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The Administration of Criminal Justice Act, 2015: Pathway to A Reformed Criminal Justice System in Nigeria

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Abstract

Since the laws regulating crime touch upon the important areas of social life, legal systems have continued to imbibe best practises to regulate crimes within their jurisdictions in order to encourage development and ensure progress. Thus, a good criminal justice system ensures that effective laws are put in place to fit growing societal demands which are never static. Nigeria, in regulating criminal proceedings, had relied on obsolete laws existing since the colonial and post-colonial eras to 2015 when the Administration of Criminal Justice Act was enacted to fit the growing demands of the Nigerian society. This research uses the doctrinal method to appraise certain innovations of the Act and show how they can reform the criminal justice system in the country to align with best practices around the world. Even though the enactment of the Act is a welcome development, its application is limited only to federal courts (except a court martial) and courts within the Federal Capital Territory, Abuja. Whereas the laudable innovative provisions are highly commendable they can only be effectively applied if they are well implemented. Hence the need for government to effectively fund the criminal justice sector with appropriate manpower, resources and structures and the need for all the states within the country to enact their own Administration of Criminal Justice Laws to apply uniformly in the country.

Keywords: Reformation, Administration, Criminal, Justice.

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Introduction

The Administration of Criminal Justice Act, 2015[1] was enacted on the 13th of May, 2015 to apply uniformly in courts within the Federal Capital Territory (FCT) and federal courts (except a Court Martial) across Nigeria.[2] The purpose of the Act is to ensure that the agencies and institutions responsible for the administration of the criminal justice in the country are efficiently harmonised and managed to ensure speedy dispensation of justice, protect the society from crime and protect the rights and interests of both the victim and suspect.[3]

Before the advent of the Act, the Criminal Procedure Act,[4] the Criminal Procedure Code[5] and the Administration of Justice Commission Act[6] were the procedural laws that regulated criminal justice in the country. However, over the many years of their existence and application, the state of criminal justice administration was in a state of continuous decline owing to the pitfalls in the provisions like inadequate sentencing options, lack of a central data base on criminal records, room for unnecessary delays, inappropriate handling of accused persons among so many others, as a result of which the criminal justice system lost its capacity to effectively respond to the need of a contemporary and

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[1] Hereinafter referred to as the Act or the ACJA

[2] Section 493. See also the reference, ML Garba, 'Administration of Criminal Justice Act, 2015: Innovations, Challenges and Way Forward' [2017] Paper Presented at the August 15, 2017 lecture of the National Association of Judiciary Correspondents held in Lagos State, reported by the Nation Newspaper in <http://thenationonlineng.net/administration-criminal-justice-act-2015-innovations-challenges-way-forward/> Accessed on the 10th of June, 2019

[3] ACJA 2015 s 1.

[4] Cap. C41, Laws of the Federation of Nigeria (LFN) 2004 which shall be referred to as the CPA

[5] Cap. C42, LFN 2004 which also shall be referred to as the CPC

[6] Cap. A3, LFN 2004

growing society like Nigeria. Section 493 of the Act repeals the previous laws as far as all federal courts within Nigeria are concerned.

One of the major aims of criminal justice is to maintain societal standards by ensuring that criminals are not only punished for their crimes but that their behaviours are regulated and shaped to conform to those societal standards.[7] As society develops, so doescrime and the *modus operandi* of criminals. For instance, Information and Communication Technological advancements have brought about the phenomenon of cyber-crimes, meaning that the criminal justice system must adapt in order to combat the new phenomenon.[8] As such, the system is consistently developing ways to deter and punish crime as well as reform criminals. Hence, the enactment of the Act in 2015 and the aim of this research which is to examine the unique and innovative provisions of the Act and show how those innovations can help transform the process of administering criminal justice in the country to reflect the true intents of the Constitution, Federal Republic of Nigeria, 1999 (as amended)[9] and any egalitarian society.

Rights of Arrested Persons

When a crime is committed, it is the responsibility of the police to investigate and identify the suspected criminal(s) and collect sufficient evidence necessary to prosecute the case.[10] This

[7]Adebayo M.K. *et al*, 'An Appraisal of the Theories of Punishment under the Nigerian Criminal Justice System' (2005) 7 (1) *The Young African Research Journal* 33 '<www.yararena.org/uploads/YARJ_Dec_2012.pdf> Accessed 10th June, 2019.

[8]M Umukoro, Emerging Trends in Criminal Proceedings [2016] Conference Paper Delivered at the Refresher
Course for Judicial Officers at the National Judicial Institute, Abuja, on the 16th Of March, 2016.

[9] Hereinafter referred to as the Constitution or CFRN

[10] See Section 4 of the Police Act and the case of *Onah v. Okenwi* (2010) LPELR-478

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power given to police officers has been held to be very wide[11] since they can search any premises, question anybody and seize any property which may provide useful information on the investigation.[12] The police cannot be prevented by the court in carrying out its investigative functions because it would be considered as an interference with the powers given to police officers to investigate and prosecute crimes[13].

Unlike the issues that arose during the regime of the CPA and CPC[14] where there were so many cases of abuse of fundamental rights relating to the exercise of the power of arrests, the Act has made elaborate and innovative provisions regarding the issue. An instance is on the constitutional provision presuming the innocence of the accused person until the contrary is proved which has been elaborated in so many ways to ensure the right of the accused person like where the word defendant is used in the Act instead of accused person to refer to a suspected criminal.

Another instance can be seen in section 5 of the Act which provides that the suspect should not be unnecessarily restrained in the course of arrest except where there is reasonable apprehension of violence or where necessary for the safety of the accused person or based on an order of court. In the case of *Yakundue and Others v. Ekprieren and Others*[15], the court reiterated these facts. In line with the Constitution,[16] section 6 of the Act makes it mandatory to inform the accused person immediately of the reason for his arrest except where he is being arrested while committing the actual

[11] *Ofordette v. The State* (2000)12 NWLR (pt. 6811) 415 (SC)
[12] *Joshua v. The State* (2009) LPELR-8189 (CA)
[13] *IGP v Ubah* (2014) LPELR-23968 (CA)
[14] See section 10(1) of the CPA (Criminal Procedure Act) and section 27 of the CPC (Criminal Procedure Code) where police officers could arrest without warrant any person who has no ostensible means of subsistence and who cannot give a satisfactory account of themselves which were seriously abused as they gave the Police Officers licence to arrest people indescrimately.
[15] (2012) LPELR-20071 (SC)
[16] section 35(3)

offence or is being pursued immediately after the commission of the offence or has escaped from lawful custody. Even though the Act is silent on the consequences of the failure of the police to inform the person arrested of the cause of the arrest, the court may void the trial on this ground because the accused person must have sufficient information to enable him make an informed decision as whether or not to waive his right to Counsel.[17] This was emphasised in the case of *Rufai v. The State*,[18] where the court held that a trial may be voided where it is not shown that an accused person was informed of the nature of his offence in a language that he understands.

The ACJA in section 6(2) provides that an accused person has a right to refrain from making statements except and until he has consulted with a legal practitioner or any person of his choice. In other words, in addition to the right to be informed of his crime, he also has a right to remain silent so as not to incriminate himself or be coerced into making a confessional statement. In *R. v. Samuel*[19] the court held that this right is a fundamental right of a citizen and any refusal of access to a client's solicitor before an interview is unjustifiable and consequently unlawful.

Section 7 provides that no person shall be arrested in place of a suspect. This unjust act was usually practised by police officers as a means of compelling the production of the actual suspects. Sometimes, especially because of the issue of corruption among police officers, everybody seen with or around the accused person including family members, friends, or even strangers were usually arrested to increase the number of people that will be bailed.[20] This provision has cured that defect in the criminal justice sector to conform to best practises around the world.

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[17] *Ndukwe v. LPDC* (2007) LPELR-1978 (SC)
[18] (2001) 7SCNJ 122 (SC)
[19] (1988)2 All ER 135
[20] AM Adebayo, *Administration of Criminal Justice Act 2015: Annoted with Cases and Comprehensive Notes*, (Princeton Publishing Co., 2016)37

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Section 8(1) provides that any person accused shall be accorded humane treatment with regards to their dignity and that a person cannot be arrested merely on a civil wrong or breach of contract.[21]In*Nnoruga and others v. Eniowo*[22] the court held that no law in this country gives the police the power to dabble into purely civil transactions between parties neither do they have the power to convert a purely civil transactions between parties into a criminal one. The power for these kind of actions are left strictly for the courts.

AndatoryInventory of Property

Section 10 mandates the police to immediately take an inventory of all the items and properties recovered from an accused person after an arrest. Both the police officer and accused person are to sign the inventory after it has been taken down even though the refusal of the defendant to sign will not invalidate the inventory[23]. This provision is aimed at ensuring transparency and accountability and to reduce the incidences of conversion of defendants' properties by Police officers. A copy of the inventory is to be given to the accused person or his legal practitioner or any other person as may be directed by the accused person.[24] In addition, an interim release of any property seized may be handed over to the true owner of the property even before the arraignment of the suspect in court.[25]

Recording of Data and Statements of Accused Persons.

In a bid to check pro-longed detention of accused persons by police officers under the guise of recording their personal data, section 15 provides that a mandatory record of the personal data of

[21] Section 8(2)
[22] (2015) LPELR 24272 (CA) Abiriyi JCA
[23] Section 10(2)
[24] Section 13
[25] Section 110(1)(a)

an arrested person within a reasonable time not exceeding forty-eight hours shall be taken[26]. This is in order to remove any doubt as to the identity of the accused person and help the police in easily identifying the perpetrators of crime in the future. Under sub section (4) where a suspect volunteers to make a confessional statement, such statement must be in writing and/or may be electronically recorded where such facility is provided. However, an oral confessional statement may still be admissible in evidence. In *Jua v The State*,[27] it was held that a conviction on the oral confession of an accused person is proper in law and that what should be of importance to the court is whether the confession was voluntary according to section 27 and not against section 28 of the Evidence Act and in the case of *Ibeme v. The State*,[28] the court stressed that this innovative section of the Act will reduce the issue of trial within trial which usually prolongs criminal cases.

Section 17 provides that where a person is arrested on an allegation of a criminal offence, his statement shall be taken in the presence of a legal practitioner of his choice and in the absence of one, in the presence of an officer of the Legal Aid Council, Civil Society Organisation, Justice of Peace or any other person of his choice provided that the person does not interfere while he is making the statement. Sub section (3) provides that where the accused person neither understands, speaks or writes in the English language, an interpreter shall record and read over the statement to the understanding of the accused person who shall then endorse the statement as having been made by him and the interpreter shall also endorse this fact by including his name, address, occupation, designation or other particulars on the statement. The court advised in the case of *Sunday v. The State*,[29] that it is the practice that the

[26] See section 15(1) and (2)
[27] (2010) LPELR-1637 (SC) Niki Tobi JSC
[28] (2013)10 NWLR (pt. 1362) 333 at 371
[29] (2014) LPELR-24415 (CA)

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statements of accused persons be recorded in the language in which they are made to avoid any technical arguments that may arise and ensure the correctness or adequacy of the statements. However, even if they are made in another language other than the one in which the statement was made, it will still be held to be admissible.[30]

Right to Bail

In line with the fundamental right of liberty guaranteed in section 35(3) of the CFRN, the Act makes elaborate and innovative provisions on the right of an accused person to be admitted on bail. For Police bail pending further investigation, the Act provides that the accused person shall be released on bail where his offence is not a capital offence, within 24 hours of his arrest[31] and this should happen with or without sureties who can appear at a later date to secure the bail. It further provides that where this is not done, the accused person can apply to the court within 48 hours to be granted bail.[32]

For court bail which includes bail pending trial and bail pending appeal, section 159(1) provides that it is the right of an accused person to be granted bail except the offence is a capital offence. In the case of *Ikoton v. FRN and another*[33], the court emphasized the fact that bail pending trial is the right of the accused person except where the offence is punishable with death. In *Suleman V. COP, Plateau State,*[34] the court held that the criteria to be followed in deciding this right should include the nature of the offence, the strength of evidence, the gravity of the punishment, the previous criminal record, the probability that the accused may not surrender himself for trial, the likelihood of interfering with

[30] As per Tsamman JCA
[31]ACJA 2015 s 30.
[32]ACJA 2015 s 32.
[33] (2015) LPELR-24684 (CA)
[34] (2008) LPELR-3126 (SC)

witnesses or evidence and the likelihood of further charge as well as the necessity to procure medical or social reports. Section 161(2) provides that even where the offence is of capital nature, the accused person may still be granted bail where the High Court under exceptional circumstances confirms the ill health of the accused person, the delay in the investigation, the prosecution of the case for a period exceeding one year and in any other circumstance that the judge may consider exceptional.

In order to address the issue of fictitious sureties, the Act in section 187 provides for the registration, regulation and licence of corporate bodies and individuals as Bondspersons by the Chief Judge. Section 188 permits this Bondsperson to arrest an absconding suspect and hand him over to the nearest police station or court within 12 hours. Likewise, section 167(3) of the ACJA has removed the clog on women sureties by providing that no person shall be denied, prevented or restricted from entering into a recognisance or standing as surety for any defendant on the grounds that the person is a woman. This provision is in line with section 42 of the CFRN as well as the International Convention on the Elimination of Discrimination against Women (CEDAW) which has been ratified by Nigeria.[35]

Data Collection and Reports

In line with the need to promote accountability and transparency in the process of administering criminal justice, the ACJA makes provisions for data collection and reports by different shareholders and these are sub-divided into;

[35] YA George, An Overview of the Changes and Application of the Administration of Criminal Justice Act, 2015, in A. Adekunle, SO Oyakhire and C Nwabuzor (eds), *Issues on Criminal Justice Administration in Nigeria*, (Nigerian Institute of Advanced Legal Studies, 2016) 15

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(a) Data Collection by the Central Criminal Records Registry (CCRR)

Section 16(1) provides for the establishment of a Central Criminal Records Registry which shall keep all records transmitted to it from the Criminal Records Registry established at every state police command.[36] In addition, the Act makes it mandatory for the Chief Registrars of courts to transmit decisions of courts in any criminal trial to the CCRR within 30 days after delivery of judgment. These innovative and laudable provisions would make future investigation, prosecutions and adjudication of cases possible as it would provide sufficient information on all convicted persons and help differentiate first offenders from habitual criminals.

(b) Monthly Report by Police to Supervising Magistrate

In order to ensure a collective check on the activities of law enforcement agencies, section 33 provides that an officer in charge of a police station or agency authorised to make an arrest, shall on the last working day of every month report to the nearest magistrate, the cases of all accused persons arrested with or without warrant within the limit of their respective stations whether or not the person has been admitted to bail. This report upon receipt by the Magistrate is to be forwarded to the Criminal Justice Monitoring Committee[37] which shall in turn analyse the report and advice the Attorney-General of the Federation (AGF) as to the trends of arrests, bail and related matters.[38] On request, the AGF shall make the report available to the National Human Rights Commission (NHRC), the Legal Aid Council of Nigeria (LACN) or any Non-Governmental Organisation.

[36] Section 16(2)
[37] ACJA 2015 s 33(3).
[38] Ibid

(c) Quarterly Reports of Arrests to the Attorney General

Section 29 provides for the Inspector-General of Police (IGP) and Commissioner of Police (COP) of each state (including heads of every federal or state agency authorised to make arrests) to remit quarterly reports of all arrests made within the federation or state to the AGF and AGS respectively. The Act further mandates the AGF to establish electronic and manual data bases of all records of arrested persons at the federal and state levels. It is believed that strict adherence with this provision will cure the mischief occasioned by lack of records in the Criminal Justice System.[39] For instance, it will assist stakeholders in the system to determine criminal antecedents of an accused person as well as aid individuals, government, or corporate organisations to easy and immediate access to information on criminal records of customers, applicants, appointees or any other person dealing with them.[40] For instance, in the case of *Agbi v. Ibori*[41] it was difficult to determine whether the defendant who was a candidate for the 2003 Gubernatorial elections, was an ex-convict since there was no data based record except a testimony from the Judge of the Upper Area Court alleged to have delivered that judgement.

(d.) **Quarterly Reports of Cases to the Chief Judge.**

Section 110(5) provides that a court seized of criminal proceedings shall make quarterly returns of the particulars of all cases including charges, remand or other proceedings commenced and dealt with in the court within the quarter, to the Chief Judge. This provision ensures that justice delivery is fast-tracked and streamlined as the Chief Judge, in reviewing those returns shall have regard to the need to ensure that criminal matters are speedily dealt with, congestion of cases and prisons are drastically reduced and persons

[39] Adebayo (n 20) 101
[40] Ibid
[41] (2004) All FWLR [Pt. 202] 1799 (CA)

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awaiting trail are not detained beyond the prescribed time as provided for by the Act.[42]

(e.) Returns by Controller-General of Prisons

In a bid to reduce the number of inmates awaiting trial for long or indefinite periods, the Act in section 111 mandates the Controller-General of prisons to make returns every 90 days to the Chief Judge (of the FCT or State in which the prison is situated) and to the AGF of all the persons awaiting trail within their prisons beyond 180 days from the date of arraignment. The Chief Judge or AGF shall in turn, take such necessary steps to address the issues raised in the returns in furtherance of the objectives of the Act.[43]

(f.) Monitoring Functions of the Administration of Criminal Justice Monitoring Committee (ACJMC)

Section 469(1) of the Act establishes the ACJMC made up of the major stakeholders[44] in the CJ system to ensure effective and efficient application of the Act. The committee is responsible for ensuring that criminal matters are speedily dealt with, congestions in courts and prisons are drastically reduced, accused persons are not arbitrarily held up in prisons and that there exists maximum-cooperation among agencies responsible for administering criminal justice.

Power to Prosecute

Section 106 of the Act limits the prosecution of cases to be undertaken only by either the AGF or AGS of state or any law officer in their department[45], a legal practitioner authorized by the

[42]ACJA 2015 s 110 (6)
[43]ACJA 2015 s 111 (3)
[44] From the Judiciary, federal Ministry of Justice, Police, Prisons, Legal Aid, Nigerian Bar Association (NBA), Civil Society Organisation and Human Rights Commission (HRC)
[45]ACJA 2015 s 106(a)

AGF or AGS[46] as wells as any legal practitioner authorized to prosecute by law.[47] In conforming to this, the court reiterated the powers of the AGF in line with sections 174 & 211 of the CFRN in *Amadi v. FRN*[48] to include instituting, continuing, taking over and discontinuing actions at any stage before judgment is delivered while in *Unipetrol Nig. Ltd v. E.S.B.I.R.*[49] the court held that the Attorney-General of a State has the power to delegate his powers/functions to officers of his ministry to prosecute and defend matters in court on his behalf be it in criminal or civil cases. One very important aspect of this innovative section is that it has put to rest the issue of lay prosecution thus abolishing section 23 of the Police Act which confers powers on the police whether qualified as a legal practitioner or not to prosecute criminal trials.[50] The use of lay prosecutors has contributed to the inefficiency in handling criminal trails especially because prosecutors that aren't lawyers have been said to be ill-equipped in responding to questions of law.[51]

Speedy Trials

Speedy trials are constitutionally guaranteed rights of every Nigerian citizen because the fundamental right to fair hearing provides that a person has a right to fair hearing within a reasonable time by a court or tribunal that is independently or impartially secured.[52] To ensure expeditious disposal of criminal cases, the Act made so many laudable innovations. For instance, in section 396(3), the law provides for day-to-day trial until the conclusion of a case. Where this is impracticable, parties shall only be entitled to five adjournments each provided the interval between each adjournment

[46]ACJA 2015 s 106(b)
[47]ACJA 2015 s 106(c)
[48] (2008) LPELR-441
[49] (2006) LEPLR-3398
[50] See also the case of *FRN V. Osahon* (2006) 5 NWLR [pt. 973] 361 at 406 (SC)
[51] George (n 35)
[52] See section 36 CFRN

shall not exceed 14 working days.[53] After this is exhausted and the case has still not been concluded, then the interval becomes seven days inclusive of weekends[54] and costs shall be awarded to discourage frivolous adjournment.[55] Section 396(7) eliminates trial de-novo in criminal matters when a Judge of a High Court or its equivalent is elevated to the Court of Appeal.

Criminal trials in Magistrate courts according to section 11(4) of the Act are to commence not more than 30 days after filing the charge and completed within 180 days of arraignment or else, the Magistrate shall forward the particulars of the charge and reasons for failure to commence or complete the trial to the Chief Judge. In High Courts, the CJ shall within 15 working days, assign a charge filed[56] and the court in which it is assigned shall within 10 working days, issue hearing notices to the witnesses and defendants.[57] In Magistrate, Sharia and Customary courts, criminal proceedings may be instituted by a charge or compliant (whether or not on oath) or by way of an FIR (First Information Report)[58] while in High courts it may be commenced by filing a charge or an information.[59]

A legal practitioner (except a law officer) conducting a matter shall be bound to conduct the case until final judgment, unless allowed by the court for any special reason, to cease from acting.[60] This section also applies to practitioners giving free legal representation and who have a duty to carry out their duties, diligently and professionally. In addition, Section 135 provides that where an accused person admits to his guilt in writing or through his legal representative, his personal appearance can be dispensed

[53]ACJA 2015 s 396(4)
[54]ACJA 2015 s 396(5)
[55]ACJA 2015 s 396(6)
[56]ACJA 2015 s 382(1)
[57]ACJA 2015 s 382(2)
[58]ACJA 2015 s 109(a)
[59]ACJA 2015 s 109(b)
[60]ACJA 2015 s 349(7)

with while section 376(2) provides that the DPP's legal advice is to be issued within 14 days of receipt of the case file and sent directly to the police or legal unit from where the case file was sent. For service of processes, section 166 provides that a summons can be issues or served any day including a Sunday or public holiday and the service can be made through a courier company duly registered with the Chief Judge as a process service agent.[61]

One major innovation of the Act as regards speedy trials is with the abolition of stay of proceedings[62] and the reduction of the time spent on deciding objections raised which is to be delivered at the time the final judgment is being delivered.[63] Also notable is the provision for the electronic recording of proceedings in court[64] which had not been provided for under the previous laws as emphasised in *Sommer v. F.H.A*[65] that until electronic recording is introduced, proceedings will have to be recorded manually;hence, the need and basis for this innovation in the Act.

Time Protocols for Remand Orders

In the case of *Lufadeju v. Johnson,*[66] the court held that where an accused person is brought before a Magistrate Court for an offence which the Magistrate has no jurisdiction, the Magistrate may remand the person in custody pending the arraignment of the person before a competent court. This position is affirmed by section 293 of the Act which provides for remand orders while section 294 sets out the conditions that are to be taken into consideration before the order is made.[67] The court in considering

[61]ACJA 2015 s 122
[62]ACJA 2015 s 306
[63]ACJA 2015 s 396(2)
[64]ACJA 2015 s 364
[65] (1992)1 NWLR [Pt. 219] 548
[66] (2007) LPELR-1795
[67] Like the nature of the offence, reasons to believe the accused is involved with the offense, or may abscond or even commit further offenses and any other justification for remanding the person.

the order, may grant bail to the accused person in accordance with the provisions of the Act.[68] The innovation here is not with the order but with the time limit which shall not exceed 14 days per time provided that he may grant such extensions of fourteen days to a number of times not exceeding three (that is, no more than 56 days in all) and with good cause shown as to why the accused may still be remanded.[69]

Plea Bargain

The practise of plea bargaining which was totally alien to our legal system was introduced by section 14(2) of the EFCC Act and section 75 of the ACJL[70] of Lagos state.[71] The Act has unlike the previous laws regulating criminal justice administration, has innovatively provided for this process under section 270. A plea bargain was defined in the case of *Romrig Nig. Ltd v. FRN*[72] as "a negotiated agreement between a prosecutor and a criminal defendant whereby the defendant pleads guilty to a lesser offence or to one of multiple charges in exchange of some concession by the prosecutor usually a more lenient sentence or a dismissal of the other charges".[73]

The process of plea bargain is important because it reduces the work of the prosecutor and saves the time of the State.[74] Thus the prosecution may enter a plea bargain with the defendants with the victim's consent and before the defendant's case is opened[75] provided that there is insufficient evidence to prove the offence, the defendant has agreed to make restitution, has cooperated with the prosecution as regards the other offenders in case of a criminal

[68]ACJA 2015 s 294
[69]ACJA 2015 s 296
[70] Administration of Criminal Justice Law
[71] Adebayo (n 20) 399 - 400
[72] (2014) LPELR -22 759
[73] See also *Gava Corporation Ltd. v. FRN* (2014) LPELR-22749
[74] George (n 35) 18
[75]ACJA 2015 s 270(2)

conspiracy and where the prosecutor is of the view that the offer is in the interest of justice, public interest and policy as well as prevent the abuse of the legal process.[76] Even though the Judge does not participate in negotiations[77] he may accept or reject the terms of the plea bargain subject to certain considerations[78] and where it is accepted, then the terms and resources that would have been wasted during trial would have been saved thereby aiding the quick dispensation of Justice. In the case of *PML (Nigeria) Ltd. v. FRN*,[79] the court reiterated the importance of the practice in fast tracking justice delivery.

Non-Custodial Sentences.

Non-custodial sentences as alternatives to incarceration are generally imposed as penalty for non-violent convicts as well as convicts of minor offences who do not pose serious threat to the public.[80] The basis for non-custodial sentencing is premised on the fact that crime and delinquency are failures not only of the individual offender but of the society as a whole.[81] Under the Act, the basis as provided for in section 460 is to reduce congestions in prisons, rehabilitate prisoners and enable them undertake productive work as well as to prevent convicts who commit simple offences from mixing?up with hardened criminals. Before the advent of the Act, so much emphasis was placed on sentencing to a term of imprisonment which was punitive and deterrent in nature and little emphasis was placed on the reformation, restoration, mental/physical health or even the age of the convict. With the coming into effect and possible implementation of its provisions, it

[76] Ibid
[77]ACJA 2015 s 270(8)
[78]ACJA 2015 s 270(10)
[79] (2014) LPELR-22767 (C.A)
[80]DG.Shajobi, "Challenges of Imprisonment in the Nigerian Penal System: The Way Forward" (2014) *American Journal of Humanities and Social Sciences*. 100
[81]VV. Tarhule, *Corrections under Nigerian Law* (Innovative Communications, 2014) 8.

is hoped that this defect will be cured. The different types of non-custodial punishment forms as provided for by the Act include;

(a) Probation

Probation may be defined as a practice by which a court, rather than imprisoning an offender, permits him to remain at liberty, subject for a period of time, to certain stated conditions and the supervision and guidance of a probation officer.[82] Under section 454, the court in considering probation will have regard to the character, mental state, health or age of an offender, trivial nature of offence or circumstances under which an offence was committed to grant the order. Under sub section (2), the court while granting probation may dismiss the charge, even without a conviction as long as the accused person promises to be of good behaviour and appear at any time during such period not exceeding three years. In addition, the court may order a recognisance with or without sureties and place the accused person under the supervision of a probation officer.[83] Where it so required, the court may also order the accused person to pay compensation for damages to the victim for his criminal action.[84] The terms or conditions of probation can be varied by the court (on the application of the probation officer) by either reducing or extending the period of probation (not exceeding 3 years) depending on the conduct of the accused person.[85] The court may also issue a warrant of arrest[86] or even convict and sentence the accused person for the original offence if he fails to observe any of the conditions of his recognisance.[87]

[82] Ibid 350
[83]ACJA 2015 s 454(2)
[84]ACJA 2015 s 454(3(a). Note also that under sub (b) of the same section, this payment may be made by his parents or guardian where the defendant is less than 18 years.
[85]ACJA 2015 s 458
[86]ACJA 2015 s 459(1)
[87]ACJA 2015 s 459(5)

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The law providing for probation applies to both adult and juvenile offenders but in practice, Nigerian courts resort to normal punitive sentences for convicts and are generally sceptical about non-custodial sentences.[88] The reason mostly is because of the inability to effectively trace and locate offenders placed on probation, lack of fixed regular employment, lack of probation officers and structures to regulate the process among other factors.[89]

(b) Confinement in Rehabilitation or Correctional Centres

Section 467(1) provides that where the accused person is convicted for an offence which can be tried summarily, he may be sentenced to a Rehabilitation and Correctional Centre established by the Federal Government in lieu of imprisonment.

(c) Community Service

In addition to the above, the court may sentence the convict to perform some specified service in his community or place as directed by the court.[90] Under section 460(3), the provision may not avail a convict whose offence involves the use of arms, offensive weapons, sexual offences or any felony. In order to actualise this provision, the Chief Judge is empowered to establish a community service centre in every judicial division of a state which is to be headed by a registrar to oversee the execution of the orders made in that division.[91] Section 462(1) provides that anybody convicted under this provision cannot work for more than 5 hours a day and the order cannot be made to exceed 6 months. And just like in the case of probation, a registrar may give a report on the

[88] IE Oduola, "The Non-Custodial Sanctions Regime under the Administration of Criminal Justice Act, 2015" in A. Adekunle, SO Oyakhire and C Nwabuzor (eds), *Issues on Criminal Justice Administration in Nigeria*, (Nigerian Institute of Advanced Legal Studies, 2016) 177.
[89] Tarhule (n 81) 355
[90] 460(2)
[91] ACJA 2015 s 461(1)

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convict's good behaviour and the court may reduce the community service order by not more than one-third of the stated period.[92]

(d) Suspended Sentence

Under section 460(1), the court where it deems fit, may order that the sentence imposed on a convict be suspended with or without condition. The court in addition to this may, order the defendant to pay damages or compensation to victims of crime[93] and just as in the case of community service, the provision shall not avail any felon, sexual offender or convict guilty of using arms or offensive weapons.[94]

(e) Parole

Under section 468, a parole order may be made to an accused person on the recommendation of the Comptroller General of Prisons to the court upon the good behaviour and information of a person who has served at least, one-third of his prison term (which cannot be less than 15 years or life) to be suspended from the rest of the term with or without conditions. Such a person will usually undergo a rehabilitation program to re-integrate him into society in a government facility[95] and has to be monitored by parole officers for a period of time to determine if he is truly reformed.[96]

Compensation to Victims of Crime

By virtue of section 319 of the Act, the court when passing judgment may order the convict to pay compensation to the victim of a crime irrespective of any fine or punishment that may still be imposed on the victim. This may include cost of prosecution,

[92] ACJA 2015 s 466(2)
[93] See ACJA 2015 s 319
[94] 460(3)
[95] As arranged by the Comptroller-General under section 488(3) of the Act
[96] Section 468(2)

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medical treatment or even cost of stolen property.[97] This innovation is a welcome idea because victims of crimes are in most criminal cases left without proper justice even after the accused has been found guilty and sentenced because except they institute a separate civil action, (which usually incurs more cost and time), they cannot recover whatever they may have lost as a result of the crime.

Payment of Witness Expenses

This has been provided for under section 251 – 254 of the Act whereby witnesses are entitled to payment of such reasonable expenses as may be prescribed by the court. The innovation is also highly appreciated as it will go a long way to cure the defect of ineffective prosecution of criminal cases because of the reluctance of witnesses to attend court sittings especially due to financial restraints.

Witness Protection

As regards certain offences like terrorism, economic and financial crimes, trafficking, sexual related offences among others, section 232 provides that witnesses can give evidence in camera to protect the name and identity of such witness. The provision goes on to give the court the discretion and power to receive evidence by video link, permit witnesses to be masked or screened, receive written disposition of expert evidence or any other measure that the court considers appropriate.[98] This provision further provides that any contravention is an offence liable on conviction to a minimum term of one year.[99]

Trial of Corporations

Unlike in the previous regime where companies could not be tried for criminal offences, section 477 provides that a company can

[97] See ACJA 2015 s 319(1)(b) & (c)
[98] ACJA 2015 s 232(3)
[99] ACJA 2015 s 232(5)

now be tried for criminal matters through its representative for any offence without exception and that it can enter a plea of guilty or not guilty.[100] The Act further provides that a corporation can be charged and tried jointly with an individual.[101] This provision is highly commendable as companies as juristic persons can now take liability for their criminal actions especially those actions which are fraudulent and course harm to victims.

Conclusion

It has been shown that many of the problems bedevilling the administration of criminal justice in Nigeria have been dealt with by the Act and one of the major areas of reform relates to the aspects that deal with case flow management and strengthen the rights of the accused person. Other notable areas include the provisions for non-custodial forms of punishment, compensation to victims of crime, witness protection/expenses, checks on police arbitrariness in dealing with convicts, checks among the agencies and stakeholders in the system as well as so many other innovations. All these provisions if properly applied will go a long way to enhance the administration of criminal justice and decongest police stations, courts and prisons of the many inmates unduly incarcerated thereby, responding swiftly to the needs of the Nigerian society.

As a result of this, there is need for government to ensure the smooth implementation of the provisions of the Act by providing the necessary resources, structures and manpower for its smooth application. There is also the need to sensitise all especially the major stakeholders on the provisions of the Act to enable them act accordingly. Furthermore, all the officers responsible for administering criminal justice especially police officers and other officers empowered to make arrests and detain suspects must respect the provisions of the Act and abide by those provisions to

[100]ACJA 2015 s 478
[101]ACJA 2015 s 484(2)

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ensure effective application. Because of the limited application of the Act(even though over 20 states, some of which Delta, Lagos, Kaduna, Ekiti, Edo, Benue, Anambra and so on have enacted their own laws to conform with the ACJA), it is advised that all other states within the country which are yet to, should enact their own Administration of Criminal Justice Laws to conform to the uniform process envisaged by the Act.