a convict to serve the sentence at a Rehabilitation and Correctional Centre established by the Federal Government in lieu of imprisonment. The court in making an order of confinement at a Rehabilitation and Correctional Centre shall have regard to the age of the convict; the fact that the convict is a first offender; and any other relevant circumstances necessitating an order of confinement at a Rehabilitation and Correctional Centre.

The section further provides that the court may make an order directing that a child standing criminal trial be remanded at a Rehabilitation and Correctional Centre.

27. Service of Court processes by Courier Companies

This is another innovative provision in the ACJA which states that service of court processes may be effected by registered reputable courier companies, recognized and authorized by the Chief Judge. This is to ensure that service of court processes is handled by professionals.

28. Establishment of Monitoring Committee

Section 469 of the ACJAestablished a body to be known as the Administration of Criminal Justice Monitoring Committee. Its membership is made up of the major stakeholders of the criminal justice system. By the provision of section 470, the Committee is to ensure that:

(a) criminal matters are speedily dealt with;

(b) congestion of criminal cases in courts is drastically reduced;

(c) congestion in prisons is reduced to the barest minimum;

(d) persons awaiting trial are, as far as possible, not detained in prison custody;

(e) the relationship between the organs charged with the responsibility for all aspects of the administration of justice is cordial and there exists maximum co-operation amongst the organs in the administration of justice in Nigeria;

(f) collate, analyse and publish information in relation to the administration of criminal justice sector in Nigeria; and

(g) submit report quarterly to the Chief Justice of Nigeria to keep the Chief Justice abreast of developments towards improved criminal justice delivery and for necessary action;

(h) Carry out such other activities as are necessary for the effective and efficient administration of criminal justice.

29. Conclusion

One of the major improvements brought about generally by the reforms is that conscious effort was made to strengthen the rights of the defendant and reduce delays in the criminal process. Though most of these rights had existed before now, the ACJA 2015 has added emphasis to them. It has also ironed out a lot or grey areas that had been long overdue for change. With the passage of this Act, the Criminal Procedure Act (CPA), Criminal Procedure Code (CPC) and the Administration of Justice Commission Act stand repealed in the FCT. The Act provides a model for the States of the Federation.