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COMPENDIUM OF STATE ADMINISTRATION OF CRIMINAL JUSTICE LAW ANALYSES

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NIALS COMPENDIUM OF STATE ADMINISTRATION OF CRIMINAL JUSTICE LAW ANALYSES

Nigerian Institute of Advanced Legal Studies

(NIALS)

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NIALS COMPENDIUM OF STATE ADMINISTRATION OF CRIMINAL JUSTICE LAW ANALYSES

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Editor's Note

2015 is considered noteworthy in chronicling the history of Nigeria's administration of criminal justice system. The enactment of the 495 sectioned Administration of Criminal Justice Act in that year was a giant stride aimed at revolutionising the administration of criminal justice in the country by reducing shortcomings that hampered the effectiveness and efficiency in criminal justice management. Issues such as coerced and involuntary confessions, court congestion, delays in trial, detention of awaiting trial suspects; accused persons standing trial without legal representation, inefficient and ineffective prosecutors, as well as corruption of the system were key concerns addressed by the ACJA. Since then, criminal justice administration in Nigeria has generally been on the right path in the context of its procedural law and reform. Currently, 28 states and the FCT are contributing to the reformation of the entire architecture of criminal justice through the enactment of their respective Administration of Criminal Justice Law (ACJL).

This compendium showcases critical analyses of the current administration of criminal justice state Laws. Focusing on 13 out of the 29 relevant ACJLs, the aim of the compilation is to provide a comprehensive database for relevant stakeholders. The analyses adopt the Administration of Criminal Justice Act, 2015 as the baseline tool for assessing the various State laws due to its closeness to the vision of an effective and efficient system, if properly implemented. Notably, three states- Lagos, Anambra and Ekiti- enacted their respective ACJL prior to the ACJA. Utilising the ACJA as the baseline for these states still remains

relevant in this context to highlight trends of uniformity or divergence. The analyses identify that some variances exist between the federal and state instruments. It also generally reveals that all the states have introduced several innovations aimed at fast-tracking justice delivery, with a concerted effort at the preservation of rights of accused persons. This compilation of ACJL Analyses is part of the Institute's three-year project on the Implementation of the Administration of Criminal Justice Act 2015 (ACJA) (referred to as 'The Project'), which began in 2017. The Project seeks to deepen understanding of legal instruments relating to the administration of criminal justice at federal and state levels, as well as improving the management of all genres of criminal proceedings, including the prosecution of anti-corruption cases. Accordingly, these analyses contribute to the development of Criminal justice reform in Nigeria and serves as an important guide to States in facilitating implementation of their ACJLs.

NIALS would like to use this opportunity to thank the John D and Catherine T. MacArthur Foundation for providing support for the entire Project, as part of the Foundation's *On Nigeria* Grant Program.

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Abbreviations and Acronyms

ACJA	Administration of Criminal Justice Act
ACJL	Administration of Criminal Justice Law
ACJMC	Administration of Criminal Justice Monitoring Committee
AU	African Union
CJPR	Criminal Justice Procedure Rules
CPA	Criminal Procedure Act
CPL	Criminal Procedure Law
EFCC	Economic and Financial Crimes Commission
EJSRT	Justice Sector Reform Team
FCT	Federal Capital Territory
HRSPP	Human Rights Standards and Practice for the Police
ICCPR	International Covenant on Civil and Political Rights
ICTY	International Criminal Tribunal for the former Yugoslavia
KadPCL	Kaduna State Penal Code Law
KDACJL	Kaduna state Administration of Criminal Justice Law
LACON	Legal Aid Council of Nigeria
LEAs	Law enforcement agencies
LFN	Laws of the Federation of Nigeria
NCSA	Nigerian Correctional Service Act
OHCHR	Office of the United Nations High Commissioner for Human Rights
RSACJL	Rivers State Administration of Criminal Justice Law
SokACJL	Sokoto State Administration of Criminal Justice Act
TWT	Trial within Trial
UN	United Nations
UNAC	United Nations Convention against Corruption
UNGA	United Nations General Assembly
UNODC	United Nations Office on Drugs and Crime
WJP	World Justice Project

Comparative Analysis of the Administration of Criminal Justice Act, 2015 and Administration of Criminal Justice Law of Kogi State.

1.1. General Introduction: Overview of the Kogi State Administration of Criminal Justice Law, 2017

The Administration of Criminal Justice Law, Kogi State was enacted by the Kogi State House of Assembly in 2017 and was deemed to have come into force on 29th December 2017. The legislation is divided into 48 parts and 480 sections. This legislation renders inapplicable a plethora of criminal law legislation which were hitherto applicable in the State. These laws are the Criminal Procedure Law, Cap C41, Laws of the Federation of Nigeria, 2004; Criminal Procedure (Northern States) Law, Cap C42, Laws of the Federation of Nigeria, 2004 and the Administration of Justice Commission Law, Cap A3, Laws of the Federation of Nigeria 2004.[1]

1.1.1. Purpose of the Law

Similar to the objectives of the Administration of Criminal Justice Act (ACJA) 2015, the purpose of the Kogi State ACJL is to ensure that the system of administration of criminal justice in Kogi State promotes efficient management of criminal justice institutions, speedy dispensation of justice, protection of the society from crime and protection of the rights and interests of the suspect, the defendant and the victim. In implementing these objectives, it is imperative that the courts, law enforcement agencies and other authorities/persons

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[1] Kogi State ACJL, s480.

involved in criminal justice administration within Kogi State ensure adequate compliance with the provisions of the ACJL.

1.1.2. Innovative Provisions of the Kogi State ACJL

The Kogi State ACJL is lauded for its various innovative provisions in comparison with other State ACJL and the ACJA 2015. These innovations are set out below:

i. The classification of criminal courts in Kogi State (s. 3 (2);
ii. The jurisdiction of Area and Family Courts (s. 3 (10);
iii. Provision of the specific sentence which may be passed by different ranks of Magistrates in the State (s. 3 (14);
iv. Electronic recording of confessional statement on a retrievable video compact disk or other audio-visual measures (s. 26 (4);
v. Mandatory quarterly reports to the Attorney-General of the State of arrests made (s. 31 (1);
vi. Usage of the word 'defendant' rather than 'accused' or 'suspect' throughout the Law.

1.2. Compliance of the Kogi State ACJL with International Best Practices

In recent years, there has been need for criminal justice administration to be in line with generally accepted principles and standards where the criminal justice system benefits the offender, victim and society. In achieving this, new legislation, standards and principles have been developed to serve as guides in developing an acceptable criminal justice administration particularly with regards to the treatment of offenders from the time of arrest until conclusion of trial and eventual punishment. These standards also include the respect and protection of the rights of the victim, as well as the offender. There is also the

school of thought which proposes imprisonment for very serious offences where the offender remains a potential risk to society otherwise the current trend is to adopt alternatives to imprisonment. Globally, the best international practice has been emphasis on observance and protection of human rights, speedy and efficient justice delivery as well as prison reforms.

In the United Kingdom, the police may hold an arrested person for up to 24 hours and must ensure that such a person has free legal representation if he or she is unable to afford one. This is because a suspect may refuse to be questioned without one and the police is obliged to wait till the legal representatives arrive except in exceptional cases which include terrorism or terrorist activities.[2] There is also the Independent Office for Police Conduct, where complaints can be made where a suspect feels he has been poorly or inhumanely treated by the police.[3] The Kogi State ACJL provides for the arresting authority to allow the suspect have representation from a lawyer or at least one independent person of the suspect's choice to be present during interrogation. This is to ensure that all suspects are treated as humanely as possible.

The provisions of the Kogi State ACJL, display a paradigm shift from the punitive punishment justice system hitherto used in the old Penal Code to a system of restorative justice. In the Kogi State ACJL, there is a deliberate effort to remove delay in criminal trials, promote day to day trial where practicable, and respect the rights of offenders. The introduction of the remand time protocol[4]

[2]'Being Arrested: Your Rights a UK Government Publication' available at <https://www.gov.uk/arrested-your-rights/legal-advice-at-the-police-station> accessed 2 May 2020
[3] ibid
[4]Kogi State ACJL 2017, s294.

which was adapted from the ACJA is also a welcome development as it prevents unnecessary incarceration of suspected persons which in turn means that the provisions on the general entitlement to bail[5] and the resultant effect of prison decongestion are achievable. In parts of Europe, persons may apply for compensation where they can prove that they are victims of a blameless crime, or have lost loved ones as a result of a violent crime and this could be compensation for mental, physical or fatal injuries.[6] Compensation[7] in criminal justice administration in Nigeria is a welcome development as it will ensure that victims of some crime can receive adequate justice in form of restorative justice where and when necessary.

In the United States, when the Government has a strong case, the Government may offer the defendant a plea deal to avoid trial and perhaps reduce his exposure to a lengthier sentence.[8] The provision of Plea bargain[9] also means that more criminal cases maybe concluded and justice served expeditiously. Other important provisions peculiar to Nigeria, such as arresting a friend or relative of a suspect are also abolished.[10] Provision of a central criminal records registry[11] will aid in identifying previous offenders and previous convictions during sentencing of a repeat offender. The witness protection provision will aid in ensuring that delays in criminal trial due to the absence of a witness is reduced. In the United States, law enforcement agencies are required to

[5] Section 18.
[6] 'Compensation European Union' <https://e-justice.europa.eu/content_if_my_claim_is_to_be_considered_in_this_country-491-sc-en.do?member=1> accessed 2 May 2020.
[7] Kogi State ACJL 2017, s 317.
[8] 'Office of the United States Attorneys' <https://www.justice.gov/usao/justice-101/pleabargaining> accessed 2 May 2020.
[9] Kogi State ACJL 2017, s 268.
[10] Kogi State ACJL 2017, s18.
[11] Section 26, ibid and Part 24.

electronically record specific custodial interrogations and confessions in order to provide an evidentiary record of statements made by suspects of major crimes. Such electronic recordings can help protect both the suspect(s) and interviewing officers against potential assertions of police coercion or related interrogation misconduct and may increase the likelihood of successful prosecution.[12]

The electronic recording of confessional statements and disclosure requirements are other examples that show that the law is compliant with international best practices in terms of the need to speedily and efficiently dispense with criminal matters. Implementation of the enactments will be geared towards responding to the needs of society, the victim, suspect, vulnerable persons and human dignity and thus, is seen as the long awaited revolution in the criminal justice system.

1.3. Comparative Analysis between Kogi ACJL and ACJA 2015

The adoption of the ACJA 2015 paved way for the drive towards a comprehensive reformation in the criminal justice system of Nigeria with various states, including Kogi keying into the overriding objectives which the federal legislation signified. Consequently, the Kogi ACJL mirrors, to a very large extent, the content of the ACJA 2015. Hence, the Kogi ACJL contains the innovative reforms as contained in the ACJA which have been mentioned briefly in the preceding section. There are however few but significant differences between their provisions as shown in the table below. The highlighted differences are

[12] 'Electronic Recording of Interrogations and Confessions' <https://www.theiacp.org/resources/policy-center-resource/electronic-recording> accessed 2 May 2020

without prejudice to alterations in sections that refer to the state courts and institutions in place of courts and institutions at the federal level.[13]

Table I: Comparison between ACJA 2015 and Kogi State ACJL

S/N	CONCEPT	ACJA	KOGI STATE ACJL	COMPLEMENTARY PROVISIONS	ANALYSIS
A.	**Preliminary Matters**				
1.	Application	S. 2 Criminal trials for offences established by the National Assembly and other offences punishable in the FCT	S. 3 Criminal trials established by state law and Acts of the National Assembly in force in Kogi state.	*S. 86 ACJA and S.84 ACJL which limits the application of certain parts of the instruments where express provision is made in respect of any particular court or form of proceeding*	The ACJL in addition, provides for the classes of criminal courts; their jurisdiction and the powers of the Chief Judge (CJ)to establish magistrate courts in the state. The detailed provisions relating to the jurisdiction and function of the various classes of

[13] For instance, section 336(1) Kogi ACJL assigning functions to the Chief Judge that are assigned also to the FHC Chief judge under Section 338 of the ACJA 2015.See also Sec. 457(2) ACJA and sec. 442(2) Kogi ACJL and on regulation with respect to probation officers, including designation of persons of good character and the creation of a list from which the court may make its appointment of probation officers.

					courts is taken from the Criminal Procedure Code
B.	**Arrest, Bail and Preventive Justice**				
2.	Criminal Records Registry	S. 16	S. 27		The ACJA is silent on the format in which the record should be kept. The ACJL however provides that records should be in both electronic and manual forms. This is a good innovation of the ACJL as it fosters availability of the records.
C.	**Place of Inquiry**				
3.	Commission of offence on River Niger and Benue	Nil	S. 92 an offence committed on the river Niger and Benue or any other river in the State shall		The ACJL provides clearly for the jurisdiction of the state with respect to criminal matters that occur in inland waters

			be tried in the State		
D.	**Alteration and Amendment of Charges**				
4.	Objection to Charge	S.221	S. 219		In contrast with the ACJA that prohibits the entertainment of objection to an imperfect or erroneous charge, the ACJL allows an objection to be taken before the plea.
5.	Effect of material error		S. 220(3)		The ACJL includes an additional provision that no judgement will be stayed or reversed based on an Objection that if stated before the charge was read to the defendant might have been amended because of

					variance relating to- i. the time the complaint is alleged to have arisen; or ii. place in which the complaint is alleged to have arisen; or iii. an alleged defect in substance in processes such as the complaint or warrant.
E.	**Plea Bargaining and Plea Generally**				
6.	Relevant factors which the prosecution should consider in determining whether it is	S. 270(5)	S. 268 (5)		The ACJL includes three additional relevant factors. These factors are- the significance of the criminal

	in the interest of the public to enter into a plea bargain.				conduct of the other party; seriousness of the charge against the cooperating party and probative value of evidence against the other party. The inclusion of these additional factors increases the beneficial value of the plea bargain to the society.
F.	**Trials and Summary Trials Generally**				
7.	Trials: filing of the information or charge	S. 348(1)(c)	S. 346(1)(C)	*s. 105 of the ACJA lists the persons who can prosecute an offence in court.*	The subsection states that reference to a private prosecutor under the ACJL does not include lay prosecutors. The subsection buttresses the prohibition of lay prosecutors.

8.	Summary trial of a child	S.371	S. 369		In a trial of a child before the court, the ACJL allows reference to the state's Child Rights Law as well as to other relevant law or Act. This potentially affords better protection of the rights of the child.
G.	**Deportation**				
9.	Deportation	Ss. 439- 451	Nil		These are important sections that deal with the removal of non-citizens from Nigeria for crime related reasons.
H.	**The Administration of Criminal Justice Monitoring Committee (ACJMC)**				
10.	Members of the Committee	S. 454	S. 469		The ACJL includes a Chief Magistrate as a member of the Committee. The Law however, excludes a

					representative of the Human Rights Commission. This arguably is a serious flaw because a representative from this Commission plays a key role in monitoring and ensuring proper enforcement of rights in the criminal justice system
11.	Functions of the ACJMC	S. 470 (2)	S.455(2)		The function of collating, analysing and publishing information in relation to administration of criminal justice in (2)(f) of the ACJA is not included under the ACJL. The exclusion of this

					function from the ACJL is viewed as detrimental because it is meant to contribute to the assessment of the effectiveness of the criminal justice administration system.
I.	**Fees and Miscellaneous Provisions**				
12.	Power of the Attorney General to make Rules	Nil	S. 477		The inclusion of the section provides clear legal backing for and limits on the power of the Attorney `general to make rules in matters relating to criminal justice system.
13.	Savings as to form and procedure	S. 492	S. 493		The ACJL provides that the Criminal Procedure Code (Northern

					Nigeria) 1960 is applicable to fill any lacuna in procedure or rules in the state. This is in contrast with the ACJA which provides that the court should apply any procedure that meets the justice of the case.
14.	Repeals	S. 493	Nil		While the ACJA expressly repeals the Criminal Procedure Act, and Criminal Procedure (Northern States Act), the ACJL by providing for their inapplicability also excludes these laws from criminal proceedings in the state. However, the ACJL did not

					repeal the Criminal Procedure Code (Northern Nigeria) 1960. This creates a problem with the implementation of the ACJL because it implies that reference can still be made to this Law.

1.4. Practical Challenge with the Implementation of the Kogi State ACJL

The following are the perceived challenges which may be inimical to the practical implementation of the Kogi State ACJL:

i. Despite the provision pertaining to the recording of confessional statements on video set out under the ACJL s. 10 (3), police officers in the State have continued to record confessional statements in writing. This is mostly due to lack of familiarity with and awareness of the provisions of the ACJA and ACJL, and a lack of audio-visual or other recording equipment for the use of the police in the State.

ii. Lack of awareness of key provisions of the ACJL relating to arrests, bail procedures, etc by justice sector collaborators such as the police, defence counsel, and prosecutors and judges.

iii. The exclusion of a member of the Human Rights Commission from the membership of the Administration of Criminal Justice Monitoring Committee presents a major flaw in the application of the Law as human rights abuses which occur and are sought to be remedied under the Act may not be appropriately addressed.

1.5. Recommendations

In view of the above analysis and challenges, the following recommendations are proffered:

a. Immediate capacity building in the State, particularly for the Kogi State Police Command;
b. Establishment and commencement of the use by Kogi State of social media, electronic and print media to generate public awareness of the innovative provisions under the ACJL meant to ensure justice for all;
c. Kogi State Government must reach out to academic institutions, civil society organisations and other international bodies to facilitate the training of justice sector collaborators in the State – particularly the police and prosecuting officers - on the practical implementation of the ACJL in comparison with other States in Nigeria and the ACJA;
d. Amendment of the identified gaps in the ACJL from the above table in order to enhance transparency in the justice sector in the State and facilitate the speedy dispensation of justice.
e. The Kogi State Government must show continued and adequate support to the Kogi State Judiciary and facilitate transparency and sincerity in the enforcement of the ACJL to ensure decongestion of the prison system and efficient administration of justice in the State.

1.6. Conclusion

The Kogi State ACJL was adopted to address the lacunas in existing criminal procedure laws in the State. With the inauguration of the ACJMC in April 2018, it remains to be seen what strides the Committee, in conjunction with government and justice sector collaborators, will take in facilitating implementation of this Law in line with the above recommendations and suggestions from civil society organisations and other stakeholders within and outside Kogi State.

2. Comparative Analysis of the Administration Of Criminal Justice Act, 2015 and Administration of Criminal Justice Law *of Benue State 2019.*

2.1. Overview of the ACJA/ACJL

The Administration of Criminal Justice Law (ACJL) of Benue State is cited as the Benue State Administration of Criminal Justice Law 2019 and it came into force on the 28th day of May 2019. The Law is made up of Four Hundred and Ninety-Five (495) sections, divided into Fifty (50) parts. The Law repeals the hitherto existing Criminal Procedure Code[CAP. 51] Laws of Benue State 2004.
Generally speaking, the Law is a substantial reproduction of the Administration of Criminal Justice Act 2015. Apart from the incorporation into the Law in Chapter 10 of the requirement of "sanctions" necessary for initiation of certain proceedings, there are no serious other changes or modifications that makes the Law any different from the ACJA 2015.

2.2. Compliance With International Best Practices

Before the advent of the ACJL 2019, the existing law was the Criminal Procedure Code, which was applicable in the entire northern region of Nigeria as adopted and re-enacted by the various Northern states as State Laws. This Law was characterised with lots of its shortcomings. Over the many years of its existence, the criminal justice sector suffered so many concerns ranging from poor and undue delay in justice delivery, poor case management system, corruption, human rights abuses, and lack of legal framework incorporating the modern information technology. There had been poor coordination and

cooperation amongst criminal justice institutions. However, the advent of the ACJL in 2019 with a lot of changes gave the Benue criminal justice system a face lift.

Like the ACJA 2015, the ACJL 2019 of Benue State has revolutionised the criminal justice system through the incorporation of innovative provisions. Some of these provisions relate to arrest, case management, day-to-day trial, provision of central criminal records registry, witness protection policy, detention time limits, electronic recording of court proceedings, video recording of confessional statements, front loading by prosecution and disclosure requirements. The Law also emphasises a paradigm shift from punishment of offenders as the main goal of criminal justice system to restorative justice. To this extent, it has provisions dealing copiously with non-custodial sentencing measures.

These provisions, amongst many others indeed reflect compliance with international best practices. The world over, the best international practice has been emphasis on observance and protection of human rights, speedy and efficient justice delivery as well as prison reforms. Thus the purpose of the Law as captured in section 3 of the law, backed with provisions of the Law says it all.

2.3. Comparative Analysis of ACJA and ACJL

As stated earlier, the ACJL of Benue State bears much resemblance with the ACJA. The table below provides a general overview to the two enactments.

Table II: Comparison Between ACJA 2015 and Benue State ACJL

S/N	CONCEPT	ACJA 2015		COMPLEMENTARY PROVISIONS	ANALYSIS

			Benue State ACJL 2019		
1	**Purpose.**	Section 1	Section 3	Sections 34, 35 and 36 of the Constitution of the Federal Republic of Nigeria 1999 (As amended) - (CFRN)	Understanding the purpose of these laws is very germane. The emphasis on efficiency, speedy dispensation of justice and the interests to be protected being the society from crime, the rights of the suspect, the defendant as well as the victim is in tune with international best practice.
2	**Detention time limits**	Section 296	Section 298	Section 35 (4) CFRN 1999	By Section 296 of ACJA 2015, the detention time limits is upon a court's order for 14 days and not exceeding 4 of such orders cumulatively amounting to a maximum of 56 days. However, in the case of the ACJL 2019 of Benue State, the court's detention orders, which must also not exceed 4 times is segmented into 14 days, plus 14 days plus 30 days, plus 30 days. Cumulatively translating to 88 days. The difference in days between the ACJA and the ACJL of Benue State is

					32 days. This is huge. Section 296 (56 days) approximates to what is provided by the CFRN 1999 in section 35(40(a)(b), which is two months. Section 35(4) of the constitution aims to safe guard the right to personal liberty of a suspect as much as possible. To this extent, the ACJA and the CFRN 1999 are complementary. However, the ACJL 2019 of Benue State, which provides for a cumulative detention period of 88 days runs foul of the intent and spirit of the *groundnorm*.
3	Content of information, proof of evidence. (Front loading Requirements)	Section 379	Section 381	Section 36 (6)(b) CFRN 1999	The two legislations are identical in content. Both legislations impose an obligation upon the prosecution to as much as possible make its case available to the defendant to enable the later prepare its defence. This is a practice, which in civil litigation is popularly referred to as front loading. But unlike in civil ligation, in both legislations, there is no such corresponding

					disclosure duty on the part of the defence owed to the prosecution
4	Electronic recording of deposition of a technical, professional, or expert for use in court as evidence	Sections 362 (1) & 363 (1)	Sections 364(1) & 365 (1)	Section 46 of the Evidence Act	The sections under reference in both legislations empower the court to grant leave for the deposition of a technical, professional or expert to be taken either in writing or electronically. Such deposition, assumed to be non contentious and thus requiring no cross examination may after words be used in court in the trial of a defendant. Both legislations however subject the said evidence to section 46 of the Evidence Act. Meanwhile section 46 (1)(b) of the Evidence Act makes it a condition that such evidence is admissible only on the condition that it is subjected to cross examination. There is an apparent contradiction here , which remains unresolved by both legislations. The contradiction lies in the fact that the recorded evidence per section 362(1)/364(1)-ACJA/ACJL

					and used later in court per section 363(1)/365(1) ACJA/ACJL is considered non contentious hence requiring no cross examination. This is however certainly not in agreement with the requirement of section 46(1)(b) of the Evidence Act.
5	Recording of arrest especially with regard confessional statement	Section 15 (4) (5)	Section 17 (4)(5)	Section 28 and 29 (1)(2) & (3) of the Evidence Act	Subsections (4) of section 15 ACJA 2015 & section 17 ACJL Benue State both allow the video recording of a confessional statement of a suspect, which could be used in court against a defendant. The language adopted by both legislations is "MAY". In practice, this has created serious problem of interpretation as to whether "MAY" as used therein is permissive or mandatory. While in the case of **Akaeze Charles v. The Federal Republic of Nigeria (2018) LPELR-43922(CA)**, the Court of Appeal held the view that "MAY" as used in ACJA 2015 should be construed as mandatory, in the case

					of **Steve Emeka Ike v. The State of Lagos (2019) LPELR-47712(CA)**, the Court of Appeal held that "MAY" as used in the ACJL 2009 of Lagos is permissive. The implication of the above is that it is not very clear the admissibility status of a confessional statement if the requirement of video recording was not complied with. This is notwithstanding the fact that under ACJA 2015 for instance, subsection (5) of section 15 provides that "notwithstanding the provision of subsection (4) of this section, an oral confession of an arrested suspect shall be admissible in evidence" The Benue State ACJL 2019 consequently brings in an innovation. Subsection (5) of section 17 provides thus: "notwithstanding the provision of subsection (4) of this section, an oral confession of an arrested suspect **in accordance with the Evidence Act** shall be admissible in evidence"

					The point of divergence in the ACJL of Benue State is the emphasis on the Evidence Act, which is the principal Act dealing with matters of evidence. By section 29 of the Evidence Act, a confessional statement, whether written, video recorded or oral, being a confessional statement must satisfy the standard laid down in subsection (2)(a)(b). This removes any doubt as to whether being an oral confessional statement, it is exempted from the admissibility requirements as to voluntariness or otherwise.
6	Recording of arrest and Central Criminal Records Registry	Sections 15 & 16	Sections 17 & 18		These sections, which are innovative in our criminal justice system are wholly identical in these legislations. The aim, amongst other reasons, is to build a forensic nexus between a suspect, defendant and an alleged ex-convict.
7	Day-to-day trial and adjournments	Section 396 (3)	Section 398 (3)	Section 15 (3) of the Interpretation Act	To ensure effective case management, both legislations have provided for day-to-day trial of the defendant upon

					arraignment until the conclusion. See section 396(3) ACJA 2015. The little confusion created by this section is whether such day-to-day trial until conclusion is without regard to non-working days or public holidays. However, this confusion is cleared in the Benue State ACJL 2019. In the Law, section 398(3) provides that "upon arraignment, the trial of the defendant shall proceed from day-to-day **except on non-working days or public holidays** until the conclusion of the trial." The provision in the Benue State ACJL 2019 is complementary to the provisions of section 15(3) of the interpretation Act, which provides that: "Where by an enactment any act is authorised or required to be done on a particular day and that day is a holiday, it shall be deemed to be duly done if it is done on the next following day which is not a holiday."

8	Procedure for trial on charge for certain offences- witness protection policy	Section 232(4)	Section 234(4)	Section 38 (4) of VAPPA 2015: Section 40 (4) of Violence Against Persons (Prohibition) Law 2019 of Benue State; Section 29 Terrorism Prevention Act 2011; Section 33 & 34 of the Terrorism (Prevention)(Amendment) Act 2013; Section 17 of the Economic and Financial Crimes Act, Section 47 of the Trafficking in persons (Prohibition) Enforcement and Administration Act 2015;	Both legislations have incorporated the regime of witness protection policy. This is largely in tandem with various subject specific legislations that also promote witness protection policy, which also reflect the international best practice. In particular, the ACJA in section 232 (4) identifies the legislations which it applies to as the Terrorism (Prevention)(Amendment) Act; the EFCC Act and the Trafficking in Persons and related offences: any other Act of the National Assembly permitting such protection policy. The Benue State ACJL 2019 also makes similar provisions except that in the case of the later, it also specifically include the "Abduction, Hostage-taking, Kidnapping, Secret Cult and Similar Activities (Prohibition) Law 2017"
9	Plea Bargain	Section 270	Section 272		Both legislations have made identical provisions regarding plea bargain. As an innovative direct and comprehensive

					provision on the subject of plea bargain, it is highly commendable given its high case management potential.
10	Non-custodial sentencing measures	Sections 453-459 460-463 467 468	Sections 455-461 462-465 469 470		Both legislations have made identical provisions for non-custodial sentencing measures. These provisions are a marked departure from the hitherto existing regime which was largely imprisonment that led to a serious congestion of prisons amongst many other vices. These non-custodial measures relate to probation orders, suspended sentence and community service, confinement in a rehabilitation or correctional facility and parole sentence. This is no doubt in tune with global best practice.
11	Cost, Compensation, Damages and Restitution	Sections 319-328	Sections 321-330		On this subject matter too, the two legislations have identical provisions. It had been the practice often times that victims of crimes were left

					unattended to, even where the offenders were found guilty of the crime. Unless they initiate an independent civil action to seek remedy. The story is now different. By these provisions, victims of crime have a measure of compensation under the law.
11	Sanctions Necessary for Initiation of Certain Proceedings	NIL	Part X, Sections 105,106 & 107	Section 6(6)(a)(b) CFRN 1999	This part is not in the ACJA 2015. The Benue State ACJL 2019 in section 495 repeals the erstwhile Criminal Procedure Code, [CAP 51], Laws of Benue State 2004. However, the Law lifted what was the content of Chapter XIV in the repealed CPC, which now forms the present Chapter X of the Law. Essentially, sections 105-107 prohibits the court from taking cognisance of certain offences as contained in the Penal Code law, [CAP 124] Laws of Benue State 2004 except with the prior "sanction" of the Attorney General of the State, complaint of a public servant concerned or one to whom he is subordinate

					to; complaint by a person aggrieved by a particular offence etc. Two issues arise here. (1) Whether having regard to section 6(6)(a)(b) of the CFRN 1999 (as amended), requiring the prior leave of the Attorney General of the State or any other person before a court can take cognisance of an offence will not amount to circumscribing the constitutionally guaranteed judicial powers of the court. (2) Given that jurisprudentially, criminal law is a crime against the state, whether it will not amount to relinquishing the state of its prosecutorial powers by requiring that crime victims must necessarily complain before prosecution can commence. Overall, we believe that Chapter X in the Benue State ACJL is backward looking. It, amongst other things, goes against the constitution as well as the spirit and intent of ACJA and the ACJL itself, which

					is efficiency, speedy dispensation of justice and the protection of the interests of the society from crime, the rights of the suspect, the defendant as well as the victim
12	Dispensation to continue to sit as a High Court Judge to conclude any criminal matter in which evidence has been concluded at the time of elevation to Court of Appeal	Section 396 (7)	Section 398(7)	Section 253 CFRN 1999	This provision of the ACJA/ACJL is quite innovative and well-intended to make for effective case management. It aims to address the problem of having to start a case *denovo* where a judge who was hearing a matter almost to conclusion was elevated to a Court of Appeal. The popular cliché is justice delayed is justice denied. However, as good and well-intended as the provision may be, it appears to be inconsistent with the CFRN 1999 as to the proper quorum of the court. This speaks to the question of jurisdiction and the status of the judge having been elevated to the Court of Appeal, comes back to conclude the matter in the High

					Court, giving judgment and signing same. The recent decision of the Supreme Court in the unreported case of Chief Orji Uzor Kalu held that Section 396 (7) of ACJA (same with 398(7) ACJL of Benue State) is in conflict with section 253 of the CFRN 1999 dealing with quorum of the Federal High Court

2.4. Practical Challenges with the Implementation of the ACJA/ACJL Provisions

Although the ACJA/ACJL are well intended and revolutionary in nature going by the numerous innovative provisions, there is no doubt that its implementations is still fraught with problems and challenges. Some of these challenges are stated below:

a. The legislations are so ambitious as they assume that the agencies are well equipped and adequately funded.
b. Related to the first challenge, there is the lack of infrastructure such as ICT facilities for electronic recording of court proceedings as well as electronic video recording of confessional statements of suspects by law enforcement agencies across the country.
c. Lack of political will for the execution of the legislations.
d. Lack of requisite investigative skills on the part of law enforcement agencies. In Nigeria, police arrest to investigate and not investigate to arrest.

e. Section 15(4) ACJA 2015 and 17 (4) ACJL 2019 of Benue State create a problem of understanding the real intent of the legislature with regard to the interpretation of the word "MAY" in those sections.
f. The Benue State ACJL under its detention time limits provides for 14 days plus 14 days plus 30 days plus 30 day translating to 88 days. This is not in tandem with the spirit and intent of section 35(4) of the CFRN 1999 (as amended).
g. Again, the Benue State ACJL re-introduced the contents of Chapter XIV in the repealed CPC, which now forms the present Chapter X of the Law dealing with Sanctions Necessary for Initiation of Certain Proceedings. These provisions may appear to be be circumscribing the judicial powers of the courts as conferred by section 6(6)(a)(b) of the CFRN 1999 (as amended).

2.5. Recommendations

a. There is a need for increased political will on the part of the government for the implementation of the legislation.
b. Training and retraining of law enforcement agencies and law officers with regards to investigative techniques as well as ICT compliance.
c. Adequate funding to provide for infrastructure and other relevant equipment is required.
d. Although the legislations are very young, they nevertheless suffer some drafting challenges as pointed out with sections 15(4) ACJA 2015 and 17(4) ACJL 2019. There may be a need to amend some aspects of the law to make for certainty regarding the intent of the legislature in the provisions.
e. In light if the foregoing analysis, it is hereby suggested that Section 298 of the Benue State ACJL 2019 be amended to reduce the cumulative detention days from 88 days to a total number of days not more than two

months. This will accord and be complementary with the Section 35 of the CFRN 1999.

f. The two legislations may both be considered for a possible review in the future to impose a corresponding front loading or disclosure obligation on the defence. This is notwithstanding the fact that a suspect/defendant is presumed innocent until proved guilty, the duty in which case rests on the prosecution. Accordingly, it is suggested that the legislations could be reviewed to provide that where a defence chooses to enter its defence after the closure of the case of the prosecution, it should front load its defence to the prosecution to study before opening same.

2.6. Conclusion

Notwithstanding the few limitations as pointed out with the legislations, these do not in any way take away from the legislations, their revolutionary appeal in the criminal justice system. There is no gainsaying the fact that the ACJA 2915 and the ACJL 2019 of Benue State have come to stay and with massive innovative provisions as contained in the laws, the criminal justice system in the country will not remain the same again. It might take time no doubt. But with time, political will and funding etc, the country will be the better for it.

3. Comparative Analysis of the Administration of Criminal Justice Act (ACJA), 2015 and Administration of Criminal Justice Law (ACJL), Adamawa State, 2018

3.1. Overview of the ACJA/ACJL Adamawa State

Before the enactment of the ACJA in 2015 and its adoption by Adamawa State as ACJL, Adamawa State, in 2018, the two principal legislations governing the administration of criminal justice in Nigeria were the Criminal Procedure Act (CPA),[14] enacted in 1945, and Criminal Procedure Code (CPC),[15] enacted in 1960. Though the CPA and CPC applied respectively in the Southern and Northern parts of the Country at the Federal and State levels and in all courts, they both applied in the Federal Capital Territory, Abuja. It was challenging having two different criminal laws for the North and the South of the Country. Besides, many of the provisions were obsolete and needed amendment to mirror the intention of the Constitution and societal changes. There was also evidence of outright abuse of the provisions of the laws by the police, prosecutors and lawyers.[16] It was obvious that the criminal justice system of the Country had lost its capacity to quickly respond to the needs of the society such as checking the rising rate of crime, speedily holding criminals accountable and protecting the victims of crime. This resulted in increasing outcry for an overhauling of the laws.

The ACJA, 2015, and the ACJL, Adamawa State, 2018, are, thus, legislations aimed at ensuring speedy dispensation of justice in the criminal

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[14]Cap C41 LFN, 2010

[15]Cap C39 LFN, 2010.

[16]Adedeji Adekunle, 'An Overview of the Administration of Criminal Justice Act 2014' <http://nji.gov.ng/images/Workshop_Papers/2016/Induction_Course/s11.pdf> accessed 23 March 2020.

justice system in federal courts and in Adamawa State, respectively. They also aim at ensuring the efficient management of criminal justice institutions, protection of the society from crime, and protection of the rights and interest of the suspect, the defendant and the victim. With a deliberate effort to transform the criminal justice system from a retributive justice to a restorative justice system, the ACJA and ACJL, Adamawa State address issues which, before the coming of these legislations, decelerated the criminal justice system and resulted in a poor yield in terms of dispensed criminal cases by the judiciary and an increased number of awaiting trial inmates. Furthermore, the need to conform with international best practices as it relates to non-custodial sentencing necessitated the enactment of these legislations.

In addressing the various fields of criminal justice administration, the ACJA and ACJL, Adamawa State, are divided into 49 parts which cut across arrest, bail and preventive justice; warrant; prevention of offences and security for good behaviour; proceeding in all cases subsequent to order to furnish security; public nuisance; attachment where a person disobeys summons or warrant; criminal trials and inquiries; place of trial or inquiry; powers of the Attorney General; control by the Attorney-General of criminal proceeding; institution of proceedings; First Information Report; enforcing appearance of suspect; issue, form and service of summons; process; search warrant; bail and bond/recognizance; property and persons; charges; alteration or amendment to charges; conviction when charged with one of several offences or of another offence; previous acquittals or conviction; compelling attendance and taking oath or making affirmation of witnesses; expenses of witnesses; examination of witnesses. Others are: plea bargain and plea generally; persons of unsound mind; detention time limits; presentation of case by prosecution and defence, and conclusion of trial; cost, compensation, damages and restitution; custody, disposal, restoration of property; seizure, forfeiture,

confiscation and destruction of instrumentality of crime; summary procedure in perjury; trials and summary trials generally; trials by way of information; death sentence; procedure where woman convicted of capital offence is alleged to be pregnant; sentencing other than capital sentence; detention in a safe custody or suitable place other than prison or mental health asylum; deportation; child offenders; probation and non-custodial alternatives; parole; Administration of Criminal Justice Monitoring Committee; trial of corporation, appeals from magistrate courts to high courts; and fees and miscellaneous provisions.

The ACJA repeals the Criminal Procedure Act, Cap C51, Laws of the Federation of Nigeria, 2004, Criminal Procedure (Northern States) Act, Cap C42, Laws of Federation of Nigeria, 2004, and the Administration of Justice Commission Act, Cap A3, Laws of the Federation of Nigeria, 2004. These were the erstwhile legislations for criminal administration in Nigeria. ACJL of Adamawa State repeals Criminal Procedure Code, Cap 39, Laws of Adamawa State, 1997.

The provisions of ACJA and ACJL, Adamawa, are generally the same, except for few differing provisions considered in part 3 of this analysis. Both legislations considerably preserve the existing criminal procedure system whilst introducing elaborate, innovative and revolutionary provisions. These provisions are aimed at promoting fairness, transparency, accountability and integrity of our criminal justice processes and enhancing the efficiency and credibility of the criminal justice administration system in the Country.[17] This analysis focuses mainly on these innovative and revolutionary provisions.

[17]Adeniyi Familoni, 'Understanding the New Administration of Criminal Justice Act 2015' paper presented at the 2015 Nigeria Bar Association National Conference <https://s3-eu-west-1.amazonaws.com/nba-agc/papers/Sessions_Files/ACJ_Act_Session/Familoni+Paper+UNDERSTANDING+THE+NEW+ADMINISTRATION+OF+CRIMINAL+JUSTICE+ACT+2015.pdf> accessed 13 November 2017.

3.2. Compliance with International Best Practices

The following body of instruments or international legal framework codifies the rules and guidelines as best practices for the administration of criminal justice and the application of non-custodial measures. This includes- Universal Declaration of Human Rights, 1948,[18]International Covenant on Civil and Political Rights, 1966,[19] Standard Minimum Rules for the Treatment of Prisoners,[20] Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment,[21] Basic Principles on the Role of Lawyers,[22] Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing

[18] It enshrines key principles of equality before the law and the presumption of innocence as well as the right to a fair and public hearing by an independent and impartial tribunal, along with all the guarantees necessary for defence of anyone charged with a penal offence, other minimum guarantees and the entitlement to be tried without undue delay. See Resolution 217 A (III). 'United Nations Declaration of Human Right, 1948' <https://www.jus.uio.no/lm/en/pdf/un.universal.declaration.of.human.rights.1948.portrait.letter.pdf> accessed 28 March 2020.

[19] Resolution 2200 A (XXI), annex, International Covenant on Civil and Political Right, 1966 <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf> accessed 28 March 2020. Article 14 states that everyone charged with a criminal offence shall be entitled to be tried in his or her presence and to defend himself or herself in person or through legal assistance of his or her own choosing or assigned to him or her where the interests of justice so require, in a fair and public hearing by a competent, independent and impartial tribunal established by law.

[20] Resolution 663 C (XXIV) of 31 July 1957, untried prisoner, for the purposes of his or her defence, shall be allowed to receive visits from his or her legal adviser.

[21] Resolution 43/173, annex, Principle 11 of which states that a detained person shall have the right to defend himself or herself or to be assisted by counsel as prescribed by law.

[22] Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August–7 September 1990: report prepared by the Secretariat (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. B.3, annex, Principle 6 of which states that any persons who do not have a lawyer shall, in all cases in which the interests of justice so require, be entitled to have a lawyer of experience and competence commensurate with the nature of the offence assigned to them in order to provide effective legal assistance, without payment by them if they lack sufficient means to pay for such services.

World, Economic and Social Council resolution 2007/24 of 26 July 2007,[23] United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice System,[24] United Nations Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment,[25] the United Nations Standard Minimum Rules for Non-Custodial Measures (The Tokyo Rules),[26] African Charter on Human and Peoples Right, Declaration of Basic Principle of Justice for Victim of Crime and Abuse of Power[27] etc. codify rules and guidelines as best practices for the administration of criminal justice and the application of non-custodial measures.

Most of these principles enunciated under those instruments are reflected under the ACJA as well as the ACJL, Adamawa State. For instance, in compliance with the Tokyo Rules, sections 453-468 of the ACJA and sections 454-469 of the ACJL provide for probation; suspended sentence; plea bargaining and community sentencing; and parole as non –custodial measures that are reflected under the Tokyo Rules. It also provides for fines under sections 325-327 of ACJA and sections 326-328 of ACJL, Adamawa

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[23] Provides for international cooperation for the improvement of access to legal aid in criminal justice systems, particularly in Africa,

[24] 'Resolution 67/187' <https://www.unodc.org/documents/justice-and-prison-reform/UN_principles_and_guidlines_on_access_to_legal_aid.pdf> accessed 28 March 2020. United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice System recognizes that legal aid is an essential element of a fair, humane and efficient criminal justice system that is based on the rule of law and that it is a foundation for the enjoyment of others, including the right to a fair trial, as a precondition to exercising such rights and an important safeguard that ensures fundamental fairness and public trust in the criminal justice system.

[25]Adopted by the United Nations General Assembly on 10 December 1984 (Resolution 39/46…….) and came into force on 26 June 1987. In honour of this Convention, 26 June has been adopted as the International Day in Support of Victims of Torture.

[26]United Nations Standard Minimum Rules for Non-Custodial Measures (The Tokyo Rules), Adopted by General Assembly resolution 45/10 of 14 December 1990 < Adopted by General Assembly resolution 45/110 of 14 December 1990> accessed 2 January, 2020. It provides alternatives to incarceration.

[27] 'Guide for Policy Makers on the Implementation of the United Nations Declaration of Basic Principle of Justice for Victim of Crime and Abuse of Power (1999)' <https://www.unodc.org/pdf/criminal_justice/UNODC_Guide_for_Policy_Makers_Victims_of_Crime_and_Abuse_of_Power.pdf> accessed 28 March 2020.

State. They equally provide for restitution and compensation of victims of crime as other victim friendly approach that conforms with international best practices.

A major innovation of these legislations that conform to international best practice is the shifting of our criminal justice system from the retributive or punitive approach to the restorative one which considers the interest of the society, rights of a suspect, the defendant and the victim. This is reflected in the purpose of the Act and Law as seen in section 1(1) and 3(1).

Additionally, international guidelines such as the Guide for Policy Makers on the Implementation of the United Nations Declaration of Basic Principle of Justice for Victim of Crime and Abuse of Power require jurisdictions to review laws and practices with regard to arrest, search, interrogation and detention so as to adhere to the standard minimum rules for the treatment of prisoners and other relevant standards.[28] In line with these guidelines, the ACJA and the ACJL of Adamawa state dealt with issues relating to arrest and bail in Part two of both legislations. Also, Parts 18 and 30 of both legislations deals extensively with search, and detention time limit.

Furthermore, complying with international standards on the requirement of Legal Aid in the administration of criminal justice system in accordance with the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice System, section 349 of the ACJA and section 350 of the ACJL address a situation where a defendant who appears before the court without legal appearance is required by the court to be informed of his or her right to a legal practitioner of his or her choice. The court is also required to enquire of the defendant whether he or she wishes to engage a legal practitioner of his or

[28] Ibid. Resolution 4g.

her choice or to have a legal practitioner engaged for him or her by way of legal aid. These sections conform to international best practices in this regard. Additionally, noting the importance of protecting witnesses of crime in line with best practices the ACJA and ACJL of Adamawa State seek to protect the identity of witnesses by providing in Part 27 of both legislations for the examination of witnesses. In fact, section 260 and 261 of the ACJA and ACJL, respectively, provides for the protection of the identity of a child or a young person called as a witness by limiting the number of the attendees in court to members of the court or officials of the court, parties to the case or their representatives or persons directly concerned in the case. Furthermore, an innovation under these legislations that conforms to best practices relates to the witness expenses. It provides re-imbursement of any reasonable expenses borne by a witness either for the prosecution or the defence.

In line with international best practices which stress the need for fair and speedy trial, the ACJA and ACJL in section 396 and 395 provides timelines for day to day trial and adjournment as well as the award of cost for frivolous adjournments (under the ACJA) in a bid to serve as a check to prolong trial and incessant adjournment which was the regime prior to the enactment of the ACJA and the ACJL of Adamawa.

Adhering to international standards on pre-trial detentions codified in international legal framework such as Resolution 17 on pre-trial detention adopted by Eight United Nations Congress on the Prevention of Crime and the Treatment of Offenders,[29] the ACJA and ACJL frown at pre-trial detention and

[29] Para 2(a) and (b) emphasizes that persons suspected to have committed offences and deprived of their liberty should be brought promptly before a judge or other officer authorized by law to exercise judicial functions who should hear them and take a decision concerning pre-trial detention without delay . Also pre-trial detention may be ordered only if there are reasonable grounds to believe that the persons concerned have been involved in the commission of the alleged offences and there is a danger of their absconding or committing

only provide for remand in certain circumstances provided for under 296-299 and 297-300 of the ACJA and ACJL, Adamawa, respectively.

In a bid to curtail pre-trial detention the ACJA and ACJL, Adamawa, put in place mechanism for monitoring arrest by requiring every police station to capture the data of any person arrested andthe requirement for each state command to establish a crime register for each zonal command to catalogue arrest, conviction or acquittals. Also the police officer is required to report to the nearest magistrate on the last day of every month the cases of all suspects arrested without warrant. The magistrate is in turn required to report to the Criminal Justice Monitoring Committee which shall analyze the report and advice the A-G of the Federation or the State as to the trends of arrest, bail and related matters.[30] More so, as a precautionary measure the Chief magistrate or any magistrate every month is required to conduct an inspection of police stations or other places of detention within his or her territorial jurisdiction to inspect, call for the record of arrest, direct arraignment of a suspect or grant bail . These are measures in place to curb pre-trial detention. In addition, confession and interrogation procedures are provided for under section 15 and 17 and 17 and 19 of the ACJA and ACJL, respectively. These legislations put in place measures that conform with international standards in taking the statement of a suspect. This requires the taking of such statement in the presence of a legal practitioner or in the presence of an officer of the Legal Aid Council of Nigeria or an Official of a Civil Society Organisation or a Justice of the Peace or any other person of suspect's choice. The section also requires the presence of an interpreter to record and read over the statement where the suspect does not understand or speak or write English. Furthermore, where

further serious offences, or a danger that the course of justice will be seriously interfered with if they are left free.

[30] See section 33 and 35 of the ACJA and ACJL respectively.

the suspect is arrested with or without warrant and volunteers to make confessional statement, the section requires the police officer to ensure that the making and the taking of the statement is in writing and may be recorded electronically on a retrievable video compact disc or such other audio visual means. The section also admits oral confession of the arrested suspect. These are measures put in place to ensure voluntariness of statement and reduce trial within trial.

3.3. Comparative Analysis of ACJA and ACJL

This segment highlights certain concepts, which are definitive by reason of the innovations they have introduced into criminal justice administration in their areas of coverage.

CONCEPT	ACJA	ACJL,	COMPLEMENTARY PROVISIONS	ANALYSIS
Purpose	Section 1(1) - The purpose of this Act is to ensure that the system of administration of criminal justice in Nigeria promotes efficient management of criminal justice institutions,	Section 3 (1) - To ensure that the system of administration of criminal justice in Adamawa promotes efficient management of criminal justice institutions, speedy	Para 2, The European Convention on the Compensation of Victims of Violent Crimes 1983; the United Nations Declaration of Basic Principles of Justice for Victims of Crime and	This purpose indicates a deliberate effort at overhauling the criminal justice system in Nigeria in a way that compels the institutions that manage criminal justice to ensure the realisation of the primary goal of criminal justice, which is speedy dispensation of justice. It is also an indication of an intentional shift from punishment as the main goal of the criminal justice to restorative justice which pays attention to the needs of the society and the rights and dignity of victims and vulnerable persons. The legislations are, therefore, potent instruments of criminal justice administration for

	speedy dispensation of justice, protection of the society from crime and protection of the rights and interests of the suspect, the defendant, and the victim. Subsection 2 mandates all persons involved in criminal justice administration to ensure compliance with the provisions of the Act for the realisation of its purposes.	dispensation of justice, protection of the society from crime and protection of the rights and interests of the suspect, the defendant, and the victim. Subsection 2 mandates all persons involved in criminal justice administration to ensure compliance with the provisions of the Law for the realization of its purposes.	Abuse of Power 1985.	initiating change and restoring sanity to the criminal justice administration system in the Country, which had previously been chaotic and highly unpredictable. See *Awelle v. People of Lagos State* (2016) LPELR-41395(CA).
Application	Section 2 — Applies to criminal trials for offences established by Act of the	Section 4 — Applies to criminal trials for offences established	Order 1 High Court, Federal Capital Territory Practice	The implication of these provisions is that, in addition to non-applicability of the ACJA to Court Martial, the application of both the ACJA and ACJL in any of the specified cases and courts can be excluded by

	National Assembly and other offences punishable in the FCT, Abuja. This section is without prejudice to the provisions of section 86 of the Act on the application of Part 8 of the Act. The provisions are also not applicable to Court Martial.	by the Adamawa State House of Assembly and other offences punishable in Adamawa State. This provision is without prejudice to the provisions of section 88 on the application of Part 8 of the Law to the effect that "unless express provision is made in respect of any particular court or form of trial or proceeding."	Directions 2017; sections 174 and 211, 1999 Constitution, as amended.	express contrary provisions in any other law. ACJA is also not applicable in State courts, except where it has been adopted by any state as has been done by several states, where it has become the States' laws. It is also applicable in limited situations where a state court is seised of federal offence or the Attorney-General of the Federation authorises a state counsel to prosecute a federal offence. See section 268(4) & (5) of ACJA

Notification of cause of arrest and rights of suspect.	Section 6 (1) —Except when the suspect is in the actual course of the commission of an offence or is pursued immediately after the commission of an offence or has escaped from lawful custody, the police officer or other persons making the arrest shall inform the suspect immediately of the reason for the arrest. Subsection 2 mandates the police officer to inform such a suspect of his right to remain	Section 8 – Same as ACJA. See also section 16.	Section 35(2) and (3) and 36, 1999 Constitution, as amended; section 249 CCA, Cap C39 LFN 2010; Principle 16(1) Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment .	This provision reinforces the constitutional fundamental right to fair hearing, liberty and dignity of a suspect. It ensures that the suspect is not deprived of legal representation for any reason. This facilitates the right of the suspect right to bail and prompt trial and, by extension, enhances police and prison decongestion. It also confers on the suspect the additional benefit of having his next of kin or relative informed of his or her arrest at no expense to him or her. The provisions equally strips the police of their ability to make indiscriminate arrest on frivolous grounds as obtained under the now repealed section 10(1) of the CPA, where they could arrest without a warrant anyone without an ostensible means of livelihood and could not satisfactorily account for himself.

	silence or avoid answering any question, consult a legal practitioner of his choice as well as his entitlement to free legal representation by the Legal Aid Counsel. The authority in custody of the suspect also has the responsibility to notify the suspect's next of kin or relative of the arrest at no cost to the suspect. See also section 14.			
Arrest in lieu prohibited	Section 7 provides that a person shall not be arrested in	Section 9—same as ACJA.		The prohibition of the arrest of family and friends in lieu of the suspect as a means of compelling the suspect to submit to arrest, even when such family and friends are not

	place of a suspect.			connected with the alleged offence is one of the innovative provisions of these legislations. It puts an end to the common practice by the police and other prosecutorial agencies, like the EFCC, ICPC, NDLEA and NAFDAC, which abuse their power of arrest by detaining relatives and close associates of suspects when they find it difficult to arrest the suspect. In an attempt to compel them to produce the suspect, such relatives and close associates have often been subjected to dehumanising treatment by the police and these agencies over an offence they know nothing about. If this provision is properly implemented, it has the potential to reduce prison and police cell congestion.
Humane treatment of arrested person	Section 8(1) – A suspect shall: (a) be accorded humane treatment, having regard to his right to the dignity of his person; and (b) not be subjected to any form of torture, cruel,	Section 10(1) & (2), same as ACJA. See too section 7.	Section 34, 1999 Constitution, as amended; Principle 1, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment , adopted by UNGA	The dignity of the human person is widely acknowledged and the right to the protection of this dignity is recognised by virtually all constitutions and human rights instruments at various levels. In keeping with the general protection of this right, this provision is a deliberate effort to protect suspects, who, though presumed innocent until proven guilty, have, by virtue of their status, become vulnerable and liable to abuse by law enforcement personnel, especially the police. The prohibition of the arrest of suspect

	inhuman or degrading treatment. (2) A suspect shall not be arrested merely on a civil wrong or breach of contract. See too section 5.		Resolution 43/173 of December 1988; Article 5 UDHR, 1948; Article 7 ICCPR, 1966; Article 5 ACHPR, 1981.	merely on civil wrong or breach of contract is very welcome too as it had become rampant for the police and other law enforcement and security agencies to be used to settle such matters, which were clearly outside their call of duty.
Inventory of property of an arrested suspect.	Section 10(1) – A police officer making an arrest or to whom a private person hands over the suspect, shall immediately record information about the arrested suspect and an inventory of all items or property recovered from the suspect.	Section 12(1) – A police officer making an arrest or to whom a private person hands over the suspect shall immediately record information about the arrested suspect and an inventory of all items or properties recovered from the suspect.		This provision and those of the other subsections under it ensure the safety of the personal belongings and other property of an arrested suspect. It is a safeguard against the prevalent practice of such items disappearing in the process of investigation. The section, therefore, promotes transparency and accountability in the investigative process. The bracketed word "arrested" preceding information in the ACJL of Adamawa must be an error as information about an arrested person cannot be arrested. Only information about an arrested person can be recorded.

Recording of Arrests	Section 15(1) – provides for the recording of personal data of an arrested person. Subsection (4) provides that where a suspect who is arrested with or without a warrant volunteers to make a confessional statement, the police officer shall ensure that the making and taking of the statement shall be in writing and may be recorded electronically on a retrievable video compact	Section 17(1), (4) & (5), and section 19(1) & (2) replicate the ACJA provisions.	Sections 35(2) – right of a suspect to silence until consultation with a legal practitioner of his own choice; and 36(5) 1999 Constitution, (as amended), which presumes the innocence of an accused person until proven guilty as part of effort to protect the rights of the accused complements these provisions; Principles 12, 21 and 36 Body of Principles for the Protection of all Persons Under Any Form of	This innovative provision is aimed at checkmating the use of violence in securing indicting confessional statements from suspects. It is thus, a means of proving the voluntariness of confessional statements and preventing its retraction by an accused person on the ground that it was obtained under duress. Such denial usually requires a trial within trial to resolve; a necessity that had compounded the problem of delay in criminal trial. The use of the discretionary word "may" instead of the mandatory ''shall'', however, creates a loophole which is susceptible to exploitation by the police and other government departments involved in recording statement of suspects, see *Messy v Council of the Municipality of Yass* (1922) 222 SRNSW 494 and *Michel v Baker* (1800) 44 Ch D 282. This is more so as the general position of the courts is to interpret the words of any statute in its ordinary and literal meaning once they are clear and unambiguous, except where to do so will result in absurdity, see *Julius Berger (Nig.) Plc v Anizzeal Eng. Project Ltd.*(2013) LPELR-20694 (CA). The provision of section 9(3) of the Administration of Criminal Justice Law of Lagos State, 2007, mandating the Police to ensure that

	disc or such other audio visual means. 15(5) Notwithstanding the provision of subsection (4) of this section, an oral confession of arrested suspect shall be admissible in evidence. This provision is supplemented by section 17(1) & (2) on recording of statement of suspect that it should be taken in the presence of a legal practitioner of his choice, in the absence		Detention or Imprisonment; Article 11 UDHR	confessional statements are recorded on video, and the said recording and copies filed and produced at the trial is preferable. Attendant to the challenge of electronic recording of suspects' confessional statement is the challenge of the timely availability and functionality of the recording equipment when needed. Incidentally, neither of these legislations addresses this problem, except to provide in subsection (5) that notwithstanding the provision of section (4), "an oral confession of an arrested person shall be admissible in evidence"; a provision that significantly undermines the mischief sought to be addressed by section (4). Again, section 9(3) of the ACJL of Lagos State preventively addresses such situation where a video facility may not be available by mandating that the statement should be made in writing in the presence of a legal practitioner of the suspect's choice.

	of which it should be taken in presence of any other specified official or a person of the suspect's choice'			
Central Criminal Records Registry.	Section 16 (1) —There shall be established at the Nigeria Police Force a Central Criminal Records Registry. (2) For the purposes of subsection (1) of this section, there shall be established at every state police command a Criminal Records Registry	Section 18(1) and (2) are the same as 16(1) and (2) of ACJA while subsection 3 provides —It shall be the duty of the State Command to ensure that the decisions of the court in all criminal trials are transmitted to the Central Criminal Records Registry		This provision aims to ensure the availability of critical records that will aid speedy investigation and adjudication of cases, promote coordination, control and accountability in record keeping as well as provide future references for investigation and adjudication of cases. Subsection 3, in particular, will ensure speedy compilation of record of proceedings, deal with the problem of challenges attendant to obtaining record of proceedings, and, thus, aid prompt dispensation of justice. Such central criminal records registry will surely prevent a repeat of the embarrassing experience the Country went through regarding the prior conviction or otherwise of the former Governor of Delta State, James Onanefe Ibori by an Upper Area Court, Bwari, in case No. CK/81/95. See *Agbi v Ibori* (2004) 6 NWLR (Pt. 868) 78.

	which shall keep and transmit all such records to the Central Criminal Records Registry. (3) The State or Federal Capital Territory (FCT) Police Command shall ensure that the decisions of the court in all criminal trials are transmitted to the Central Criminal Records Registry within 30 days of the judgement.	within thirty days of the judgment.		
Remitting Quarterly Report for Arrested Persons	Section 29(1) requires the IG of Police and the head of every	Section 31 requires the Commissioner of Police in the State, Controller of		The essence of this provision is to ensure accurate record of arrests in the affected jurisdictions. It will facilitate effective monitoring of all persons in detention in order to ascertain the Awaiting Trial Inmates

	agency authorized by law to make arrests and remit quarterly to the AG of the Federation a record of all arrests made with or without warrant in relation to Federal Offences within Nigeria.	Prisons in the State and head of every agency authorized by law to remit quarterly to the AG of the state a record of all arrests made with or without warrant in relation to state offences. Note that unlike ACJA, ACJL, Adamawa State requires the Controller of Prisons in the State to also remit a quarterly report to the AG of the state.		(ATIs) and to ensure they are not remanded indefinitely. It will, in effect, prevent abuse of power by the arresting authorities. The additional requirement in ACJL, Adamawa for remission of reports by the Controller of Prisons is innovative and serves as a counter check for verifying the number of arrested offenders that end up in prison and may be useful in determining the legality or otherwise of such prison detention.
Releasing on Bail of Suspect Arrested	Section 30 requires the police to release on	Section 32(2) of the ACJL requires the	Section 4, Police Act, Cap. P19 LFN 2010; section	The ACJA, 2015 used the word recognizance as against the use of bond in the ACJL, Adamawa State.

Without Warrant	bail a suspect arrested without a warrant, for an offence other than one punishable with death and where it is not practicable to charge the accused to court within 24 hours, on the suspect entering into a recognizance for a reasonable amount. See also sections 19(2), 31, 66-71 and 158-188.	police to release on bail a suspect arrested without a warrant, for an offence other than one punishable with death and where it is not practicable to charge the accused to court within 24 hours, on the suspect entering into a bond with or without sureties for a reasonable amount. See also sections 21(2) & (3) 33, 68-73 and 159-189.	5 Criminal Code Act, Cap C39 LFN 2010; section 35, 1999 Constitution, as amended; Principle 39, Body of Principles for the Protection of all Persons Under Any Form of Detention or Imprisonment.	The rationale for this provision is to ensure that a suspect of an offence other than that punishable with death, or a serious offence is not kept in detention, without being charged to court, beyond the time stipulated by law; having regard to the suspect's right to personal liberty. It is also to prevent the adoption of the notorious practice of holding charge against a suspect. The use of the different terms "recognizance" and "bond" is a matter of semantics as both are used interchangeably and have the same effect. See *Ojo v FRN* (2006) 9 NWLR (Pt. 984) 105; *Shoneye v State* (2015) LPELR-25862(CA); *FRN v Maishanu & Ors* (2019)LPELR-46380(SC).
Prosecution of Offences.	Section 106 — subject to the provisions of the Constitution	Section 108 — subject to the provisions of the Constitution	Sections 174 and 211, 1999 Constitution, as amended.	This provision clearly specifying that only a legal practitioner can prosecute offences in courts settles the controversy that had raged on over the years as to the power of the police to prosecute offences

	on the powers of prosecution by the Attorney-General of the Federation, prosecution of all offences in courts will be undertaken by (a) the Attorney-General of the Federation or a Law Officer in his Ministry or Department; (b) a legal practitioner recognized by the Attorney-General of the Federation; or (c) a legal practitioner authorized to prosecute	on the powers of prosecution by the Attorney-General of the State, prosecution of all offences in courts will be undertaken by (a) the Attorney-General of the State or a Law Officer in his Ministry or Departmen t; (b) a legal practitioner recognized by the Attorney-General of the State; or (c) a legal practitioner authorized to prosecute by this Law or any other Law.		arising from the case of *The Federal Republic of Nigeria v Osahon* (2006) 5 NWLR (Pt. 973) 361 where the Supreme Court held that the Police prosecutor could prosecute whether or not he or she is qualified as a lawyer.

	by this Act or any other Act of the National Assembly.			

Part 23: Conviction when charged with one of several offences or of another offence.	Section 223-237 – Section 223 —Where a defendant is charged with one offence he may be convicted of another. Section 224 – Where a full offence is charged, and an attempt is proved. Section 225 – Where an attempt charged and full offence is proved. Section 226 – A defendant convicted for attempt under sections 224 and 225 shall not be liable to be	Section 224-238 – These provisions are on all fours with those of ACJA. See also sections 212-216.	Section 222 CCA, Cap C39 LFN 2010.	These provisions are in line with the established principle of criminal law that although the general rule is that an accused can only be found guilty of an offence for which he is charged, in certain circumstances, evidence adduced by the prosecution may fail to support a conviction for that particular offence, but fully establishes the commission by the accused of a kindred offence. In such circumstances, the courts can convict an accused for an offence other than the one for which he is expressly charged. See *Akpan v State* (2019) LPELR-48170 (CA), *Alabi v State* (1993)7 NWLR (Pt 307)511, *Adamu v State* (2017)7 NWLR (Pt 1565) 459.

	prosecuted for the offence for which he was convicted of attempting to commit. Section 227 – Where a defendant is charge with an offence, he may be convicted as an accessory after the fact to that or connected offence. Section 228 – Where a defendant is tried for a lesser offence but a higher offence is proved, he may be charged for the higher offence and			

	tried before another court. Section 229 – Where a defendant is charged with an offence in respect of property, he may be convicted of kindred offences relating to that property. Section 230 — Defendant charged with burglary may be convicted of kindred offence. Section 231 —On charge of rape conviction under defilement, incest,			

	unnatural or indecent assault may follow. Section 232 —Procedure for trial on charge for certain offences. Section 233 — On charge of defilement conviction of indecent assault may follow. Section 234 — Where a defendant is charged with murder or infanticide and concealmen t of birth is proved, he will be convicted of the latter offence.			

	Section 235 – Where murder is charged and infanticide proved, a defendant may be convicted of infanticide. Section 236 — Where a lesser offence not included in the charge is proved, a defendant may be convicted of the lesser offence. Section 237 – Where a defendant is charged with more than one offence and is convicted of one or more, the remaining charges will			

	be withdrawn. See also sections 211-215 and 233			
Remedies of married woman against her husband and others in respect of her person or property. Husband and wife competent as witnesses.	Section 191—A woman who has contracted a valid marriage shall have in her own name against all persons, including the husband of the marriage, the same remedies and redress by way of criminal proceeding for the protection and security of her person or her own separate property as if such property belonged to	Section 192 – same as ACJA Section 193—In any proceeding taken under the provisions of section 192 of this Law, the husband and wife shall be competent and	Sections 42(1) and 43, 1999 Constitution, as amended; section 36 Criminal Code Act, Cap C39 LFN 2010; sections 178, 179, 182 and 258(1), Evidence Act 2011; Articles 18(3) and 29, ACHPR; Articles 2, 5(a) and 16(1)(h), CEDAW.	This provision is almost a replication of the provisions of the repealed CPA, except that, unlike the CPA, it is not made subject to the provisions of section 36 CCA, Cap C39 LFN 2010, which precludes spouses of a Christian marriage from instituting criminal proceedings against each other while living together. On the contrary, it is made subject to the provisions of the Evidence Act, sections 178, 179 and 182, which removes the barrier against a husband or wife acting as a competent and compellable witness in respect of any action, including property. Note that while the Criminal Code Act recognises only marriage under the Act, section 258(1), Evidence Act defines "wife" and "husband" to "mean respectively the wife and husband of a marriage validly contracted under the Marriage Act, or under Islamic law or a Customary law applicable in Nigeria, and includes any marriage recognized as valid under the Marriage Act."

	her as an unmarried woman. Section 192 — In any proceeding taken under the provisions of section 191 of this Act, the husband and wife shall be competent and compellable witnesses in accordance with the provisions of the Evidence Act, 2011.	compellable witnesses in accordance with the provisions of the Evidence Act, 2011.		This provision reinforces the progressive move towards the promotion and protection of the rights of women, who have been marginalised over the centuries in virtually every sphere of life, especially in marriage. They were largely regarded as being too inferior to own property of their own or inherit their "husbands' properties", even when they had contributed to or purchased those properties themselves. Often times, especially in the Eastern part of Nigeria, on the demise of their husbands, they are driven out of the family house with just a few clothing materials.
General control of prosecution by the Attorney General	Section 268(2) — Where proceedings in respect of an offence are instituted by a police officer, it shall be in	Section 269(2) — Where proceedings in respect of an offence are instituted by a police officer, it		Sections 268(2), ACJA and 269(2) ACJL run contrary to the provisions of Sections 106 ACJA and 108 ACJL, respectively, which provides that prosecution of all offences in any court shall be undertaken by a legal practitioner.

	the name of the Inspector-General of Police or Commissioner of Police, as the case may be. (3) Where a proceeding in respect of an offence is instituted on behalf of the Attorney-General of the Federation, it shall be in the name of the Federal Republic of Nigeria. 268(4) & (5) - provides that the AG of Federation may delegate to AG of the State powers conferred by the section	shall be in the name of the Inspector-General of Police or Commissioner of Police, as the case may be. (3) Where a proceeding in respect of an offence is instituted on behalf of the Attorney-General of the State, it shall be in the name of the State. The ACJL has no corresponding provision on this, being a state law.		

	and that such powers can be exercised by the AG of the state directly or by Officers in his Ministry or Department			

Plea Bargain Guidelines	Section 270(1) — Notwithstanding anything in this Act or in any other law, the Prosecutor may:(a) receive and consider a plea bargain from a defendant charged with an offence either directly from that defendant or on his behalf; or (b) offer a plea bargain to a defendant charged with an offence. See subsections 2-18	Section 271(1) — Notwithstanding anything in this Law or in any other law, the Prosecutor may:(a) receive and consider a plea bargain from a defendant charged with an offence either directly from that defendant or on his behalf; or (b) offer a plea bargain to a defendant charged with an offence. See subsections 2-18	Sections 7(1) & 14(2) EFCC Act; section 36, 1999 Constitution, as amended.	This section makes elaborate provisions on the guidelines for entering into a plea bargain between a prosecutor and a defendant. It appears that the essence of a plea bargain under the provisions is to ensure that justice is done both in the interest of the state and the victim. The all encompassing nature of these provisions, no doubt, arises from the fact that, though, the concept of plea bargaining is apposite and yields good dividend in some criminal cases, if properly applied by prosecuting counsel, especially in cases relating to economic/financial crimes, its processes in Nigeria have been widely criticised over the years. The criticisms included its limited and arbitrary application to graft cases, see *Tafa Balogun v FRN* (2005) 4 NWLR (Pt. 324) 190, *FRN v Mrs. Cecilia Ibru* [Unreported], Charge No. FHC/L/297C/200; allegation that its employment has not yielded the desired result as its application in anti-graft war undermines the deterrent efficacy of the law. Also that its application has provided a way of escape from the onerous task of undertaking a thorough investigation, for the Anti-graft agencies thereby undermining institutional capacity-building for investigation and prosecution.

				The plea bargain provisions have thus accomplished the following, among others – 1. Extension of its scope beyond corruption offences to all offences save those with a death penalty, subsection (1)(b); 2. Introduction of restorative justice and protection of the right of the victim, who must now participate in the process of the agreement and be duly compensated, subsections (2) and (6); 3. Introduction of social justice — public interest and public policy – content, subsection (3); 4. Non- discrimination in its application to beneficiaries – ordinary citizens and high ranking politicians as subsection (5)(i)-(ix) outlines the prosecutorial standards to which the prosecutor must adhere; 5. Forestalls violation of the defendant's right through overcharging and coercion to plea bargain, subsections (7), (9), (10)(a) and (b); 6. An end to the use of plea bargain as an instrument of unreasonable sentencing as the judge can now review such sentences, subsection (11).

				However, other than the express exclusion of offences with the death penalty, the provisions fail to delimit the scope of the offences to which plea bargain applies. Again, though both legislations accord certain rights to victims, including compensation, they failed to define who a victim is. Furthermore, there are cross referencing errors in the provisions. ACJA contains the following of such—Subsection (5), (7), and (8) refer to subsection (3) instead of subsection (4), while subsection (10)(b) refers to subsection (6) instead of subsection (7). Subsection (11) refers to subsection (9)(a) instead of subsection (10)(a) while subsection (17) refers to subsection (1) instead of subsection (10)(a). ACJL, Adamawa contains similar errors except for subsection (11), which accurately cross references subsection (10)(a). These are significant errors.

Detention Time Limits Application for remand or other interlocutory proceedings A court may remand in prison custody. Court may grant bails in remand proceedings. Time and protocol for remand orders.	sections 293-299 Section 293 - (1) A suspect arrested for an offence which a magistrate court has no jurisdiction to try shall, within a reasonable time of arrest, be brought before a magistrate court for remand. Section 294 – A court may grant request for remand if satisfied that there is probable cause pending receipt of legal advice from the AGF	sections 294-300 Section 294(1) – same as ACJA Section 295 – same as ACJA Section 296 – Court may grant bail in	Sections 35, 36(1) and 41, 1999 Constitution, as amended; section 27 Terrorism Prevention Act, 2013.	This provision on detention time limit is one of the innovations of the laws. They aim at protecting the rights of detainees during trial. This affirms the fundamental rights - liberty, presumption of innocence until proven guilty, and freedom of movement of detainees enshrined in the Constitution. They also aim at aiding prison decongestion. There are, however, inconsistencies in the duration of detention time limits provided in various laws. ACJA and ACJL, Adamawa, provide a maximum limit of 56 days. The proviso to section 35(1)(f) of the Constitution says that a person detained in lawful custody, awaiting trial, shall not be detained for a period longer than the maximum period of imprisonment for the offence. It further provides in subsection (4) for the trial of a detained person within a reasonable time from the date of arrest – two months for a person in custody and three months for a suspect released on bail. A reasonable time according to subsection (5) is one or two days depending on the circumstances. These time limits are, however, not applicable to suspects of capital offence, and members of the armed forces and the Police Force – subsection (7). Again, section 27 of the Terrorism Prevention Act (TPA)

	Section 295 – Court may grant bail in remand proceedings under section 293, taking into consideration the provisions of sections 158 to 188 (on bails and recognizances generally) of this Act relating to bail. Section 296 – provides for an initial remand for a period not exceeding 14 days and a maximum of additional three periods of not more than 14 days each, under specified circumstanc	remand proceedings under section 294, taking into consideration the provisions of sections 159 to 189 (on bails and bonds generally) of this Act relating to bail Section 297 – same as ACJA, save that the proviso under subsection (4) was erroneously made applicable only to paragraph (b) instead of paragraphs (a) and (b).		2013 provides for three installments of 90 days detention for suspects of terrorist offences. Notwithstanding these inconsistencies, the gravity of the offence in the TPA and the complexity surrounding its investigation and prosecution may justify the time limit provided by the Act. The concern with the 56 days maximum time limit in the ACJA and ACJL, Adamawa, is the fact that in between the various stages of the court processes for the extension of the time limits, several other days or weeks may have been lost. This, in reality, means that the maximum time a suspect spends in detention may far exceed the prescribed 56 days. The ACJA and ACJL, Adamawa, provisions as well as the courts in their implementation of those provisions may often run contrary to the proviso to section 35(1)(f) that detention should not exceed the maximum period of imprisonment prescribed for an offence.

	es and procedures – making a total of 56 days, after which the court shall discharge the suspect and no further application shall be entertained by any court on the issue. Note, though, that the last paragraph of subsection (4) was erroneously numbered (d) instead of (c).			
Stay of proceedings	Section 306 – An application for stay of proceedings in respect of a criminal matter before the Court shall	Section 307 – same as ACJA	Section 36(4) 1999 Constitution; Section 40 EFCC Act, 2004; Article 9(3) ICCPR	This provision is critical to forestalling delays and ensuring speedy trial, which is the main trust of the ACJA and ACJL, Adamawa. It is an unprecedented positive development. Interlocutory applications for stay of proceedings pending appeal on preliminary matters even when substantive issues had not been addressed on

	not be entertained.			merit had been a major bane of speedy trials in the criminal justice system. See *Shane Edward Williams v The Queen* [2009] NZSC 41 (15 May 2009) where the New Zealand Supreme Court reduced the sentence imposed on the defendant by the lower court by 18 months on the ground that the delay between his arrest and trial – almost 5 years could not be justified.
Sentence and sentencing hearing	Section 311(2) - The court shall, in pronouncing sentence, consider the following factors in addition to sections 239 and 240 of this Act (a) the objectives of sentencing, including the principles of reformation and deterrence; (b) the interest of the victim, the convict and the community;	Section 312(2) – same as ACJA, save that it is subject to sections 240 and 241 of the Law	Federal Capital Territory Courts (Sentencing Guidelines) Practice Direction, 2016.	From the sentencing process outlined in ACJA and ACJL, it is clear that unlike in the repealed CPA and CPC provisions, where the conventional punishment generally imposed was imprisonment, and or fine, room has now been expressly made for the imposition of non-custodial sentence provisions as alternatives to imprisonment. In effect, subject to any restriction of the law, the Court can now order non- custodial sentence in lieu of prison sentence. The framework for the selection of non-custodial features in section 311(2)(c), is a commendable proactive approach that highlights the interest of the victim who was, prior to these laws, precluded from obtaining justice through the criminal process. Besides, judges can now exercise substantial judicial discretion during the sentencing process. Good enough for this process, the High Court of

	(c) appropriateness of non-custodial sentence or treatment in lieu of imprisonment; and (d) previous conviction of the convict. Section 239 provides that a defendant acquitted or convicted of an offence may be tried again on separate charge in certain cases. Section 240 - provides that a defendant acquitted or convicted of an offence, may be subsequently tried for a different offence	Section 240 – same as section 239 ACJA. Section 241 – same as section 240 ACJA. See also – Section 402(2), same as ACJA. Section 417, same as ACJA.		the FCT has introduced sentencing guidelines to assist judges at ensuring uniformity in sentencing. In imposing sentences, including non custodial sentence, the court must bear in mind the objectives outlined in sections 401(2) and 402(2) of ACJA and ACJL, Adamawa, respectively. The most critical of these objectives would be rehabilitation, which is vital to assisting the offender psychologically and gainfully reintegrate him or her into the society due to the training and skill meant to be acquired in the process of detention. Sadly, the poor, inhumane and degrading condition in the prisons virtually renders this objective impossible to accomplish.

	arising from Consequences supervening or not known at previous trial. See also – Section 401(2) outlining the objectives of sentencing as: prevention, restraint rehabilitation, deterrence, education, retribution and restitution. Section 416 – on discretion of court to determine term of imprisonment.			
Conviction on other charges pending/Conviction on charges	Section 313(1) - Where a defendant is found guilty	Section 314 (1) and (2) – same as ACJA, save that:		The utility of this provision, which is similar to consolidation in civil suits, is that it is a time saving procedure which will eventually reduce the

	of an offence, the court may, in passing sentence, take into consideration any other charge then pending against him, where the defendant admits the other charge and desires that it be taken into consideration and if the prosecutor of the other charge consents. (2) Where a desire is expressed under subsection (1) of this section and consent given, the court shall: (a) make an entry to that	a. The marginal note reads "Conviction on charges" as against "Conviction on other charges pending" in ACJA; b. subsection 2 is in accordance with section 302 ACJL.		criminal cases in the docket of the courts. Note, though, that the marginal note of ACJA better captures the essence of this provision than that of ACJL, Adamawa.

	effect on the record book; (b) the prosecution shall state the facts of the case in accordance with section 300 of this Act.			
Notes of evidence to be recorded electronically or in writing.	Section 364(1) - Without prejudice to section 348(2) of this Act, court proceedings may be recorded electronicall y and verbatim such that at the end of each day's proceeding a transcript of such recording shall be printed to enable certification or authenticati	Section 365 (1) - Without prejudice to section 349(2) of this Law, Court to … - the rest of the provisions including subsection 2 are the same as ACJA.		Electronic recording of court proceedings is one of the processes aimed at easing the onerous burden of hand written notes on judges during trial. It is, therefore, surprising that this requirement is not made mandatory, thereby perpetuating the problem of delay attendant to long hand note writing by judges.

	on by the Judge or Magistrate who conducted the proceedings . (2) Where court proceedings are not recorded as stated in sub-section (1), the court shall in every case take notes in writing of the oral evidence it considers material, in a book to be kept for that purpose and the book shall be signed by the court at the conclusion of each day's proceedings .			

Time for raising certain objections	Section 396(2) –After the plea has been taken, the defendant may raise any objection to the validity of the charge or the information at any time before judgment, provided that such objection shall only be considered along with the substantive issues and a ruling thereon made at the time of delivery of judgment.	Section 395(2) – same as 396(2) ACJA		This provision was aimed at ending the attitude of the courts in adhering to the age long practice of staying proceedings pending the determination of the issue of jurisdiction and other issues which can be raised at any time in a trial. This practice was a major clog in the wheels of progress towards achieving speedy disposal of criminal cases. Incidentally, contrary to the provisions of section 1(2) ACJA, mandating persons involved in criminal justice administration, chief among which are judicial officers, to ensure compliance with the provisions of the Act, the courts have not been faithful in applying the provisions of section 396(2) as seen in the case of *Olubukola Saraki v Federal Republic of Nigeria* (2016)3 NWLR (Pt 1500) SC 531. There were series of interlocutory rulings relating to the case at the Federal High Court, Court of Appeal and Supreme Court during the pendency of the matter at the Code of Conduct Tribunal leading to series of adjournments that constituted undue delay in the trial.
Day-to-day trial	Section 396(3), Upon arraignment, the trial of	Section 395(3)-(5), same as section		Incessant, and often avoidable, adjournments have been the bane of timely criminal trials in Nigeria. A strict adherence to the provisions of

	the defendant shall proceed from day-to-day until the conclusion of the trial. (4) Where day-to-day trial is impracticable after arraignment, no party shall be entitled to more than five adjournments from arraignment to final judgment provided that the interval between each adjournment shall not exceed 14 working days. (5) Where it is impracticab	396(3)-(5) ACJA		this section will remarkably speed up criminal justice administration. The flip side of this provision, however, is that it could result in the maintenance of status quo, especially with a judge that is not disciplined enough to take proper control of proceedings in his or her court, since the provision on additional adjournments does not peg the number of such adjournments. Again, it could result in criminal matters being struck out for want of diligent prosecution because of the frequently shoddy way prosecution is conducted by some prosecutors who rush to court without proper investigation and preparation. This often leads to unjustified requests for further adjournments. See Monday O Ubani, "We need to save Nigeria from the criminal justice sector", Opinion, Gavel International <https://thegavel.com.ng/2020/02/26/8300/> accessed 23 March 2020.

	le 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 inclusive of weekends			
Award of cost in order to discourage frivolous adjournments.	Section 396(6) - provides for the award of cost in order to discourage frivolous adjournments.	Section 397 - does not provide for cost in order to discourage frivolous adjournments.		Ordinarily, award of cost should not be punitive (*Hadejia Jama'Are River Basin Development Authority v Chimande (Nig.) Ltd* (2016) LPELR-40202(CA). However, this provision is a welcome development as it will assist in reducing the incidence of uncalled for requests for adjournments which has been a significant drawback on speedy dispensation of justice in Nigeria.
Elevation of High Court Judge to Court of Appeal	Section 396(7) of the ACJA relates to the	Section 397(6) of the ACJL of Adamawa		This offers a great relief to the parties to such cases as it mitigates the waste of efforts, time and resources suffered when such elevation

	elevation of a judge of the High Court to the Court of Appeal	State deals with the elevation of any judge to a higher bench.		occurred in the past and the case had to be transferred to another judge to start it afresh. The practice of having such cases commence *de novo* before a new judge, contributed to the prolonged duration of many criminal cases in the courts.
Sentencing in the case of pregnancy	Section 404 of the ACJA provides that where a woman found guilty of a capital offence is pregnant, the sentence of death shall be passed on her, but its execution shall be suspended until the baby is delivered and weaned.	Section 405 - a sentence of death shall not be passed on a pregnant woman guilty of a capital offence.	Section 33, 1999 Constitution, as amended; sections 39(2) and 319(3) Criminal Code Act Cap 39 LFN 2010; Article 3, Safeguards Guaranteeing Protection of the Rights of those Facing the Death Penalty; Principle 5(2), Body of Principles for the Protection of all Persons Under Any Form of Detention or Imprisonment	The ACJA provision is in line with the constitutional provision on the sanctity and protection of life provision to which even an unborn baby, who is completely innocent of the mother's offence is entitled. The ACJL, Adamawa provision constitutes an exception to the general prescription of death sentence for a suspect convicted of a capital offence. Pregnancy, in this instance, thus, constitutes a mitigating factor.

Convict may send request to committee on prerogative of mercy.	Section 409 – a convict who has been sentenced to death, and desires a review of his/her conviction, shall forward his request through his/her legal practitioner or officer in charge of the Prison in which he is confined to the Committee on Prerogative of Mercy, which shall consider the request and make its report to the Council of State which shall advice the President.	Section 410 – same as ACJA save that the Committee on the prerogative of Mercy shall forward its report to the Governor	Sections 175 and 212, 1999 Constitution, as amended	These provisions provide the procedure for the initiation of the exercise of the constitutional provisions on the prerogative of mercy. It does not, however, specify whether the request is to be in writing, but the assumption is that it is intended to be in writing, especially with the use of the word "forward". See further comment on sections 410 ACJA and 411 ACJL, Adamawa below
State at which the	Section 410(1) - The	Section 411(1) – The	Section 175 and 212, 1999	These provisions, along with those in sections 409 and 410 of ACJA and

President/Governor is to consider report	President shall, after considering the report made under section 409 of this Act, if any, and after obtaining the advice of the Council of State, decide whether or not to recommend that the sentence should be commuted to imprisonment for life, or that the sentence should be commuted to any specific period, or that the convict should be otherwise	Governor shall, after considering the report made under Section 411 of this Law, if any, and after obtaining the report of the committee, decide whether or not to recommend that the sentence should be commuted to imprisonment for life, or that the sentence should be commuted to any specific period, or that the convict should be otherwise	Constitution, as amended.	ACJL, Adamawa, respectively, are in furtherance of the procedure on the constitutional provisions on the prerogative of mercy in deserving cases by the President of the Federation and Governors of states. This procedure is obviously aimed at ensuring fairness and lack of arbitrariness in the exercise of this prerogative that has serious implication on the well being of the society. The ACJL, Adamawa, however, wrongly references section 411 instead of section 410 in its section 411(1) provision. Also, the reference in subsection 2 ACJA to "in relation to any person sentenced to death" regarding the advice of the Council of State to the President is unnecessary since the request for review only applies to death sentence convicts, which is the only focus of the sections 409 and 410.

	pardoned or reprieved. (2)Where, for the purposes of subsection (1) of this section, the Council of State is required to advise the President in relation to any person sentenced to death, the Attorney-General of the Federation shall cause a record of the case to be prepared and submitted to the Council of State, and the Council of State shall, in giving its advice, have regard to the matters set	pardoned or reprieved. This section omits subsection 2 of ACJA.		

	out in that record.			
Probation and Non-Custodial Alternatives	Sections 453-467. Sections 453-459 – empower the courts to make probation order in specified cases and the circumstances under which it should operate. Sections 460-466 – provide for community service and the conditions under which it operates. Section 467 provides for confinement in Rehabilitation and	Sections 454-468 Sections 454-460, same as ACJA. Sections 461-467, same as ACJA. Section 468, same as ACJA.		The title of this Part of the laws should have read "Probation and **Other** Non-Custodial Alternatives". Probation order is made after the charge has been proved, but prior to conviction and sentence as opposed to other non-custodial alternatives, which are sentences imposed after conviction. Thus, under section 459 and 460 of ACJ and ACJL, Adamawa, respectively, where the court, subsequently becomes satisfied that the Defendant has flouted a condition of his recognizance, the Court may proceed to convict and sentence the probationer for the original offence without further proof of his guilt. Non-custodial punishment is a form of criminal sentence that does not require a prison term. It is effectively, a rehabilitative form of criminal sentence. The provisions in focus provide for probation, community service and confinement in Rehabilitation and Correctional centre. The provisions of the ACJA and ACJL, Adamawa, to a reasonable extent take into consideration international best practices such as the principles enunciated in the United Nations Standard Minimum Rules for Non-

	Correctional centre.			Custodial Measures (The Tokyo Rules), but fall short in certain aspects such as sentencing dispositions, post sentencing dispositions, staffing, treatment process and public participation. The problem, however, is that the structures needed for the effective implementation of these sentencing alternatives are hardly in place, thus making it difficult for the courts to impose these sentences as they should.
Administration of Criminal Justice Monitoring Committee	Section 469(1) – provides for Members of the Administration of Criminal Justice Monitoring Committee, which ranges from the Chief Judge of the FCT High Court as Chairman to a representative of the Civil Society working on human rights and access	Section 470 –provides for same members as the ACJA with relevant nomenclatures at State level, but with an additional membership of the Commander of the National Drugs Law Enforcement Agency or his representative not below		The establishment of a monitoring committee for the ACJA and ACJL, Adamawa, is an indication of the premium that has been placed on the need for its successful implementation. It is also an indictment on the approach of the Nigerian society, often including personnel of criminal justice administration, to law enforcement, which has been significantly abysmal. The expectation is that through the activities of these Committees, the ACJA and ACJL, Adamawa, will bring to fruition the goal of the government and non-governmental stakeholders for a reformed system of criminal justice administration in Nigeria. Note, however, that the provision of sections 469(i) and 470(i) of ACJA and ACJL, Adamawa, respectively, are ambiguous. Each provides for

	to justice or women rights to be appointed by the Committee to serve for a period of two years only. Sections 470-476 provide for the functions, funding and other relevant issues affecting the functionality of the Committee.	the rank of Superintendent of Narcotics. There is however, a repetition of one of the nominees - a representative of the Civil Society working on human rights and access to justice or women rights to be appointed by the Committee to serve for a period of two years only – in (i) and (k). Sections 471-477 cover the same issues as ACJA.		the appointment of "a representative of the Civil Society working on human rights and access to justice or women rights to be appointed by the Committee to serve for a period of two years only" without more. Is this a one off appointment that terminates the inclusion of such a representative in the Committee after the first two years of the existence of the Committee, or will another representative be appointed on a rotational basis as the tenure of each incumbent lapses? It is also thought that it would have been best to provide for a representative of women's human rights interest in the Committee on a continuous basis rather than make it an alternative to a person "working on human rights or access to justice". This may result in a situation where there might end up never being a person on the Committee at any point in time who represents the human rights interest of women. Again, there is no provision for any of the members of the Committee to be specifically a woman. This perpetuates the marginalisation of women in total disregard of the recognised affirmative action principle in Nigeria. This is one of the aspects of the law that should be reviewed.

Power to Make Rules of Court	Section 490(1) of the ACJA provides that the Chief Judge of the Federal High Court or the Federal Capital Territory or the President of the National Industrial Court may make rules as it relates to matters contained under section 490 of the ACJA.	Section 491 of the ACJL refers to the power of the Chief Judge of the state to make rules as it relates to matters contained under the section		The provision under ACJA should not be the most appropriate way of conferring a duty. Without a proper understanding among the various judicial officers on whom this duty is alternatively imposed, there could, at one end, either be rivalry among them, or, at the other extreme, a total dereliction of the duty by each of them in the expectation that either of the other officers will execute the duty. The provision should have been specific as to who should discharge the duty it creates.
Non-compliance	Section 491 - Where no other sanction is provided for in this Act, failure on the part of a person to discharge his responsibility under this Act without reasonable	Section 492 – same as ACJA		This is a provision that places premium on effective discharge of responsibilities by relevant persons. The failure to provide specific general sanction for such failure here implies that each case will be dealt with according to the prevailing rules by specific appropriate authorities.

	cause shall be treated as misconduct by the appropriate authority.			
Interpretation	Section 494 – "court" includes Federal Courts, the Magistrates' Court and Federal Capital Territory Area Courts **provided** by legal practitioners	Section 2 - "Court" includes High Courts, the Magistrates' Court and Area Courts	Section 1(1) Criminal Code Act, Cap C39, LFN 2010; section 258(1) Evidence Act 2011.	The definition of court in the two legislations is open ended making room for the application of the laws to any other court(s) that may be deemed appropriate by any other law to apply its provisions. There is, however, an error in the phrase "Magistrates' Court" in both laws. It should have read "Magistrate courts". The replication of this and other errors in other parts of the ACJA in ACJL, Adamawa, is obviously the common practice of wholesale adoption of laws without a thorough editing and adaptation, which is common in the Country. Again, "provided", highlighted here in the ACJA provision, is erroneously used in place of "presided over''. Furthermore, the use of initial capital for the defined word, "Court" in ACJL, Adamawa, is improper. It should have been a lower cap "c" since the word is not generally used as "Court" in the Law. Note that while ACJA and ACJL, Adamawa define court in terms of

				the structural designation, the Evidence Act defines it in terms of the offices, i.e. "judge", "magistrate" section 258(1) while the Criminal Code defines it in terms of both structural designation and offices, i.e. "High Court" "Judge" etc. section 1(1).

Table III: Comparison between ACJA 2015 and Adamawa ACJL

3.4. Practical Challenges with the Implementation of ACJA/ACJL, Adamawa State Provisions

The following are challenges with the implementation of the ACJA/ACJL, Adamawa State provisions:

i. Challenges faced by the judiciary such as: low level of transparency and accountability on such matters as appointment, assignment and management of cases, promotion, disciplines etc; Abysmal pay and retirement benefits, poor state of physical infrastructure; inefficient filing systems and case management; old fashioned mode (longhand) of taking evidence; inadequate continuing judicial education; congested court dockets etc. impede day to day trial, thereby encouraging incessant adjournments, which impacts negatively on speedy trial – the ultimate goal of the legislations.

ii. Trial processes and other tactics adopted by defendants to frustrate criminal trials such as trial within trial, especially in courts where the judges are not firm enough to strictly implement the provisions of ACJA and ACJL, Adamawa, extensive and gruesome cross-examination of prosecution witnesses; intimidation of hard working and uncompromising judges through petition-writing etc.

iii. Challenges faced by prosecution such as poor remuneration for prosecutors, excessive workload, limited training and capacity building, lack of witnesses or resources to ensure the presence of witnesses in court and other requirements for speedy trial, and poor knowledge of the ACJA provisions.

iv. The use of the discretionary word "may" instead of the mandatory "shall'', in relation to the requirement for electronic recording of suspect's confessional statement in sections 15(4) and 17(4) of the ACJA and ACJL, Adamawa, respectively, creates a loophole which is susceptible to exploitation by the police and other government departments involved in recording statement of suspects. Additionally, the likelihood of the non-provision of this electronic device may continue to perpetuate the necessity for trial within trial and the problem of delay in trial.

v. The challenge of refusal or failure of invited witnesses to come to police stations to make statements or attend court sessions, despite the provisions of the law requiring their mandatory attendance and penalty for failure/refusal to do so.

vi. Another problem is funding and poor stakeholders' attitude which also impedes the implementation of the ACJA/ACJL, Adamawa.

vii. By the ACJA and ACJL, Adamawa State, abolishing lay prosecution, there will be insufficient lawyers to prosecute cases.

viii. By virtue of section 270(3) and (5), virtually every criminal charge can be subjected to plea bargaining as the window has been left completely wide open by the conditions for qualification for consideration provided there. This reinforces the criticism that the concept promotes inefficiency in investigation on the part of relevant prosecutorial agencies, which continues to hinder societal acceptance of the concept.

ix. Lack of physical and other complementary structures for the operation of the non-custodial sentencing provisions of the laws as convicts serving non-custodial sentences and the under aged are expected to be kept in reform institutions or rehabilitation centres and not in the prisons.

3.5. Recommendations

i. Adequate infrastructural and training provisions should be made for judges and relevant judicial staff in order to enhance their capacity to meet the requirement of the provisions of the legislations for speedy trial.

ii. As much as possible, judges should be uncompromising in enforcing the time lines provided in the ACJA/ACJL and stiffer penalties should be provided to sufficiently deter the defence team from frustrating the course of justice through the adoption of tactics that impede speedy trial.

iii. Identified errors of cross referencing and other legislative expressions should be addressed through amendment of the ACJA/ACJL in order to close the gaps in them.

iv. Sections 270 and 271 of the ACJA and ACJL, respectively, should be amended to resolve the problem of the scope of offences to which the plea bargain can apply. There are cases to which it should not apply on grounds on public interest and morality. ACJA and ACJL, Adamawa can borrow a leaf from section 167 (2)-(4) of the Anambra State ACJL 2010, which provides that plea bargaining shall not apply to any offence involving grievous violence or sexual assault, or to persons charged with capital offences, or any offence involving the use of violence, or persons who had in the last ten years been convicted and sentenced for any

such similar offence. The Indian Criminal Law (Amendment) Act, 2005[31] also disallows plea bargaining for cases already pending in court, offences punishable by death, life imprisonment, or imprisonment for more than 7 years, offence against women, offences affecting the socioeconomic condition of the country and offences against children below the age of 14.

v. Provision should equally be made in the legislations for penalties against the prosecutor or judge who fails to comply with any of the rights accorded the victim in relation to plea bargaining in sections 270 and 271 of the ACJA and ACJL, respectively, and also for the remedy available to the victim in such instances.

vi. Though the two legislations provide for rights of the victim in sections 270 and 271, respectively, none of them defines who a victim or his/her representative is. It is necessary that this be clearly defined to avoid unintended outcomes.

vii. Relevant physical and other complementary structures for the operation of the non-custodial sentencing provisions of the laws should be adequately provided for as a matter of urgency in order to encourage judges who are willing to adopt such measures to freely do so and hasten the realization of the goal of the provisions.

viii. In view of the abolition of lay prosecutors by both legislations, funding should be made available for the employment of more lawyers to prosecute cases. Failure to timeously do this might impede the effective implementation and realisation of the primary goal of the Act

ix. All syntactic and legislative expression errors in both laws, especially the ACJL, Adamawa, should be addressed to avoid unintended outcomes.

[31] Chapter XXIA, 2005, s 265A, 1(b).

3.6. Conclusion

The ACJA 2015 and ACJL, Adamawa State, 2018, which provisions are generally on all fours, save for a few minor variations or omissions, have introduced innovations that are aimed at transforming the administration of the criminal justice system within their spheres of operation. These innovations as outlined in this analysis indicate a deliberate effort at overhauling the criminal justice system in Nigeria in a way that compels the institutions that manage criminal justice to ensure the realisation of the primary goal of criminal justice, which is speedy dispensation of justice.

As indicated in sections 1(1) and 3(1) of ACJA and ACJL, Adamawa State, the objective of the legislations is to ensure that the system of administration of criminal justice in Nigeria and Adamawa State, respectively, promotes efficient management of criminal justice institutions, speedy dispensation of justice, protection of the society from crime and protection of the rights and interests of the suspect, the defendant, and the victim. Subsection (2) of each legislation also mandates all persons involved in criminal justice administration to ensure compliance with the provisions of the Law for the realisation of its purposes. Clearly, barring some of the identified gaps in the legislations, the contents of each legislation meet the objective in section 1(1) and 3(1) respectively. The challenge is more with regards to the mandate in subsection (2).

A lot of effort and resources have gone into sensitisation and other forms of training at different levels in order to enhance the appreciation and implementation of the legislations by the various stakeholders. Without doubt, their implementation has brought an appreciable measure of improvement and speed in the criminal justice system. This notwithstanding, it is apparent

that the path to the full realisation of the goal of the legislations is still thorny and the destination is not yet in sight. A combination of factors is responsible for this – pitfalls in the provisions of the laws and other external challenges highlighted in this analysis. A timely attendance to these issues will smoothen the path and hasten the realisation of the goals of the laws.

4. Comparative Analysis of the Administration of Criminal Justice Act, 2015 and the Kaduna State Administration of Criminal Justice Law, 2017

4.1. Overview of the Administration of Criminal Justice Act, 2015 and Kaduna State Administration of Criminal Justice Law, 2017

It is common knowledge that the Nigerian criminal justice system relied mainly on the Criminal Procedure Act (CPA)[1] and Criminal Procedure Code[2] before the Administration of Criminal Justice Act (ACJA), 2015 became effective. Similarly, Kaduna State relied on the Criminal Procedure Code Cap 43, Laws of Kaduna State, 1991 before the eventual passage of the Kaduna State Administration of Criminal Justice Law (KadACJL), 2017. The CPA, along with two other enactments were repealed by virtue of s. 493 of ACJA while the Criminal Procedure Code was repealed by virtue of s. 493 of KadACJL.

These repeals became necessary because the long existence of these laws failed to add significant value to the Nigerian justice system, having failed to adapt to changes associated with modern societies. Lawyers, particularly defence lawyers also exploited *lacunae* and other limitations in these laws to cause delays and thereby created a glut in criminal cases. This is in addition to the problem of congestions in prisons (and their attendant challenges) arising from the focus on incarceration of these laws. The inability of the justice system to respond to crime, protect the society and bring criminals to justice speedily

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[1]The CPA came into effect as Ordinance No. 42 of 1945. It was re-enacted as Ordinance No 43 of 1948 and went through a series of amendments over time until it was incorporated as Cap 80, LFN 1990.

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

made it imperative to overhaul the entire criminal justice system. This was achieved in 2015 vide the ACJA.

The KadACJL, passed two years after the ACJA, is (a) similar in content and language with the ACJA; (b) a transplantation of the ACJA in several places albeit more elaborate in parts; and (c) very aspirational in its outlook. This law effectively established a criminal justice administration law that governs criminal justice delivery in Kaduna State. The law is the outcome of the work of a Committee set up by the 19 governors of northern states to review the Penal Code and Criminal Procedural Code on 18 September 2015. After extensive consultations and research work, the Committee made far-reaching recommendations, which were adopted. On the strength of this, the governors of all 19 northern states agreed to do two things: (1) domesticate the ACJA; (2) embark on holistic rewriting and redrafting of the Penal Code. These two pieces of legislation were to be modified and adapted to suit the peculiarities of each state, while ensuring some degree of consistency of laws across all the 19 states in the north. Both laws-KadACJL and Penal Code were eventually passed into law on 29 May 2017 in Kaduna State.

Like the ACJA, the KadACJL introduced some innovations, which aim to cement a justice system that the citizens and residents of the State can be proud of. For example, the law emphasised respect for the human rights of suspects and upheld the right of women to stand as sureties. The law further introduced non-custodial measures as alternatives to incarceration, legalised plea-bargaining, abolished arrest *in lieu,* and emphasized *frontloading* to enhance speedy trials. A major aspect of the law that is admirable is its shift towards crime prevention; and its guidelines on how to deal with child offenders, in addition to establishing institutional framework for successful implementation, i.e. establishment of the ACJL Monitoring Committee in Part XLVI-ss.466-473.

The KadACJL is a 51 Parts and 493 sections document, which combines to provide a holistic mechanism for effective criminal justice administration in the state. In addition to substantive provisions, the law also contains supplementary materials- eight appendixes (tagged A-H) dealing with sundry issues. This is to provide practical guide to users on ~~to~~ how to apply the law. Appendix A is a tabular presentation of offences tagged *Tabular Statement of Offences.* The table itemizes specific offences, highlights sections of the law dealing with them, and states whether or not arrest for the specific offence must be with or without warrant. The *Tabular Statement* also classifies the various courts, including customary courts that have the least powers to try the specific offence.

Appendix B relates specifically to s. 206 on Forms of Charges. Appendix provides two sample forms, i.e. for single charge and for two or more charges.

Appendix C is a tabular presentation of offences which may be compounded, category of persons by whom the offences may be compounded and reference the Penal Code in that regard.

Appendix D- *Report and Request for Remand* relates to s. 305, which deals with application for remand for other interlocutory proceedings. It provides templates on how to make report and state grounds for request for remand. Appendix E is *Scale of Fines* as covered under ss. 358 (summary procedure in perjury), 430 (power to award imprisonment in default of payment of penalty), 431 (scale of imprisonment for non-payment of penalty), and 440 (ordering fines to be recovered by distress). The Appendix also contains sample *Statement of Previous conviction.* Appendix F relates to s. 389 (9) on legal representation. It is a prototype of information required where a defendant opt for a legal practitioner of his/her choice or one from the Legal Aid Council of Nigeria (LACON). Appendix G relates to s. 410, providing sample on how death sentence is be carried out. Appendix H-*Order for Commutation*

of Sentence relates to s. 420 and addresses the situation where pardon is not granted.

4.2. Compliance with International Best Practices

Since the mid-1950s, the international community under the aegis of the United Nations (UN) continues to emphasise the importance of establishing a justice system that benefits all offender, victim and society, across the world. Even more important is the need for criminal justice administration to be in line with generally accepted principles and standards. Accordingly, a number of norms, standards and principles have been developed to guide states in developing acceptable criminal justice administration in their respective states, particularly with regard to the treatment of offenders from the time of arrest until conclusion of trial and eventual punishment, especially where punishment involves incarceration. These standards hinge largely on respect and protection of the human rights of *all persons* including the offender. More recently however, emphasis has shifted to encouraging states to adopt imprisonment/incarceration as a last option; and to push towards alternatives to imprisonment. Note that while some standards are more general and deal with human rights-the International Covenant on Civil and Political Rights (ICCPR),[3] Convention on the Rights of the Child (CRC)[4]and the African Charter on Human and Peoples' Rights (ACHPR),[5]etc., others are more subject specific.

[3] The ICCPR was adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of December 16, 1966; It came into force on March 23, 1976, in accordance with Article 49.

[4] The CRC was adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of November 20, 1989. It entered into force September 2, 1990, in accordance with article 49.

[5] The African Charter on Human and Peoples' Rights was adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), it entered into force Oct. 21, 1986.

An example is the UN Standards Minimum Rules for the Treatment of Prisoners,[6] which deals essentially with imprisonment; and the *Human Rights Standards and Practice for the Police* (HRSPP),[7] which was developed by the Office of the United Nations High Commissioner for Human Rights (OHCHR)[8] in 2004 as a standard reference guide for police operations across the world. Note also that although the HRSPP is designed to guide police operations as first responders to crimes, procedures enshrined therein can be applied by other law enforcement agencies (LEAs).

International standards, best practices and norms-whether general or specific, focus on human rights of persons because of the need to uphold the principle of the *dignity of the human person, which* is the foundation of human rights standards. Attaching to this are: (a) the obligation of law enforcement officials to protect *human dignity* and uphold the human rights of all persons, in addition to respecting the principles of *legality, necessity, humanity and non-discrimination;*[9]and (b) the requirement for law enforcement operatives to exercise their functions, powers and duties as impartial servants of the general public as well as the government, noting that the limitations on the enjoyment of rights and fundamental freedoms of persons shall only be those necessary to secure recognition and respect for the rights of others and for meeting the just requirements of morality, public order and the general welfare in a democratic society.[10] As already noted, the ACJA and KadACJL provide

[6]United Nations Doc. A/RES/45/110.
[7]Professional Training Series No. 5/Add.3
[8]As a department of the Secretariat of the UN, the OHCHR has the mandate to work towards the promotion and protection of all rights contained in the Universal Declaration of Human Rights, 1948. See more at <www.un.org> or <www.ohchr.org> accessed 12 April 2020.
[9]See generally, UN, Overview of International Legal Framework for Disability Legislation <www.un.org> accessed 20 April 2020. See also Article 46 of the United Nations Declaration on the Rights of Indigenous People; adopted by the UN General Assembly 13 September 2007, Doc. A/61/295.
[10]Ibid

robust platforms for entrenching effective and speedy criminal justice administration in Nigeria generally and Kaduna State specifically. The question however is whether the provisions of both laws are in conformity with the aspirations of the international community regarding effective criminal justice systems across the world.

In general terms, the ACJA and 2017 KadACJL adaptation has leapfrogged the criminal justice administration in Nigeria generally, and Kaduna State specifically, from its unacceptable state pre-2015 to its current more acceptable state today; and also conform to international standards in several ways, some of which are highlighted below:

4.2.1. Human Rights Aspects

Content wise, both laws promote the principle of *dignity of the human person,* and *equality* of persons; and promote law enforcement practice devoid of discrimination of persons on the basis of gender, sex, race, ethnicity, property, political status, language, religion, birth, etc. This means that every law enforcement agency is required to be representative of, responsive and accountable to the society in general. This aspiration is one, which is reflected in the principle of community involvement in criminal justice. This is elaborately captured in both laws that provide for community participation in the entire justice process from pre-trial to post-conviction, spelling out the role of different categories of persons/groups.

International standards regarding arrest, detention and trial are quite explicit on what the procedure should be. For example, where a person is arrested, the requirement is that the arrested person is informed of the following: reasons for the arrest, his or her rights to remain silent, as well as legal

representation etc. Further, the right of the suspect to be brought to trial within a reasonable time, and given fair hearing should be promoted and respected. During investigations, interviews (of suspects, witnesses, and victims), searches generally, and evidence gathering, including interception of correspondences and communications, international standards also require that consideration must be given to the following: rights to security of person, fair trial, privacy, dignity, freedom from torture and other inhuman or degrading treatment, among others. To prevent allegations of extraction of evidence through torture, degrading and other inhuman treatment in line with CAT and Nigeria anti-Torture Act, the ACJL and ACJA both provide mechanism targeted at eliminating such. The requirement of video recording confessions and for such confessions to be taken in the presence of legal practitioner are to ensure that investigatory activities are done competently, thoroughly, promptly, impartially; and not overly intrusive. The essence is to ensure that the objectives of investigations are achieved. Hence the laws under review have developed standardised procedures for the recording of information during investigations and keeping detailed record of all interviews concluded.[11]

With regard to detention, pre-trial detention is a practice that is discouraged internationally, and states are encouraged to consider it only as a last option. But where detention takes place, states are to ensure that the detainee is treated humanely, presumed innocent until proven guilty by a court, not subjected to torture or degrading, cruel or inhuman treatment; and is held in a place of detention established by law and known to the family of the detainee and not *incommunicado*. Measures that guarantee these rights are succinctly provided in both laws.[12]

[11] Generally ss. 15, 16, 17 ACJA and ss.37 (7), 38, 39 KadACJL.
[12] See for example, ss. 6, 14 ACJA and ss. 24- 28, 30 KadACJL.

Where a person is brought before the judge for trial, the requirement that the defendant is given fair trial in which he or she is given "adequate time and facility" to prepare his case and to defend himself and be able to examine prosecution witnesses also form the crux of both laws, which impose obligation on the prosecution to frontload evidence (ss. 300, 379 ACJA). Accordingly, the Supreme Court has held in a number of cases such as *Ejike Okoye v Commissioner of Police*[13]and Shema *& Ors v FRN,*[14]among others that "adequate time and facility" includes "necessary hints… including the statements of the prosecution witnesses and his own written statement"; and also that "adequate time and facilities" form part of fair hearing and includes frontloading of evidence by prosecution. More importantly, to ensure speedy trials, ss. 396 ACJA and 403(4) KadACJL provides for day-to-day trial until conclusion of the matter, with limited adjournments. This is to promote speedy dispensation of justice as required by international standards.

4.2.2. A shift from adversarial to restorative justice

A very crucial aspect of international best practice, which is continually being advocated, is the need to shift from adversarial justice system that emphasis imprisonment and punishment to one that emphasise alternatives to imprisonment and restorative justice as there is no proof that imprisonment actually improves the criminal justice system, in terms of enhancing public safety. This is to protect everyone in the society but more particularly the vulnerable groups- women, children, and the mentally ill as groups often suffer more deleterious consequences of imprisonment. This does not mean that imprisonment should be jettisoned, as it remains an important form of

[13] (2015) All FWLR (Pt.799) 1101 at 1126-1127
[14](2018) LPELR-43723 (SC)

punishment and a crucial aspect of criminal justice administration. The idea is to achieve a reduction in imprisonment due to its counterproductive nature, especially in rehabilitation and reintegration of persons charged with minor offences.

To ensure a shift from imprisonment, several instruments were developed and adopted by the international community. They include: United Nations Standard Minimum Rules for Non-Custodial Measures (Tokyo Rules);[15] Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power;[16] and Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters,[17] among others. Other UN instruments that advocate non-custodial measures include: Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power;[18] Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters, among others.[19]

Although the Tokyo Rules[20] were adopted with the aim of reducing the application of imprisonment,[21] a crucial recommendation was made to the effect that non-custodial measures should form part of reductionist criminal justice policy.[22] This is due to several disadvantages associated with imprisonment, especially of low-level or minor offenders and those awaiting trial.[23] The UNODC[24] highlight the disadvantages as overcrowding and prison

[15]United Nations Doc. A/RES/45/110.
[16]United Nations Doc A/RES/40/34
[17]Adopted by the United Nations Economic and Social Council on 24 May 2002, United Nations Doc. E/2002/99.
[18]United Nations Doc A/RES/40/34
[19]Adopted by the United Nations Economic and Social Council on 24 May 2002, United Nations Doc. E/2002/99.
[20] The Tokyo Rules were first discussed and adopted generally in 1986 at the Seventh Congress on Crime Prevention and Criminal Justice and were later adopted by the General Assembly on 14 December 1990.
[21]See Rule 1.5
[22]This means a justice policy that
[23]UNODC, *Handbook of Basic Principles and Promising Practices on Alternatives to Imprisonment* (Vienna: United Nations Office on Drugs and Crime, 2007) 3
[24] Ibid

congestion globally, human rights violations, and unnecessary cost, among others. For human rights advocates, it is more beneficial to punish minor offenders using "appropriate alternatives"[25] for the following reasons: effective implementation "alternatives to incarceration", could lead to outcomes that benefit the offender, victim of crime and the society at large. It would also reduce overcrowding of detention facilities; make it easier to manage such facilities in a way that allow states to meet their obligations to prisoners in their care. Further, it would reduce cost, as imprisonment is very expensive. Again, prisoners have been adjudged "incubators of diseases such as tuberculosis and AIDS"[26] which they often readily spread upon their release.[27] Agreeing that alternatives to incarceration could be more effective in achieving the objectives of imprisonment; states began to look at other options. Like several other countries, Nigeria introduced several alternatives known as non-custodial measures in 2015 under the ACJA, which have also been replicated in the KadACJL.[28]

4.3. Comparative Analysis of ACJA and ACJL

In this section, key concepts in both laws are carefully selected and evaluated. A juxtaposition of these concepts, which represent some of the innovations introduced in the ACJA and KadACJL, is with a view to establishing their complementarity, contradictions and point of intersections, not only with each other but also, with constitutional provisions and other extant laws.

[25] Ibid
[26]UNODC, *A Handbook of Basic Principles and Promising Practices on Alternatives to Imprisonment* (New York, United Nations, 2007) 4-5.
[27]Ibid
[28] See for example Part XLIV, KadACJL

CONCEPT	ACJA	ACJL	COMPLEMENTARY PROVISIONS	ANALYSIS
Objectives/purpose	s.1	s.4		Both laws set out to achieve the same objectives-speedy dispensation of justice, efficient management of criminal justice institutions, protection of the society from crime as well as the protection of the human rights of all affected by crime, including the suspect and victim. This depicts a deliberate shift from punitive to restorative justice system. This can be seen in the sentencing guidelines in the various provisions dealing with sentencing and punishment, most of which are tailored towards these objectives, taking into consideration that a balance and effective justice system is the hallmark of democratic societies.
Application	s.2	s.5		The ACJA applies in all federal courts, and in state courts in limited circumstances, particularly where the offence is a federal offence being prosecuted by a federal agent or state prosecutor prosecuting a federal offence under the AGF fiat. The ACJL applies to criminal trials of offences established by the State House of Assembly; *and other offences punishable in the state*. This latter part of the

				section simply gives impetus to the applicability of the ACJA in Kaduna state courts, since offences established by it are also punishable in Kaduna State.
Definition of child/adult	s.494	s.3	a). s. 277 Child's Rights Act (CRA) 2003; b). s. 82 Trafficking in Persons (Prohibition) Enforcement and Administration Act (TIPPEAA), 2015 c). S.29 (4)(a) CFRN d). S. 3 Kaduna State Penal Code Law (KadPCL), 2017 (amended in 2018)	The ACJA AND kadACJL, like other laws define who a child is for purposes of application of the law. However the provisions of the KadPCL on the definition of a child are contradictory, not only with each other, but also with other laws. For example, while s. 3 defines a child as "any person under the age of fourteen years", s. 33 states that where a person who has been convicted by a court is above the age of 7 but less than 18, the punishment to be meted out by the court should not be as stipulated in the law under which the person is tried by the court. Instead the court should deal with the person in accordance with the Child Rights Law of the state. When juxtaposed against s. 15 which stipulates the age of culpability as below 7, the definition would be apt but not with s. 33, mainly because it allows the trial of a child in a regular court using the PC, unlike s. 452 ACJA and s. 449 KadACJL, which stipulates that the CRA or Kaduna CYPL (as the case may be) shall apply to child or young offenders. This apparently contradicts the provisions of the state's

				ACJL. If the intent is for the section to be interpreted in relation to age of culpability, this has been voided by virtue of s. 15, which limits the age of culpability to a child under the age of 7. This is not good enough.
Arrests- Right to be informed of reason(s) for the arrest and accruable rights Treatment of arrested person Recording arrest Arrest in lieu	s. 6 s. 14 s. 8 ss. 16 & 17 s. 7	ss. 24- 28 s. 30 ss. 37 & 38 s. 29	a). s. 35(2) (3) CFRN b). ss. 26, 27 c). ss. 35(6) & 36 CFRN a). s. 34 CFRN b). s. 29 Evidence Act (EA), 2011 s. 35(6) CFRN	The provisions of the ACJL with regards to arrest are quite expansive, emphasising the power of *any police* to arrest. Both laws impose obligation on the person making the arrest to inform the person arrested of reason(s) for the arrest; and rights to legal representation by a lawyer of his or her own choice or one from the Legal Aid Council of Nigeria (LACON). Both laws require a person arrested to be treated humanely, with emphasis on respect for the *dignity of the person*. This is in line with the Nigerian constitutional provisions and international best practices, which condemns torture, inhuman and degrading treatment of arrested person for purposes of extracting evidence. Note that consequences of treating arrested persons inhumanely are far reaching; and may impact negatively on the outcome of trial because, evidence obtained by illegal means cannot be admitted as stipulated under s. 29 of Evidence

				Act. It is immaterial that the offence was actually committed. Note that guidelines regarding arrests generally, recording of the arrest and information of the suspect, monitoring of the arrest, etc., and whether search is necessary or required are elaborately covered under part 2 of ACJA and part 3 of KadACJL. Both laws require all arrests to be recorded, within 48hours, providing details listed in s. 37(1) KadACJL, which shall be taken to the Central Criminal Record Registry, established in the State Command of Nigeria Police Force (NPF). Both laws abolished the practice of arrest in lieu; thereby affirming the principle of non-culpability under which a person should not be punished for an offence he or she did not commit. Indeed, unlawful arrest is prohibited under s. 35 (6) CFRN that entitles a person who is arrested unlawfully, to compensation and public apology from the authorities. Arrest in lieu is a form of unlawful arrest, yet victims never really took advantage of this provision-perhaps out of fear or ignorance.
Preventive Justice	Part 4-ss. 50-64	Part V-ss. 67-81	Chapter 24, Criminal Code (CC)	The provisions of ACJA relating to preventive justice were grafted verbatim into the

				KadACJL, perhaps due to their amenability to every state. These provisions impose a responsibility on the police and other law enforcement officials, including a judge, magistrate, etc. to proactively prevent crime and ensure security in the community, even if it means arresting a person. The main problem with these provisions relate to subjectivity in terms of how actions of persons may be perceived by different people in different circumstances, especially when such perception is coloured with bias. For example, apart from where it is apparent that a crime is being committed, the yardstick for concluding that a crime is about to be committed is unclear, especially where a subordinate police official who may be acting out of ill will informs his boss of likelihood that a crime would be committed. The application of these provisions stands the risk of falling into the error of misconception/misjudge ment that trailed the interpretation of terms such as "idle and disorderly"; "rogues and vagabonds" under the Criminal Code (CC) and the Penal Code (PC). These offences have been retained in the Kaduna State Penal Code Law, 2017 (as amended in 2018) in Chapter XXV, providing imprisonment of 3months

				or ten thousand-naira fine or both for "idleness". It is indeed germane to point out that these types of imprisonment have, over the years contributed to prison congestion in the country and should be limited. Even if the argument is that a fine can be imposed instead, it is also possible for the magistrate or judge to impose imprisonment since discretion can be exercised here.
Interrogations, statement taking and confessionals	ss. 15, 17	ss.37(7); 39	ss. 20, 28 & 29 EA, 2011	In taking a suspect statement under both laws, the right of the suspect to *remain silent* is impliedly re-echoed but limited however to the period before a legal practitioner or another person is present. The suspect's statement must be recorded-electronically or in writing. Confessions made orally are admissible under ss. 15(5) ACJA and 37(5) kadACJL. This is in a bid to forestall statement rebuttals, and the attendant *trial-within-trial* and delays in trials, which often arise from claims of making statements under duress or outright denial. So what happens where there is an objection to the admissibility of a statement? This would normally not stall trial under s 37(7) KadACJL, which empowers the court to record the statement, continue with the trial and rule upon it while delivering judgment in the

				substantive case. This raises the question as to whether *trial-within-trial* is technically abolished. This move is to discourage-as much as possible, trial delays and encourage case management, using pre-trial hearings/conferences, particularly in complex cases, to trash out issues in contention before going to trial. As a result, subsidiary legislation, regulation, Practice Directions, and rules etc., have been vastly recommended to address situations such as this and others that create *lacunae*. The FCT High Court Practice Directions emphasizes case management, and High Courts of states are encouraged to tow that part.
Remand times/ protocols	ss. 293, 295& 296	ss. 305-309	a). ss. 35 & 36 CFRN b). s. 27 TPA, 2013	Where it is necessary to remand, both laws provide protocols regarding the proceedings for doing so, albeit with variations. For example, while the ACJA allows for a remand period of 56 days-14 days each time. The ACJL on the other allows a remand period of 67 days-21 days at first instance. The decision to remand a suspect must however be justified by the establishment of "probable cause", in which case consideration must be given to –nature and seriousness of the offence; reasonable grounds to believe the

				suspect's involvement in the alleged offence; strong likelihood that the suspect could flee or reoffend; and any other justifiable ground. The question that may arise with regard to remand time protocol relate to compliance or conflict with the CFRN. While remand times provided under the ACJL seem to be in conflict with s. 35(4) CFRN-maximum of 2 months, construing this to be so would depend on a number of factors as the section itself seems to take contradictory positions-stating a maximum detention period of 2 months and then interpreting "reasonable time" to be one day where there is no court within 40 kilometres from the place of detention; and at the same time giving the court the discretion to decide what time is "reasonable" under subsection (5)(b). Therefore, holding these provisions to be in conflict or in compliance with the provisions of CFRN depends largely on the prevailing circumstances. See *Achem v FRN*,[29] and *Mohammed v State*.[30]
Bail/recognisances	ss. 158-163	ss. , 172,174-178		Under both laws, bail can be granted in all offences. However, for offences that carry death penalty under ACJA, bail can only be granted at the discretion

[29] (2014) LPELR-23202(CA)
[30] (2015) NWLR (pt. 1468) 496 at 512

				of the judge in "exceptional circumstances". The Kaduna state law lists offences carrying imprisonment of more than 20 years and life in this category. For offences carrying a term of imprisonment of more than 3 years, bail can be granted but a judge may deny bail if there is a likelihood of reoffending, and actions targeted at obstruction of justice have been noticed. In other cases, recognisances may be allowed.
Bail pending investigation	ss. 30, 31	ss. 48-49		
Recognisances in the case of children		ss.173,179		
	ss.160 & 166			Except for capital offences, administrative bail may be granted under these provisions. Here bail is granted upon entering a recognisance- with or without sureties for a reasonable sum of money to appear before the court or police station on a designated date and time. This can be a veritable tool in achieving prison decongestion, if effectively applied.
				Where a child is arrested for an offence and cannot be brought to court immediately, the requirement is for the police officer in charge of the police station to inquire into the matter and if the offence does not carry death penalty or a term of imprisonment for more than 3 years, then,

				the child should be released upon entering a recognisance by the parent or guardian of the child, undertaking to produce the child at a set date and time. Only parent or guardians can execute recognisances for child offenders. Execution of such recognisances requires the payment of a stimulated sum of money.
Women sureties	s. 167 (3)	s. 180 (3)		s. 167 (3) ACJA as replicated in s. 180 (3) KadACJL provides that "a person shall not 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 has done two things: (a) addresses the erstwhile practice where women could not stand as sureties, effectively breaching their constitutional right to non-discrimination; and (b) effectively changed the criminal justice landscape that strengthens the principle of equality and respect for the rule of law.
Professional Bondsperson	ss. 187-188	ss. 200-201		The provisions of ACJA and KadACJL regarding bondsperson are similar. The only variation is with regard to the authority to make regulations on the registration of bondsperson-the Chief Judge (CJ) of High Court of FCT or CJ of Federal High Court (FHC) in the ACJA; and CJ of Kaduna state under the KadACJL.

				Under both laws, a person or corporate body that wishes to offer services as bondsperson must be duly registered and meet the criteria set out in the regulations made by the CJ of FHC, High Court of FCT, or Kaduna State as the case may be. The criteria include: unquestionable character and integrity of the person and ability to deposit sufficient amount of money (as stipulated in the regulations) with the CJ, among others. It is however curious how the integrity of a proposed bondsperson would be verified or established, considering that Nigeria lacks the capacity to track people and records.
Trial - Day-to-day trial	s. 396	s. 403 s. 363	s. 36 CFRN	In furtherance of the aspirations of both laws to ensure speedy dispensation of justice, and uphold the constitutional right of suspects to speedy trial, both laws innovatively provide for day-to-day trial, which have, however been subjected to diverse interpretations- ~~as~~ for example, whether daily means every day until conclusion of trial, or every other day? There are also doubts about the possibility of day-to-day trial giving institutional and other challenges that exist in the court system. In recognition of these challenges, both laws provide alternative. Under

Trial in *absentia*	s. 352	s. 363		the provisions, where day-to-day trial is "impracticable" a maximum of five adjournments-each adjournment not exceeding 14 days, until conclusion of trial. Upon exhaustion of the adjournments, there is also a further leeway for further adjournments if trial is not concluded. Such adjournments shall not exceed 7 days including weekends; and the court has power to award punitive costs to dissuade litigants from making frivolous applications. Beyond punitive costs for frivolous adjournments, the way to go is basically to address institutional challenges that impede day-to-day trial. One of the tactics usually employed by lawyers, particularly defence lawyers, to delay trial is the absence of their clients. Often, they seek adjournments using excuses such as client's absence due to "ill health" etc. This has changed as both laws allow a defendant to be tried and convicted in *absentia* under s. 352 (4) ACJA and s. 363 (4) KadACJL, where the procedure laid down in subsections (1-3) have been exhausted and the defendant still fails to attend trial.
Case management &	ss. 300 376(4) & 379	**s**s. 210, 312	FCT High Court Practice Direction, 2017	Although criminal justice experts contend that case management under the

Disclosure protocols			s. 36 CFRN	ACJA "suffers from a lack of clarity and judicial guidance"[31] there is a deliberate effort towards achieving speedy trials, using case management tool. For example, both laws require the frontloading of evidence. This is to give opportunity to the defence to prepare his case; and to encourage pretrial options where issues not in contention are agreed upon and discarded before trial for purpose of dispensing trial as quickly as possible. Frontloading is an important case management tool with potential to engender speedy dispensation of justice. These provisions do not impose obligation to disclose but that does not mean that the defence should disclose. Defence can disclose in line with recommendations of the Practice Direction of the FCT High Court; and within the intent of Rule 37 of the Legal Practitioners' Act, which enjoin legal practitioners to see themselves as ministers in the temple of justice, to realise that they owe a duty to the courts and society to do justice and not to ensure freedom of offenders. Frontloading complies with the provisions of the CFRN, which require the

[31]See Adedeji Adekunle, Overview of the Administration of Criminal Justice Law, being a paper presented at the MacArthur Foundation/NIALS Workshop on Implementation of the ACJL for Judicial Officers, Asaba 17 – 18 February 2020.

				defendant to be given adequate time and facilities to prepare his or her defence, facilities being interpreted by the Supreme to include "disclosures" in the case of *Ejike Okoye v Commissioner of Police*.[32] The Supreme Court further interpreted the concept of "adequate time and facility" to include "necessary hints… including the statements of the prosecution witnesses and his own written statement" in *Shema & Ors v FRN*.[33]The pertinent questions relate to the implications of disclosures on the principles of *presumption of innocence* under s. 36(5) CFRN and s. 135 (1) of Evidence Act, 2011; and also witness protection measures.
Sentences, sentencing guidelines and consequential orders	ss. 311, 401, 416	s. 322, 423		Both laws recognise sentencing as integral part of criminal justice administration; therefore set parameters to guide judges and magistrates as regards the procedure for sentencing, and the objectives of sentencing, among others. More crucially, the sentence to be given would normally depend on a number of factors, i.e. nature and gravity of the offence, age of the offender, and whether he or she is a person of unsound mind, whether it is a pregnant

[32] (2015) All FWLR (Pt.799) 1101 at 1126-1127
[33](2018) LPELR-43723 (SC)

Sentencing relating to child offenders	ss. 452, 405	ss. 449, 412,	ss. 34, 277 CRA s. 82 TIPPEAA s.33 KadPCL	woman, which must be done in consideration of the objectives of sentencing-prevention, restraint, rehabilitation, deterrence, education of public, retribution and restitution. This is in furtherance of the drive towards a shift from punitive to restorative justice. Sentencing guidelines are contained in several provisions of both laws. Generally, subjecting children to formal criminal justice apparatus should come as last resort. Where it happens, the ACJA and KadACJL provides that such children should be tried and sentenced under the CRA that has already established a comprehensive child justice administration, including the establishment of Family Courts at High Court and Magistrate Court levels in ss. 149-153. Under the ACJA and KadACJL, where a child is tried under their provisions- as for example in homicide and found guilty, a death sentence shall not be pronounced. Instead, the child can be sentenced to life imprisonment. The CRA also forbids death sentence for children. However, the question that often arises relates to the status of children who are tried under the TPA,

				which provides a death penalty where an act of terrorism leads to victims' death. Note that terrorism is relatively new in Nigeria and was not in contemplation of the CRA; the TPA also did not envisage offenders to be children, and so makes no reference to trial of child offenders. The idea is to treat such children as victims needing rehabilitation or reformation except where they fully understand their actions and are willing to take responsibility, in which case, they can be tried as such and if convicted sentenced to life imprisonment in accordance with the provisions of both laws. Another major issue is the fact that provisions governing child justice are blanket despite the uniqueness of each child. Therefore, experts are now advocating for a "juveniles are different"[34] approach in applying these guidelines, taking into consideration the circumstances and needs of each child.
Non-custodial sentence/punishment	ss. 314, 321, 327, 453-459, 460-463,	Parts XLIV (Probation and non-custodial alternatives); and XLV (Parole)-ss. 450-465	a). ss. 1 (1)(2)(b)(3), 2(4), 4(2)(e); and 37-44 Nigerian Correctional Service Act (NCSA), 2019	The counterproductive nature of imprisonment accounts for the introduction of Non-custodial measures, which aim to address the problem of prison congestion and awaiting trial inmates (ATIs) and the

[34]See Susan Young, Ben Greer, and Richard Church, 'Juvenile delinquency, welfare, justice and therapeutic interventions' BJPsych *Bulletin* [2017](41)(1) 21-29.

Non application of Non-Custodial measures	467 & 468 s. 416 (k)		b). ss. 31 & 32 KadPCL, 2017	associate problems. Measures include, *inter alia,* probation, parole, suspended sentence, conditional release, community service and confinement in a rehabilitation centre especially in the case of children. Generally, non-custodial alternatives should not be extended to serious and perpetual offenders who should be isolated from the public. Hence such offenders are not entitled to non-custodial sentences.
Restorative justice	ss. 336, 337, 338, 342 490	s. 325; Part XXXIII (Costs, Compensation, Damages and Restitution)	a). ss. 48, 49(3) & 51(1) TIPPEAA b). s. 49 Cybercrimes (Prohibition, Prevention, etc.) Act (CPPA), 2015 c). s. 43 CFRN	These provisions re-emphasise a shift from punitive justice to restorative justice that addresses everybody's needs-society, offender and victim. See *Nwude v FRN*[35]on restitution.
Powers of the Attorney-General	ss. 104-106.	ss.117-119	s. 174 CFRN	The Attorney General under the ACJA and KadACJL may exercise their wide powers in person or by proxy through a mandated law officer or agency. These powers include the power to prefer a charge, issue legal advice, request case file from police, take over and continue or discontinue a criminal trial, as well as undertake the prosecution of offences in any court. These powers are exercisable in furtherance

[35] (2015) LPELR-25858 (CA)

Power to vary terms of, or cancel bail Lay prosecutors	s. 169 s. 106	s. 182 s. 119		of his or her constitutional powers relating to public prosecution, which must however be exercised with due regard to *public interest, the interest of justice and the need to prevent abuse of legal process* under s. 174 (3). Under both laws the powers of the AG extend to vary bail conditions or cancel bail. Where a suspect has been granted bail and facts emerge that render the bail undesirable, the court may, on AG's application issue arrest warrant to give the suspect opportunity to defend himself/herself. The court may thereafter remand the suspect in prison to await trial or grant bail on stricter terms-mostly higher amount of money payable. Like the ACJA, the ACJL precludes lay prosecutors without exception even though criminal proceedings may be signed by a police officer. This effectively means non-lawyers cannot prosecute even at magistrate courts under KadACJL and also jettisoned the Supreme Court ruling in Federal *Republic of Nigeria v. Osahon,*[36] where the Court

[36](2006)5 NWLR (PT. 973) 361

				reaffirmed the powers of the police prosecutor whether qualified as a legal practitioner or not to prosecute in any court in line with section 23 of the Police Act.
Witness protection Witness expenses	s. 232	s. 245	a). s. 36(4)(a)(b) CFRN b). s. 29 TPA, 2011 as amended c). s.47 TIPPEAA d). s. 17 EFCC Act, 2004 e). ss. 33, 34 TPA, 2013 f). s. 17 Anti-Torture Act, 2017	Although witness protection is shrouded in controversy and often touted by defence lawyers as infringing the rights of defendants to fair hearing, particularly the right to examine witnesses against him or her as contained in s. 36 (5)(d) CFRN, it actually protects the sanctity of criminal justice process by ensuring protection and preservation of the integrity of vulnerable witnesses. Witness protection measures under both laws can only be applied in serious offences, such as sexual offences, financial crimes-money laundering, and corruption etc., terrorism, among others. A list of measures, which can be adopted, includes evidence via video link, written deposition, mask, etc. Although witness protection measures have existed in Nigeria for a while, as seen in the complementary provisions highlighted, there is no robust witness protection programme capable of offering the required protection for witnesses, particularly where the testimony would be against a member of an

	ss. 251-255	ss. 263-266		organised criminal group or a public figure with necessary connections and wealth. Therefore, it is about time the country begins to put in place machinery for establishing a witness protection programme as done in other climes, despite its expensive nature. Although the constitutional approval of witness protection (see s. 36 (4)) relates to "hearing in private" in the interest of defence, public safety, public order, welfare and protection of minors as well as protection of lives of parties. Witness protection measures have been applied in limited terrorism cases, such as the cases of *Aminu Oguche v. FGN; kabiru Umar v. FGN; Mohammed Nazeef Yunus v. FGN; and Sambo Dasuki v. FGN.* Provisions on witness expenses are similarly worded in both laws. The question here is: do witnesses have expenses paid as a matter of right and who pays the expenses? While witnesses are entitled to "reasonable expenses" as of right, the judge has discretion to approve payment of witness expenses on application. Despite these provisions, non-payment of witness expenses remains a

				challenge due to inadequate funding. Therefore, lawyers have had to pay witness expenses out of their pocket, or pass the burden of paying to clients. This often makes it difficult to secure the attendance of the number of witnesses that may be required.
Plea-bargaining	s. 270	s.282	s. 14(2) Economic and Financial Crimes Commission (EFCC) Act, 2004	Although plea-bargaining in the Nigerian criminal justice system was limited to offences relating financial crimes under the EFCC Act, this has been extended to all offences under the ACJA and KadACJL. This is well received considering its advantages in pushing forward an agenda for a justice system that profits all. Both laws contain expansive provisions that provide guidelines on initiation of plea bargain by prosecution, securing victim's consent in the agreement, the role of the judge and the need to adhere strictly to the concept of "reasonableness" when negotiating a plea bargain agreement. Although plea-bargaining was highly criticised for the way it was carried out in a number of pre-2015 cases, its advantages are many. For example, where there is a risk of not being able to secure a conviction against a defendant, it would be time and cost effective to accept a reasonable plea bargain. Further, why continue with

				litigation if a conviction will likely lead to the same outcome as the plea bargain agreement?
Interlocutory applications and Stay of proceedings	s.306	s. 317	s. 40 EFCC Act, 2004 s. 36(4) CFRN	Before the coming into effect of the ACJA, our criminal justice system was characterised by the malaise of undue delays in justice delivery, arising from interlocutory applications, such as *stay of execution, stay of proceedings* and *preliminary objections,* particularly in high profile cases involving politically exposed persons.[37] This happened even in corruption cases prosecuted by the EFCC despite the express provisions of s.40 EFCC Act, which provides that interlocutory application, such as *stay of proceedings* shall not be entertained until judgment is delivered. Outcome of undue delays in our criminal justice system were frustration by the judiciary, lost of public confidence in the justice system and denial of justice to citizens (in some cases), and defeat of the intent and purpose of s. 36(4) CFRN. In *Amadi v. NNPC,*[38] the Supreme Court, succinctly aired its frustration at delays caused by counsel's frivolous applications by admonishing counsel to understand that they owe a duty to court to help

[37]See for example, Dariye v FRN (2015) 10 NWLR (Pt. 1467) 358.
[38](2000) NWLR (Pt. 9) 1543, @ 1543, paras D-G

				reduce delays by "avoiding unnecessary preliminary objections such as the one here; so that the adage justice delayed is justice denied may cease to apply to the proceedings in our courts" per Uwais, CJN (as he then was). Also, *FRN v. Babalola Borisade*[39], a case involving a former Minister of Education prosecuted by ICPC where Nweze, JSC condemned the use of interlocutory appeals to frustrate criminal trials especially those involving politically exposed or highly placed defendants. The introduction of measures to address undue delays and enhance speedy trials in both laws such as limiting adjournments to five, abolition of stay of proceedings,[40] reserving ruling on rebutted confessional statements till end of trial-technically clogging *trial-within-trial*, among others, is good spirited. Inspite of these provisions, counsel continue to approach the courts with interlocutory applications. Attitude of lawyers, particularly senior lawyers in that regard, have been publicly condemned at different fora as well as by the Supreme Court as the court did in *Dr. Dayo Olagunju v. FRN;*[41]and

[39](2015) All FWLR (Pt. 785) 227
[40]See *Olisa Metu v. FGN* [2017] 11NWLR (Pt. 1575) 156 at 176-178.
[41](2018) LPELR-43909 (SC)

				Joshua Dariye v. FRN[42]where the Supreme Court derided eight years delay of trial due to uncanny interposition for interlocutory applications.
Prosecuting child offenders	ss. 452, 371	ss. 412, 449	Part XIII- ss. 149-162 CRA	Situations where a child comes into conflict with the law are well envisaged in the KadACJL and ACJA both of which stipulate that judicial process involving child offenders should be conducted under the CRA- in the case of ACJA and the Children and Young Persons Law in the case of KadACJL, except with regard to bail which should be in accordance with the general provisions on bail in both laws.
Elevation or transfer of judges, trial *de novo;* and transfer of cases	s. 396(7) s. 98	s. 403(7)(8)		The issue of trial starting all over (*de novo*) upon the transfer or elevation of judges also contributed to glut in case files before now. The ACJA and KadACJL ensure that situation is dispensed with by providing that where a trail judge is elevated to the Court of Appeal, he or should could go back to the High Court (temporarily) to conclude trial but such a judge is not precluded from assuming duties as a Justice of the Court of Appeal. This is to avoid a reoccurrence of the situation in *FRN v. Ibori*[43]and several others, and thereby cause delays. However, this innovation has been struck down by

[42](2015) 10 NWLR (Pt. 1467) 325
[43](2014) 13 NWLR (Pt. 1423) CA 168 **4**

				the Supreme Court ruling of 8 May 2020 to the effect that a practice where a justice of the Court of Appeal is allowed to return to Federal High Court after his elevation to conclude trail and give judgement is unconstitutional, thereby nullifying the conviction of Orji Uzor Kalu and his co-accused who took the appeal to the supreme court. The ACJA is silent on the transfer of judges and the status of magistrates in that regard but the KadACJL expanded the provision to include the transfer or elevation of judges and magistrates. Moreover, before prosecution calls witnesses, the CJ can transfer a case from one court to another where such transfer would be in the interest of justice.
Monitoring mechanisms	Part 46-ss. 469-476	Part XLVI-ss.466-473		Both laws establish institutional framework for effective implementation of the laws, i.e. the *Administration of Criminal Justice Monitoring Committee (*s. 469(1) ACJA; s. 466(1) KadACJL*)*. The Committee, whose members will be remunerated, has a responsibility to ensure the effective and efficient implementation of the laws. The Committees under both laws have since been constituted ACJA; and have commenced work. Importantly, both Committees must work in synergy with each other as

				well as other criminal justice institutions to succeed. There must also be dedication, commitment and resilience on the part of committee members as they are bound to meet bottlenecks along the way.

Table IV: Comparison between ACJA and Kaduna ACJL

4.4. Practical Challenges with the *Implementation of the ACJA/ACJL* Provisions

There is no doubt that the ACJA is one of the most attractive pieces of legislation in the country due to its innovative provisions and a shift towards entrenching restorative system of justice administration in the country. Most of these provisions have been replicated in the KadACJL. However beautiful the provisions may be, effective implementation has been identified to be fraught with practical challenges.

i. **Attitude of defence lawyers:** A major problem relates to the disturbing manner in which some defence lawyers handle litigation. In desperation to free clients *by all means possible,* they employ all manner of unwholesome strategies to delay trial. Sadly, many lawyers fail to comply with the provisions of the ACJ Laws.

ii. **Funding:** The issue of lack of or inadequate funding is as general as it is specific. It is believed that the entire Nigerian justice system is unable to work seamlessly and effectively due to funding. Every aspect of our criminal justice system, particularly the institutions- police, courts, and correctional service, etc. are grossly underfunded, making it near impossible to carry out their functions. Underfunding affects

investigations, witness expenses programme and facilities for recording arrests, and taking statements, etc.

iii. **Lack of awareness:** There is a high level of ignorance of the provisions of the ACJ laws among the Nigerian populace, which makes their participation in their enforcement non-existent. For example, many people are unaware of the rights they have to arrest an offender or monitor a convict's compliance with sentence such as community service, etc. in the same vein, many people are still unaware of the rights of women to stand as sureties or that they can engage the services of registered bondsperson.

iv. **Lack of synergy between police investigators and prosecutors:** The long existing inter-agency rivalry is one of the banes of the ACJ Laws in the country. The police and the office of the DPP of some states usually work at cross-purposes, with police investigators being accused of hoarding information, withholding investigation outcomes, refusing to stand as witnesses and not doing the needful by complying with provisions of the ACJ Laws on arrests, interrogation and remand procedures. Police investigators on their part have also accused the office of the DPP of undermining their work by delaying the issuance of Advice etc.

v. **Incessant transfers of police investigators:** Generally, police officers are prone to transfers. Thus, when a police investigator is transferred out of jurisdiction, investigations being handled by the affected officer(s) are stalled. This is mitigated where police investigators work in a team of two or three and anyone of them is not transferred. Even if the transferred office hands over the investigation file and properly brief another office, time would still be lost as the new office needs time to study the file and adjust to the situation. This can affect evidence gathering particularly

where the evidence is fragile and needs to be gathered very quickly and effectively.

vi. **Abolition of lay prosecutors:** Before now, it is common practice for non-lawyers in the police to prosecute cases at the magistrate court level. With the abolition of this practice, a retinue of cases hitherto handled by lay prosecutors are now being handled by lawyers, leading to piles of cases in the dockets of magistrates and judges, and engenders delay, which the ACJ Laws seek to address.

vii. **Concurrent application of ACJA and ACJL in the courts:** The concurrent application of both laws in some state courts is likely to cause confusion, especially, where there are variations.

viii. **Omissions:** The provisions relating to disclosures impose obligation on prosecution to frontload evidence but fail to impose similar obligations on defence; and also shy away from making provision for pre-trial measures as effective case management tools. While it is true that courts, such as the FCT High Court have come up with practice direction that addresses these issues, they are unlikely to have the same effect as if they were included expressly in the laws.

ix. **Conflict with other substantive provisions:** In Kaduna State, the KadPCL contains provisions that are difficult to implement and thereby frustrate the intent of the ACJL to decongest prisons/correctional facilities. For example, the PCL prescribes a minimum of N100, 000 fine as penalty for certain offences which offenders are hardly able to pay. On default, they are thrown into correctional facilities, thereby defeating the objective of the KadACJL on non-custodial measures.[44]Also the rank and grade of the magistrate who has the duty of monitoring arrests and

[44]Lawrence Eckson, 'Kaduna State Governor Commends Act as Important Legislation to Reform Justice Sector' < www.fmic.gov.ng> accessed 30 March 2020.

detainees in police custody is lower in comparison with s. 6 of ACJA dealing with notification of cause of arrest and rights of suspects.

With regards to the ACJA, the Supreme Court on 8 May 2020 while nullifying the conviction and ordering a retrial in the case of former governor of Abia State, Orji Uzor-Kalu, the Supreme Court declared the actions of the trial judge which was based on s. 376(7) of ACJA, unconstitutional. This effectively establishes a conflict with the constitution and voids the s. 376(7) of ACJA.

4.5. Recommendations

The challenges identified above need to be addressed. Therefore, the following recommendations are proffered:

a) Attitudinal change on the part of defence lawyers is advocated because without the right attitude, implementation of these laws would remain a mirage. Defence lawyers should see themselves as *ministers in the temple of justice*, and recognise that they owe a duty to the court rather than employing all manner of tactics to free clients, even where they are aware of the guilt of the client. This means that defence lawyers need to embrace *disclosures* as a duty for all criminal justice practitioners and not hold tightly to the principle of *he who alleges proves,* to discharge their responsibility to disclose. Against the efforts of ACJA and KadACJL to entrench speedy dispensation of justices, lawyers, especially the senior ones continue to make frivolous applications and requests for adjournments in order to delay trial. This needs to stop.

b) Increased funding- this is to enable the criminal justice institutions to provide facilities that will enhance their operation as provided under the ACJ Laws. Tied to this is the need to improve the working conditions of criminal justice operatives in order to bring out the best in them.

c) There is need to increase awareness of the public on these laws. Where necessary, this can be done by translating the provisions into local languages such as Hausa, Yoruba, and Igbo etc.

d) There is also need for training and retraining of implementers of ACJA/ACJL on different aspects of the law.

e) The ACJ Laws should also be amended to expressly provide for pre-trial options, impose obligation on the defence to disclose and address other prevailing shortcomings, such as areas of conflict with other criminal provisions. This must however be in consideration of principles of law relating to *alleging and proving of crimes.* In view of the recent Supreme Court pronouncement regarding s. 376(7) of ACJA, there is need to amend the provisions of the constitution to give effect to relevant provisions of the ACJA, or amend the ACJA to bring it in conformity with constitutional provisions. Whichever option is taken, it must be in furtherance of achieving speedy dispensation of justice in criminal trials; and elimination of delays, which the ACJ Laws seeks to achieve.

f) There is need for improved working relationship between investigators and prosecutors. This can be achieved through capacity building for investigators and prosecutors.

g) It is important to ensure that police officers undertaking investigations are not transferred until they conclude their investigations. To achieve

this, the office of the DPP must work hand in gloves with police formation in their jurisdictions.

4.6. Conclusion

As stated in the purpose/objective of the ACJ Laws, the desire to force a shift from a weak, slow and ineffective criminal justice system to a more robust one that enables speedy justice delivery occasioned the enactment of the ACJA and eventually, the KadACJL. This is clearly stated in the purpose/objective section of both laws. To achieve their stated objectives, several innovations, such as plea bargain, non-custodial measures and restorative justice, among others were introduced. Laudable as these laws are however, they are bedevilled with severe challenges, mostly in the area of funding and attitude of some criminal justice practitioners. In that regard, several recommendations have been made. By and large, there is good sense in appreciating the fact that these provisions have changed the criminal justice situation in Nigeria.

5. Comparative Analysis of the Administration of Criminal Justice Act (ACJA) 2015 and Administration of Criminal Justice Law, Kano State (ACJL) 2017

5.1. Introduction

Justice system and its administration in every state is the reflection of that state's extent of civilisation, the dispensation of justice and development. Nigeria's justice system (the Police, Courts and Prison) largely derived from the colonial/English background and orientations also reflects the Nigerian state and society.[1]Prior to the enactment of the Administration of Criminal Justice Act in 2015 (ACJA), they were two principal laws that governed the administration of criminal justice in Nigeria, namely the Criminal Procedure Code and the Criminal Procedure Act which have now been repealed in the various states that have enacted their own administration of criminal justice law.

5.1.1. Overview

The ACJA has 48 parts and 495 sections covering matters provided for in the exclusive legislative list of the constitution and matters provided for in the concurrent legislative list. On the other hand the KACJL has 48 parts and 468 sections of matters provided for in the concurrent legislative list of the constitution which it has powers to legislate upon.

5.1.2. Objective

The main objective for the enactment of the ACJA was to take care of the defect and gaps of the provisions of the CPC and CPA respectively, which usually was characterized by delay of trials in the justice system. The ACJA also

[1]I S Mohammed, 'Nigerian Justice System: The Ideal Hope and Reality' <http://www.researchgate.net/publication> accessed 2 May 2020.

brought about restorative justice and non- custodial sentencing which were not provided for under the repealed laws. The national assembly haven passed the ACJA in 2015 various state houses of assembly followed suit by enacting their own state administration of criminal justice law. Kano state in 2017 passed into law the Kano state administration of criminal justice law covering matters in the concurrent legislative list of the constitution.

5.1.3. Summary of the Kano Administration of Criminal Justice Law (KACJL)

To a large extent the provisions of the Kano State Administration of Criminal Justice law are similar to the provisions of the Administration of Criminal Justice Act. However the KACJL took into cognizance local circumstances where it extended the duration of detention from 15days of the ACJA to 30 days. It equally made provisions for sharia courts and the appointment of grand kadi's to mine the courts.

5.2. Compliance with International Best Practice

Nigeria was colonized by Britain as such by the status of general application the laws in force in England as at 1st January 1900 were made to apply in Nigeria. This explains the reason why our legislations are similar to those of the common wealth nations who equally have ties with Britain. Up till date whenever there is a law reform or proposed amendment to a legislation recourse is had to what is obtainable in other common wealth jurisdiction. The 1999 Nigerian Constitution provides a unique framework for the management of a multi-ethnic and religious society such as Nigeria. Change, which is the only constant in life, can only come through the realisation by the people that

its time has come and that the existing system is not serving the objective that it was meant to serve.

Modern day Nigeria, is recognised by the Constitution to be a State 'based on the principles of democracy and social Justice'.[2] The same Constitution declares that 'sovereignty belongs to the people of Nigeria from whom Government derives its power and authority; and that 'the security and welfare of the people shall be the primary purpose of Government'.[3] Experience has shown, budding democracies must be allowed to correct itself through the will of the people, by their agitation for change were they perceive the law has either outlived its purpose or is not meeting up with present day demands. It was against this background that the Administration of Criminal Justice Act 2015 came into being. Nigeria, for example, through the enactment of its ACJA, has established a formal criminal justice administration system which aligns with international norms obtainable in other commonwealth jurisdictions. Whilst Nigeria's ACJA seeks to promote efficient management of criminal justice institutions, speedy dispensation of justice and protecting the society from crime, amongst others, the United Kingdom's Criminal Justice Procedure Rules (CJPR) 2015 (as amended) contains similar provisions to our ACJA. The overriding objective of the UK CJPR include dealing with a criminal case justly. This includes acquitting the innocent and convicting the guilty; dealing with the prosecution and defence fairly; dealing with the case efficiently and expeditiously. One important feature of the ACJA is that it introduced non-custodial sentencing and in the same vain vein has recognised victims of crime by providing for restorative justice. The ACJA to my mind is in line with best international practices in that since its coming into force in 2015 it has brought about efficient case management of the criminal justice

[2] See CFRN 1999, s14-(1).
[3] See CFRN 1999, s14-(2).

system through synergy between justice institutions, namely the investigators, prosecutors and the judiciary. This in turn has led to speedy dispensation of justice, protection of the interest of suspect/defendants; and protection of the interest of witnesses.

The Judiciary must discharge its functions provided by the constitution[4] which vests 'Judicial powers in the designated courts to all matters between persons or between Government or authority and to any person in Nigeria, and to all actions and proceedings relating thereto, for the determination of any question as to the commission of crime, civil rights and obligations of that person'. The essence of this provision is that the Judiciary is the designated body to determine the civil rights and obligations of Nigerians. It follows that all authorities inclusive of Government and all persons, artificial or real, are not above the courts and are indeed subordinated and obligated to obey and respect its determination.

5.3. Comparative Analysis

The ACJL of Kano state is similar in content to the ACJA 2015. However, there appears to be minute yet significant differences between both legislation that have implication on justice service delivery. The table below highlights and compares some key reforms between the KACJL and the ACJA 2015.

	PART/CONCEPT	ACJA	KACJL	ANALYSIS
1	Preliminary	Part 1 Provides for the purpose and the application of the Act.	Part 1 Provides for interpretation	Under the interpretation, ACJA defined adult as someone who had attained age 18, the KACJL does not define the word. Committee means ACJMC S. 469(1) of ACJA. Corporation was defined by KACJL not defined

[4] CFRN 1999, s6- (6)- (b).

				by ACJA. The ACJA renamed a suspect to defendant in line with international best practices where KACJL retained the old name defendant.
2		Part 2 ACJA Arrest, bail and preventive justice.	Part 2 KACJL Constitution and powers of criminal courts.	Whereas the ACJA in its Part 2 made provisions for arrest, bail and preventive justice. The KACJL on its part made provisions for the constitution and power of criminal courts.
3	Arrest	Part 2 ACJA Arrest, bail and preventive justice. Sections 24, 25, 26, 27, 28, 29 and 30 of the KACJL are the same with the provisions of Sections 3, 4, 5, 6, 7, 8, and 9 of ACJA. However Section 9(3) of ACJA in addition to recognising that a search should be conducted by persons of same sex with the suspect, goes further to create an exception by recognising circumstances that are urgent and impracticable for the search to be carried out by person of the same sex with the suspect, however the exception created recognises	Part 3 KACJL Arrest, bail and preventive justice. This exception was omitted by Section 30(3) of KACJL in view of the nature of crime it is recommended that this exception be considered and included to Section 30(3) KACJL especially for crimes committed before the presence of the arresting officer. It is important to state that the exception contemplated by Section 9(3) of ACJA would not be necessary where there is no urgency, especially were the arrest and search was as a result of a complaint lodged at the	Part 2 Administration of Criminal Justice Act 2015 (ACJA) Section 2 and Part 3 of the Kano State Administration of Criminal Justice Law (KACJL) Section 23 provides for arrest of a suspect to crime. Section 10 of ACJA and Section 30 KACJL on inventory, both sections up till sub section 6 are the same. It is however observed that there is a typo error as sub section (7) is erroneously numbered (5) otherwise the content of the sub section are the same with S. 10(7) ACJA. 8. It is observed that there is a typo error in the provisions of Section 11 of ACJA this provision require medical examination of an arrested suspect in order to obtain further evidence which would help the prosecution establish guilt. The typo error was however corrected in Section 32 KACJL to read …may make such an examination of the suspect in custody as is reasonably necessary in order to obtain the requisite evidence necessary for his prosecution. This is against the provisions of Section 11 ACJA which provides… may make such an examination of the suspect in custody as is

		circumstances that are urgent and impracticable for search to be carried out by person of the same sex. Section 18 ACJA and Section 39 KACJL make similar provisions on arrest by a public officer without warrant. Section 24 ACJA and Section 43 KACJL both make provisions for offences committed in the presence of a Judge or Magistrate. Although ACJA made for the provisions under different sections 24, 25, and 26 which deals with arrest by a Justice of peace the KACJL made all of the same provisions under Section 43. Although ACJA mentioned a Justice of peace in Section 26, the Sections 27, 28, 29, 30, 31, 32, and 33 ACJA and Sections 44, 45, 46, 47, 48, 49, and 50 KACJL deals with when the public is	police station. Section 9(4) ACJA and 30(4) KACJL are the same. The KACJL however has an additional sub-sub section (m) which in my opinion should be re numbered as (b) or (c) as the case may be. This is to enable for a logical flow of offences making such provisions under sub sub section (m) as it is now makes it hanging and standing alone. Section 19 ACJA and Section 40 KACJL are the same. KACJL is silent about arrest by a Justice of peace.	reasonably necessary in order to ascertain the facts which may afford the evidence and to use such force as is reasonably necessary for that purpose. These provision in italics is ambiguous and would require an amendment. Section 16 ACJA and Section 37 KACJL on central criminal records registry are the same. However the following observations are made. Sub section (2) of KACJL provides for electronic and manual forms of record of all arrested, discharged and convicted persons, the ACJA made no such provisions for electronic records. Section 17 ACJA and Section 38 KACJL make the same provisions on recording of statement of a suspect.

		bound to assist in arrest, are both the same for ACJA and KACJL. Section 34 ACJA and Section 51 KACJL are the same however Section 51 KACJL contains an additional sub section (5) which provides for disciplinary measure on the police for failure to comply with prescribed provisions.		
4	Warrants of arrest	Part 3	Part 4	Section 35, 36, 37, 38 and 39 ACJA and Section 52, 53, 54, 55 and 56 KACJL are on all force the same. 20. Section 40 ACJA and Section 57 ACJA are the same but for an additional sub section (3). Section 57(2) has a typo error, the omission of the word "Law" on the last line in between placed by ___ on a police officer. The additional S. 57(3) provides for a court to publish a public summons on a suspect who is evading arrest to appear within 30 days from the date of publishing the public summons. 21. Sections 42, 43, 44, 45, 46, 47, 48 and 49 ACJA and Sections 58, 59, 60, 61, 62, 63, 64 and 65 KACJL are on all force the same
5	Prevention of offences and security for good behaviour	Part 4	Part 5	Sections 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63 and 64 ACJA and Sections 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79 and 80 KACJL are

				on all force the same. Section 74 KACJL contains a typo error, it provides … where the suspect in respect of whom an order is made is present in court, it shall not… is shall
6	Proceeding in all cases subsequent to order to furnish security	Part 5	Part 6	Sections 65, 66, 67, 68, 69, 70 and 71 ACJA and Sections 81, 82, 83, 84, 85, 86 and 87 are on all force the same.
7	Public nuisance	Part 6	Part 7	Sections 72, 73, 74 and 75 ACJA and Sections 88, 89, 90 and 91 are on all force the same. Section 91 KACJL created an option of fine or imprisonment for 6 months for an individual, whereas the ACJA made the provision of 6 months jail term to apply to both individual and corporate body. This is not provided for in Section 91 KACJL which simply provides for a fine but no option of imprisonment for a corporate body. It is understandable that an individual can be given an option of 6 months imprisonment. But given an option of imprisonment to a corporate body may not be realistic as to which of the directors of the company will serve the jail term. Unless the law expressly names a particular director like the managing director or the chief executive officer. The same recommendations applies to sub section 75(b) ACJA. 25. Sections 76, 77 and 78 ACJA and Sections 92, 93 and 94 are on all force the same, S. 94 however contains a typo error S. 94(1) …to prevent imminent danger or injury of a serious…. not to prevent imminent danger or inquiry of

				a serious … S. 94(2) contains a similar typo error, the last line should read to prevent the injury and not inquiry. 26. Section 79 ACJA and Section 95 KACJL are the same.
8	Attachment where a person disobeys summons or warrant.	Part 7	Part 8	Section 80 (1), (2), (3), 81, 83, 84, 85 ACJA and Sections 96, 97 (1), (2), (3), 98, 99, 100, 101, these sections deals with attachment of property of suspect absconding, order to attach property. The KACJL Section 98 made provisions for restoration of attached property, apart from this provision every other content of the sections identified above are all the same. Observation ACJA contains numbering error, there is section 80, 81, 83 no section 82.
9	Provisions relating to criminal trials and inquiries in general	Part 8	Part 9	Section 86 and 87 ACJA and Sections 102 and 103 grants a court jurisdiction to compel a suspect who is outside jurisdiction but charged with an offence committed within jurisdiction. The ACJA only talked of compelling a suspect within jurisdiction charged with an offence committed within jurisdiction. Section 88 ACJA and Section 104 KACJL are similar.
10	Provides for place of trial or inquiry	Part 9	Part 10	The ACJA sets out trial of offences by a court based on various scenarios pertaining to the offence (s. 93(1). The ACJL provisions consider scenarios where there is uncertainty regarding which of several divisions or districts of courts in the State the offence was committed.
11	Powers of the Attorney-General	Part 10	Part 11	Sections 104, 105, and 106 ACJA and Sections 119, 120 and 121 are similar apart from

				the addition of sub section S. 121 (2) KACJL which provides that nothing in this section shall prevent a police from prosecuting any offence triable by any magistrate court. In my opinion I think the ACJA deliberately removed the power of police prosecution from the police being the same body charged with the power to investigation. This is for separation of powers between the investigators and the prosecutors and to reduce cases of abuse and miscarriage of justice. Therefore it would not be a bad idea if all State laws on administration of criminal justice tow the same line with ACJA. For this reason it is proposed that the Kano State administration of criminal justice law considers an amendment by removing sub section (2) of S. 121 KACJL.
12	Control of criminal proceedings by the Attorney-General	Part 11	Part 12	Sections 107 and 108 ACJA and Sections 122 and 123 KACJL are the same.
13	Institution of proceedings	Part 12	Part 13	Section 109 ACJA and Section 124 KACJL are the same apart from the use of the word "information" by ACJA against the word "charge" used by KACJL. Also ACJA include sub section (f) which provides for a criminal proceeding being instituted upon the receipt of complaint by the Attorney-General. 38. Section 110 ACJA and Section 125 KACJL are the same. Observation S. 110 (7)

				ACJA vested the monitoring powers on the Administration of Criminal Justice monitoring committee, which shall have power to monitor cases for the purpose of ensuring expeditious disposal of cases. Kano State vested the same power on the Justice Reform Team. 39. Section 111 ACJA and Section 126 KACJL are on all force the same, apart from the inclusion of a sub section (i), S. 126 (i) KACJL which simply provides for any other relevant information.
14	First information report	Part 13	Part 14	Section 112 ACJA and Section 127 KACJL provisions of both laws are the same, however S. 127 (f) KACJL, contains a provision which states … provided that the said First Information Report has been directed by the Chief Registrar or designated Chief Magistrate or Upper Sharia Court Judge as the case may be. The above provision is missing in ACJA. Again S. 127(8) KACJL contains another provision which states … provided that the magistrate is satisfied that the fact disclosed on the First Information Report constitutes an offence.
15	Enforcing appearance of suspect	Part 14	Part 15	Section 113 ACJA and Section 128 KACJL both laws deal with compelling appearance of a suspect before the court. While the ACJA provides that a court can issue a summons for a suspect to appear before it, whether the offence for which the defendant is standing trial was committed

				in any place within and outside Nigeria. The KACJL on its part although recognised that an accused person can be made to appear before a court by way of summons or warrant was however silent on what would happen if the accused was outside the State even though the offence for which he is standing trial was committed within the State. On one hand Section 114 ACJA goes further to provide that in every case, the court may proceed either by way of summons to the defendant or by way of warrant for his arrest depending on the nature of the offence. On the other hand the KACJL broke Section 128 into sub sections (1) and (2) wherein sub section (2) states as follows… (2)When a summons is issued the court may if it sees reason to do so dispense with the personal attendance of the accused: Provided that — (a) he is represented by counsel; or (b) he pleads guilty in writing.
16	Issue, form and service of summons	Part 15	Part 16	Sections 116 and 117 ACJA and Sections 130 and 131 are the same. Here are the following observations Sections 118 and 119 ACJA are different from the counterpart provisions in Section 132 KACJL. Section 118 ACJA makes provisions for hearing by consent before return date of summons, the KACJL does not make any such similar provisions. I however think that the wisdom in ACJA provision of S. 118 is to give room for accelerated hearing where

				the justice of the case so demands, so it would not be out of place if in a future amendment of the KACJL room is created for such provision.
17	Miscellaneous provisions regarding process	Part 16	Part 17	Section 136 ACJA and Section 144 KACJL make similar provisions with respect to irregularities in summons, warrant, service or arrest. However the KACJL contains a Section 145 on irregularities which vitiate proceedings. These provisions of the KACJL are not provided for in ACJA.
18	Saving of validity of process	Part 17	Part 18	Sections 140, 141 and 142 ACJA AND Sections 148, 149 and 150 KACJL make similar provisions.
19	Search warrants	Part 18	Part 19	Sections 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156 and 157 ACJA make similar provisions with Sections 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164 and 165 KACJL.
20	Bail and recognizances generally	Part 19	Part 20	Sections 158 – 186 ACJA and Sections 166 – 194 KACJL to a large extent contain similar provisions. Observation S. 162 (e) ACJA provides that the defendant can be denied bail if he is capable of prejudicing the proper investigation of the offence, the KACJL did not make any similar provision. Section 169 (2) KACJL made provisions for the Upper Sharia Court. Section 173 (4) ACJA provides thus … (4) Nothing in this section or in any other section relating to bail is deemed to require the release of a defendant liable to be detained for some matter other than that in respect of which the

				recognizance was entered into or to which the bail relates. The above provision is missing in KACJL Section 181 which is a counterpart provision to S. 173 ACJA.
21	Property and persons	Part 20	Part 21	Sections 189 and 190 ACJA and Sections 195 and 196 KACJL make the same provisions however there are slight differences between the provisions of Section 191 ACJA and that of Section 197 KACJL which are thus replicated hereunder. As a result of the slight difference the ACJA has a further Section 192 which is tied to Section 191. 191. ACJA A woman who has contracted a valid marriage shall have in her own name against all persons, including the husband of the marriage, the same remedies and redress by way of criminal proceeding for the protection and security of her person or her own separate property as if such property belonged to her as an unmarried woman. 197. KACJL A woman who has contracted a valid marriage shall have in her own name against all persons, including the husband of the marriage, the same remedies and redress by way of criminal proceeding for the protection and security of her person.

22	The charge	Part 21	Part 22	Sections 193, 194, 195 and 196 ACJA make similar provisions with Sections 198, 199, 200 and 201. However the KACJL under Section 202 makes provision for proof of evidence as set out hereunder… 202. (1) A charge shall be filed in the registry of the High Court before which the prosecution seeks to prosecute the offence, and shall include: a) the proof of evidence, consisting
23   <

	Conviction when charged with one of several offences or of another offence.			Section 223 ACJA and Section 228 KACJL are similar, however the KACJL has two sub sections (1) and (2). While Sub section of Section 228 is the same with the provisions of Section 223 ACJA, the sub section (2) of Section 228 KACJL went ahead to state a condition precedent herein reproduced. (2) Before convicting the accused person in the circumstances of subsection (1) of this Law, the court shall be satisfied that the accused person has sufficient notice of the offence disclosed and was not misled in his defence; otherwise it will frame a new charge based on the evidence disclosed at the trial and order the accused to plead to the new charge after it has been read and explained to him. Sections 224, 225, 226 and 227 ACJA are similar with the provisions of Sections 229, 230, 231 and 232. Section 232 KACJL has a typo error in form of a repetition on the 2nd line, and the evidence and the evidence. Sections 228, 229, 230, 231 and 232 (4) (b) ACJA contain similar provisions with Sections233, 234, 235, 236 and 237 KACJL. Observation, whereas Section 232 (4) (b) ACJA makes provisions for Terrorism (Prevention) (Amendment) Act, its counterpart Section 237(4) (b) KACJL makes provision for offences of armed robbery, kidnapping, abduction and other involving the use of or threat of violence. As a result of this addition in KACJL the sub sections ended in (f)

				against ACJA which sub section ended in (e). Further observation, the ACJA has a Section 233 which deals with charge of defilement conviction of indecent assault may follow, the KACJL does not have a similar provision. Sections 234 to 237 ACJA and Sections 238 to 241 KACJL make similar provisions.
25	Previous acquittal or conviction	Part 24	Part 25	Sections 238 to 240 ACJA make similar provisions with Sections 242 to 244 KACJL.
26	Witnesses: compelling attendance and taking of oath or making of affirmation	Part 25	Part 26	Section 241 ACJA and Section 245 KACJL make similar provisions but S. 241 ACJA provides for a sub section (2)… (2) Where the prosecutor is not a public officer the person to whom the summons is addressed is not bound to attend unless his traveling expenses are paid to him. The KACJL is however silent on the above provision. Section 242 ACJA and Section 246 KACJL, Observation while S. 242 ACJA has (6) sub sections, S. 246 KACJL has (7) sub sections, the reason being that sub section (3) of S. 242 ACJA was broken down into two in S. 246 KACJL otherwise both laws make similar provisions. Sections 243 to 250 (c) ACJA and Sections 247 to 254 (c) both deal with committing witness to prison where such a witness refuses to produce any document or anything which is required by the court to produce. The ACJA stipulates punishment to be

				committal to a remind home for 30 days while the KACJL provides for 7 days. To my mind the KACJL punishment is more appropriate bearing in mind the nature of the offence. I shall therefore recommend that the ACJA considers an amendment to reflect a reduction in the days of comital.
27	Witnesses: Expenses	Part 26	--------	This part provides for expenses incurred by a witness in the curse of coming to court to give evidence. The KACJL made no similar provisions. This provision made by the ACJA is quiet important in the dispensation of justice as witnesses generally play a role in the speedy dispensation of justice hence Kano State should consider making similar provisions as the ACJA although funding may be a challenge for the State.
28	Examination of witnesses	Part 27	Part 27	Sections 255 TO 265 ACJA and Sections 255 to 265 KACJL are the same, however S. 265 ACJA has no sub section whereas its counterpart S. 265 KACJL is broken into two to provide for S. 266. The ACJA contains a typo error. There is S. 265, no S. 266 but there is a S. 267. It is therefore suggested that an amendment be made to S. 265 ACJA in line with the provisions of S. 266 KACJL. Sections 267 to 269 ACJA and Sections 267 to 269 KACJL make similar provisions.
29	Plea bargain and plea generally	Part 28	Part 28	Section 270 (1), (b) ACJA and Section 270 (1), (b) KACJL the provisions of both laws are the same, but sub section (2) ACJA and KACJL make different provisions.

				Whereas the ACJA recognized the importance of the consent of the victim in entering plea bargain the KACJL did not make any similar provisions.
30	Persons of unsound mind	Part 29	Part 29	Sections 278 – 292 ACJA and Sections 278 – 292 KACJL are on all force the same.
31	Detention time limits Remand proceedings and time limits	Part 30 The ACJA provides for Detention limits	Part 30 The KACJL provides for Remand proceedings and time limits	Section 293 ACJA and Section 293 KACJL, although both laws intend the remand in custody of a suspect brought before a magistrate who has no jurisdiction to try such offence, however the drafting language used is ambiguous. The KACJL tried to improve on the drafting language used in ACJA without success. I shall suggest the following as amendment to S. 293… 293. (1) A suspect arrested for an offence which a Magistrate Court has no jurisdiction to try, shall within a reasonable time of the arrest be brought before a magistrate who shall take cognizance of the offence and may order the remand of the suspect in custody. Sections 293(2) -299 ACJA and Sections 293(2) – 299 KACJL are the same apart from an observation on the number of remand days provide in S. 296 ACJA as 14 days and S. 296 KACJL as 21 days.
32	Presentation of case by prosecution and defence	Part 31	Part 31	Sections 300 (1), (2) ACJA are the same provisions with Section 300 (1), (2) however the sub section (3) KACJL is the provision of S. 301 ACJA. Sections 302 and 303 ACJA are the same with Sections 301 and 302 KACJL. S. 303 ACJA has a minor typo error in

				numbering, it should read S. 303 (3) (a), (b), (c), (d) and not another repetition of (a) in place of (d). Sections 304 and 305 ACJA are the same with Sections 303 and 304 KACJL, however S. 305 (2) sub section (c) provides … (2) When the question referred to in subsection (1) (a) of this section has been decided by the Court of Appeal, the Court shall: (a) continue the trial or discharge the defendant; (b) acquit or convict the defendant; or (c) order the execution of the sentence as the circumstance may require. Its counterpart provision in KACJL made no provisions for sub section (c). S. 304 (2) KACJL provides … 304. (1) Where a question as to the interpretation of the Constitution of the Federal Republic of Nigeria arises in the course of a trial and is referred to the Court of Appeal under the provisions of the Constitution, the court before which the question arose may in its discretion: a) Adjourn the trial until the question has been considered and decided; b) Conclude the trial and postpone the verdict until such time as the question has been considered and decided. And in any such case the Court in its discretion shall commit the accused person or convict to prison or admit him to bail in accordance with the provisions of Part 20 of this Law.

				(2) When the question referred to in subsection (1) (a) of this section has been decided by the Court of Appeal, the Court shall: a) Continue the trial or discharge the accused person; b) Acquit or convict the accused person.
33	Costs, compensation, damages and restitution	Part 32	Part 32	Sections 319 to 322 ACJA make similar provisions with Sections 318 to 321 KACJL. Here are a few observations, the provisions of S. 321 (a) and (b) ACJA were swapped by S. 320 KACJL. Section 322 ACJA provides for cost against a private prosecutor, this is not provided for by the KACJL. S. 322 ACJA… (1) The court may, in a proceeding instituted by a private prosecutor or on a summons or complaint of a private person, on acquittal of the defendant, order the private prosecutor or person to pay to the defendant such reasonable costs as the court may deem fit. (2) In this section, "private prosecutor" does not include a person prosecuting on behalf of the State, a public officer prosecuting in his official capacity and a police officer. Section 323 ACJA and Section 321 KACJL, both laws make similar provisions however the KACJL contains a sub section (3) which is not provided for in ACJA. The provisions of the said sub section (3) to my mind amounts to a double jeopardy. S. 321 (3)

				(3) Notwithstanding the provision of subsection (2) of this section, the term of imprisonment served by the convict in default of payment of compensation shall not relieve the convict from paying the adjudged compensation. Sections 324 to 328 ACJA and the provisions of Sections 322 to 326 are similar. Observation S. 324 ACJA has sub sections (1), (2) and (3), whereas the counterpart provision in KACJL S. 322 provides for sub section (1) omits the provisions of sub section (2) of ACJA and replicates sub section (3) of ACJA as its sub section (2).
34	Custody, disposal, restoration or property.	Part 33	Part 33	Sections 329 to 332 ACJA and the provisions of Sections 327 to 330 KACJL are on all force the same.
35	Seizure, forfeiture, confiscation and destruction of instrumentality of crime	Part 34	Part 34	Sections 333 to 346 ACJA and the provisions of Sections 331 to 344 KACJL are similar. Observation S. 345 (2) (c) ACJA is provided for as sub section (3) in KACJL S. 343.
36	Summary procedure in perjury	Part 35	Part 35	Section 347 ACJA and Section 345 KACJL are on all force the same.
37	Trials and summary trials generally	Part 36	Part 36	Section 347 ACJA and Section 345 ACJL, all the provisions of both laws are on all force the same. 85. Sections 348 to 376 ACJA and Sections 349 to 373 KACJL make similar provisions. Observations although S. 349 ACJA and S. 347 KACJL are similar, S. 347 (4) ACJL needs an amendment as it has a

				typo error … is unable to… S. 349 KACJL does not have a sub section (6) like its counterpart S. 347 (6) which provides… 347 (6) A legal practitioner so engaged shall be paid such reasonable sum as may be determined by the Attorney-General. S. 349 (6) (b) is a little different from its counterpart S. 347 (7) (b) KACJL S. 349 (6) (b) ACJA (b) indicate the fact of having so informed the defendant on the record, but a defendant charged with a capital offence or an offence punishable with life imprisonment shall not be allowed to represent and defend himself. S. 347(7) (b) KACJL (7) Where the accused person chooses to represent himself, the court shall: b) indicate the fact of having so informed the accused person on the record; and The provisions of S. 356 (5) (c) ACJA is not provided for in its S. 354 KACJL counterpart. S. 356 (5) (c) ACJA (5) The court shall then proceed: (c) also, where the court deems fit, to hear such witnesses as the prosecutor may call in reply if the defendant has called any witness or given any evidence. S. 358 ACJA has no sub section (3) whereas its counterpart S. 356 (3) KACJL provides … (3) Notwithstanding the provisions of subsection (1) of this section, oath of denial

				shall be administered in accordance with the principles of Sharia by the sharia courts. S. 376 (3) (a) ACJA provides for a sub section (a) different from its counterpart ACJL S. 356 (3) (a) (b) (3) 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 the: (a) police or the head of the police legal unit through whom the police case file was sent to the Attorney-General of the Federation.
38	Trials by way of information and Rules relating to charges	Part 37 The ACJA made provisions here for trials by way of information	Part 37 The KACJL made provisions for rules relating to charges	ACJA made provisions for Sections 377 to 380 which were not provided for in KACJL. S. 377 – 380. 377. An information shall be in the form set out in Form No. 11 in the First Schedule to this Act with such modifications as may be necessary to adapt it to the circumstances of each case. Sections 381 to 400 ACJA and Sections 375 to 392 KACJL make similar provisions. Observations S. 382 ACJA and Section 376 KACJL are the same but the KACJL did not produce the counterpart of S. 383 and S. 384, however S. 385 ACJA and S. 377 KACJL are the same.
39	Provisions relating to sentence of death	Part 38	Part 39	Section 401 ACJA and Section 393 KACJL make the same provisos, S. 402 ACJA is broken down into two sub sections which is not the case with its counterpart provision of S. 394.

				S. 402 ACJA 402.(1) Punishment of death is inflicted by hanging the convict by the neck till he is dead or by lethal injection. (2) Sentence of death shall be pronounced by the court in the following form: "The sentence of the court upon you is that you be hanged by the neck until you are dead or by lethal injection." S. 394 KACJL 394. (The punishment of death shall be inflicted by a method as pronounced by the Court. 90. Sections 403 to 409 ACJA and Sections 395 to 400 ACJL make similar provisions with slight modifications. ACJA in S. 405 make provisions for sentencing in the case of a child offender, this provision is not made by KACJL, S. 409 ACJA is slightly different from S. 400 KACJL.
40	Procedure where woman convicted of capital offence is alleged to be pregnant	Part 39	Part 39	Section 415 ACJA and Section 406 KACJL are on all force the same.
41	Sentencing generally other than capital sentence	Part 40	Part 40	Sections 416 to 437 ACJA and Sections 407 to 427 KACJL to a large extent are similar with a few modifications. S. 417 ACJA has sub sections (1) and (2) whereas its counterpart S. 408 KACJL has sub sections (1) (2) (3) and (4).
42	Detention in a safe custody or suitable place other	Part 41	Part 41	Section 438 ACJA and Section 432 KACJL are similar but for slight differences who will do what. While ACJA provides

	than prison or mental health asylum			that the Attorney General shall have the power to discharge a person in safe custody, the KACJL confers such powers on the Governor of the State. See S. 438(2) and (3) ACJA and S. 432 (2) and (3) KACJL.
43	Deportation	Part 42	----------	Deportation is a matter provided for in the exclusive legislative list hence the KACJL did not make legislation in this regard.
44	Child offenders	Part 43	Part 42	Section 452 ACJA and Section 433 KACJL are similar.
45	Probation and non- custodial alternatives	Part 44	Part 43	Section 453 ACJA and Section 434 KACJL contain similar provisions. 104. Section 454 ACJA provides for conditional release of defendant and payment of compensation for loss or injury and of costs. The KACJL does not contain a similar provision. 105 Section 455, 456, 457, 458, 459, 460(4) (b) (b), 461 (3) (a) (i) – (vi), 462, 463, 464, 465, 466 and 467 ACJA and Section 435, 436, 437, 438, 439, 440, 441 (3) (a) (i) – (viii), 442, 443, 444, 445, 446 and 447 KACJL, these provisions of both laws are basically the same but for a few observations. S. 460 ACJA has a typo error S. 460(4) (b) (b) this second sub section (b) should read (c). S. 461 (3) (a) (i) – (vi) ACJA and S. 441 (3) (a) (i) – (viii) KACJL has two additional sub sections which contains additional means of identification, bank verification number and telephone number these information are not provided for in ACJA. S. 463 ACJA provides that a supervising officer shall not employ the convict for his or her personal

				benefit, where this happens such an officer shall be liable to a fine of N100, 000.00K whereas the KACJL reduced the fine to N50, 000. 00K.
46	Parole	Part 45	Part 44	Section 468 ACJA and Section 448 KACJL, these section provides for where the Controller General of prison could recommend to the court for a release of a prisoner, serving his jail term who have been of good behaviour. S. 468 (b) ACJA provides that the prisoner must have served at least one-third of his prison term, where he is sentenced to imprisonment for a term of at least 15 years or where he is sentenced to life imprisonment, the court may…. It is submitted that the drafting language is ambiguous and needs an amendment. It is clear that if a person is serving a jail term of 15 years he must have served one-third of 15 years to qualify, but how do you calculate one-third of life imprisonment. To my mind I think the intention of the drafter/legislator must have been that for a person serving a life imprisonment to qualify for a parole such a person must have put in a minimum of 15 years. S. 448 (b) KACJL made an unsuccessful attempt at curing the ambiguity when it provided … has served at least one-third of his prison term, or where he is sentenced to life imprisonment, he may make a recommendation to the Committee on Prerogative of Mercy for their consideration.

				Although it removed the 15 years provided by ACJA it provided for a minimum of one-third of a prison term, what then will qualify as the minimum for a person serving a life imprisonment, leaving the law as it is means a person serving a life imprisonment can qualify for parole at any time. This to my mind cannot be the intention of the drafter/legislator hence I will suggest an amendment. The proposed amendment can read thus … has served at least one-third of his prison term, or where he is sentenced to life imprisonment has served for at least 15 years, he may make a recommendation to the Committee on Prerogative of Mercy for their consideration. Both S. 468(2) ACJA and S. 448(2) KACJL are the same, however the KACJL has no sub section (3) as provided for by the ACJA this is understandable being a State legislation.
47	Administration of Criminal Justice Monitoring Committee ACJA	Part 46		Sections 469 - Section 476 ACJA established the Administration of Criminal Justice Monitoring Committee and its function. The KACJL vested the monitoring power on the Kano State Justice Sector Reform Team.
48	Trial of Corporation	Part 47	Part 45	Section 477 ACJA and Section 449 KACJL, observation whereas S. 447(1) ACJA defines a corporation but S. 449 KACJL did not define a corporation. S. 449 KACJL has a typo error. There is sub section (1) and rather than sub section (2) you find sub

				section (3), however the provisions of both laws are the same. Sections 478, 479, 480, 481, 482 483 and 484 ACJA and Sections 450, 451, 452, 453, 454, 455 and 456 KACJL, observation Sections 479 and 480 ACJA used the term "information" while its counterpart Sections 451 and 452 KACJL used the term "charge", aside this difference in terminologies the provision of both laws are the same.
49	Appeals	Part 48	Part 46	Section 485 ACJA and Section 457 KACJL, observation the KACJL made provisions for appeal from the sharia courts, appeals from other courts appeals from magistrate courts. S. 485 ACJA and Sections 485 and S. 459 KACJL are similar apart from the omission of the provisions of S. 485(2) ACJA which is not provided for in S. 459 KACJL.
50	Supplementary provisions on compounding of offences	———	Part 47	(5) The offences in Part II of Appendix C may be compounded before the accused person is convicted by a Court or committed for trial only with the leave of the Court which has jurisdiction to try the accused person for the offence or commit him for trial. (6) After a committal for trial an offence shall not be

				compounded except with the leave of the: (a) Magistrate Court where trial has not commenced; or (b) the Court trying the case where the trial has commenced and has not been concluded. (7) After a trial has been concluded, an offence shall not be compounded except with the leave of the court to which an appeal would lie. (8) The compounding of an offence under this section shall have the effect of an acquittal of the accused person. (9) No offence shall be compounded except as provided under this section.
51	Fees and miscellaneous provisions	Part 48	Part 48	Sections 486, 487, 488, 489 and 490 ACJA and Section 461, 462, 463, 464 and 465 KACJL are the same. 113. Section 491 ACJA makes provisions for non-compliance wherein it stated thus… Where no other sanction is provided for in this Act, failure

				on the part of a person to discharge his responsibility under this Act without reasonable cause shall be treated as misconduct by the appropriate authority.

Table V: Comparison between ACJA and Kano ACJL

From a comparison of the two instruments, it is observed that:

i. It is observed that Section 23(2) KACJL makes reference to Section 37 of the same law, whereas S. 23(2) deals with arrest with or without warrant, S. 37 deals with record of arrested persons to be kept whether discharged, acquitted or convicted. The relationship between both sections which necessitates the reference. Is unclear.

ii. S. 23(3) KACJL recognises the need for early corroboration between the police as investigators and the law officer otherwise referred to as the prosecutor. This is highly commendable, as it will help both agencies of government identify the essential elements required for the establishment of the alleged crime. Early corroboration equally helps in the preservation of evidence recovered from the scene of crime at the earliest possible time.

iii. Section 88 ACJA is broken down into two sub sections (1) and (2) on the right to make a complaint. Where the first sub section recognizes the right of a person to make a complaint against any other person alleged to have committed or is in the act of committing an offence. The sub section recognises the right of a police officer to proceed to make a complaint in a case of assault even if the party aggrieved declines to

make a complaint. This specific distinction in the case of assault was not provide

iv. S. 105(3) KACJL provides that the complaint shall not be voided by describing the offence, or any material act relating to it in alternative words according to the language of the law constituting such offence, that a complaint may be made by the complainant in person or by a legal practitioner representing him. S. 89(4) ACJA is radically different from its S. 105(4) KACJL counterpart. Whereas S. 89 (4) ACJA provides that a complaint shall be for one offence. S 105(4) provides that all complaints made to the court may first be referred to the police for investigation before any action is taken by the court provided that the referral shall include an order not to detain the suspect before investigation.

v. Observation the KACJL has a numbering typo error, it has Part 37 and rather being followed by a Part 38 it is followed with a Part 39.

vi. Section 493 ACJA repeals other older legislations on criminal procedure. A similar provision is found in Section 468 of KACJL.

5.4. Practical Challenges with the Implementation of the KACJL

The Kano State ACJL was enacted to ensure that the system of the administration of criminal justice in Nigeria promotes efficient management of criminal justice institution through speedy dispensation of justice, protection of the society from crime and protection of the rights and interests of the defendant and the victim. Despite the good objectives of the law there are however some challenges affecting its effective administration;

i. Although the KACJL provides that the confessional statement of an accused person shall be recorded and taken in the presence of his lawyer the police still take written statement without electronic recording nor requesting for the accused lawyer to be present.

ii. This practice is largely based on ignorance and the fact that in Nigeria special investigation techniques are not employed in the investigation of crime hence there is heavy reliance on confessional statement, which evidence abound that most times such statements are obtained under duress and torture.

iii. Despite the objective of the ACJA to speedy hearing and dispensation of justice[5] in reality there are a lot of bottlenecks that can slow down proceedings where a judge is elevated from a High Court to the Court of Appeal. Despite the fact that the ACJA[6] provides that such an elevated Judge can continue to hear the matter even though he has assumed duty as a Judge of a Court Appeal.[7] This provision in reality poses some challenges, in what capacity will he sign his judgement and what shall be the date of the ruling. If it is a date after his swearing in as a Judge of the Court of Appeal then he cannot still sign his judgement as a State or Federal High Court Judge. And if he signs as a Judge of the Court of Appeal he would lack jurisdiction to hear the matter, therefore this section of the ACJA requires an amendment. The Judge can suspend his swearing in as a Judge of the Court of Appeal until he concludes all part heard matter. It is worthy to note here that this would not be the case of a High Court Judge who is simply transferred from his division to another division within the State.

[5] ACJA 2015, s396(3).
[6] ACJA 2015, s396(7).
[7] *Ude Udeogu v. Federal Republic of Nigeria* (2020) SC. 622C/2019 08. 05.

iv. Again the ACJA seeks to abolish trial within trial, by providing that were issues of voluntariness of confessional statement are raised in the course of trial that the Judge would go on with the substantive suit and give both rulings at the end of the trial. This to my mind defeats the objective of the law on dispensation of justice. If truly a defendant was subjected to torture before a confessional statement was extracted from him, what would be the essence of hearing the matter to the end before ruling on the inadmissibility of the evidence relied upon unless there are other supporting evidence relaying on such evidence would only lead to a miss carriage of justice.

v. Again the ACJA has removed the power of the police to prosecute this the KACJL did not take into cognizance when it still conferred on the police the power to prosecute matters at the magistrate court. This provision is arguably against international best practices. A man cannot be a judge in his own case, he cannot be the one to effect arrest, investigate and try the same offender it gives room to a lot of manipulation the KACJL should consider an amendment to its law in this regard.

vi. Lack of familiarity of key provisions of the KACJL relating to arrests, bail procedures and trials in general by key players in the justice sector such as the police/investigator, defence counsel, prosecutors and judges have led to these key players running fowl of the provisions of the KACJL.

5.5. Recommendations

a. Amendment of the ACJA and KACJL in line with the above stated observations.

b. Training for key players in the justice sector namely Judges, investigators/police, prosecutors and defence counsels.
c. The Kano State Government should provide adequate funding for the police to be able to explore and develop other aspects of investigation of crime such as special investigation techniques rather than relying solely on confessional statement. Equally cameras and video recording electronic devices should be provided the investigators.
d. The police and the office of the Legal Aid should collaborate at the earliest possible time when arrest and investigation of crime is being carried out in other to provide the accused with a lawyer at the earliest possible time. Such a lawyer as a matter of good practice should be sited with the accused while the police takes down his statement this will to a large extent take care of the objections on the voluntariness of a confessional statement.

5.6. Conclusion

At the federal level there has been a lot of improvement in the implementation of the ACJA since it was established in 2015. However at the State level there seems to be a lot of display of ignorance amongst key players in the Justice sector. The activities of the Kano State Justice Reform Team are not felt or visible in the state. There is the need to fill the gaps noted in the KACJL and implementation of the recommendations, which will in turn help to strengthen the justice sector through collaboration with key players in the sector in other to achieve the objective of the KACJL.

6. Comparative Analysis of the Administration of Criminal Justice Act, 2015 and Sokoto State Administration of Criminal Justice Law, 2019

6.1. Introduction: Overview of the ACJA/SOKACJL

Prior to the advent of the Administration of Justice Act 2015, the Nigerian legal system was undergirded mostly by the Constitution, the Evidence Act, the Criminal Procedure Act CPA[1] which is applicable to the Southern part of the country, and the Criminal Procedure Code CPC[2] which is applicable to the Northern part of the country. Being a state covered by the CPC, before the enactment of the Sokoto State Administration of Criminal Justice Act (SokACJL) in 2019, Sokoto State's criminal Justice system had the Criminal Procedure Code Law (CPL) Cap 41, Laws of Sokoto State of Nigeria 1996 as its foundation. However, upon coming into effect, S.513 SokACJL repealed the CPL with the view to addressing some of the shortcomings and challenges associated with its application in the state. This is because, the pre ACJA Nigerian Criminal Justice System within which the CPL applied was characterised by inefficiency, inability to be responsive to the needs of the society, adapt to societal changes, meet the basic expectations of justice system users, and provide justice for justice system users. Some of these characteristic manifest themselves in various ways, including delays in trials, congested prisons, poor record keeping, poor investigation, and human rights abuse.

∗ Fatima Bello, PhD
[1] Cap C41 LFN 2004.
[2] Cap C42 LFN 2004.

Given the need to address the challenges and shortcomings of the CPL, and develop a criminal justice system that is responsive to the needs of the society, efficient in the dispensation of justice, the enactment of the SokACJL and the repeal of the CPL is timely and strategic to overhauling the Sokoto criminal justice system.

SokACJL and other ACJLs in the 19 Northern States of Nigeria emerged from the recommendations of the Committee set up by the Northern States Governors Forum NSGF. The committee was inaugurated on the 9th of October 2015 following a NSGFs' resolution dated 11th September 2015. The Committee was charged with the task of critically reviewing the criminal justice system within the prism of the Penal Code to accommodate emerging crimes such as terrorism, cattle rustling, insurgency, etc. in implementing the Committee's recommendations of, the NSGF agreed to domesticate the ACJL and to revise their Penal Codes. Some states domesticated ACJA, while others have done both. For instance, Sokoto, Kano, has domesticated the ACJA, while Adamawa State has domesticated ACJA and revised its Penal Code Law.

The purpose of the SokACJL includes to promote efficient management of criminal justice institutions, speedy dispensation of justice, protecting the society and the rights and interests of suspects, defendants and victims; and ensure compliance with SokACJL by law enforcement agencies/ other authorities or persons.[3] In terms of features, SokACJL is similar to ACJA in language, context, drafting style and message. It is a wholesale adoption of the ACJA but for some minor alterations. With that being said, both the ACJA and the SokACJL have the same aspirations which makes the SokACJL poised to promote and develop an innovative, efficient and responsive criminal justice system in Sokoto State.

[3]SokACJL 2019, s1.

Generally speaking, the criminal justice system is made up of 5 key components, these include the police, prosecution, court, prison and non-custodial components.[4] In order to achieve the purpose and aspirations of the SokACJL, these components need to be well synchronised for maximum benefit. Hence, the objectives of SokACJL are set to be achieved through innovations that seek to incentivise justice service providers to carry out better investigation, ensure diligent prosecution, better case management, more humane detention, and more useful/ effective non- custodial punishments as an alternative to incarceration. An interesting aspect of these innovations is that they all hinge on protection of the human rights of suspect, defendant, and victim. And gender sensitive provisions such as the ability of a woman to act as a surety as provided by S.167 (3) SokACJL. Other commendable innovative provisions include the abolition of arrest in lieu,[5] how to handle cases involving child offenders,[6] plea bargain,[7] as well as the establishment of a Monitoring Committee to provide oversight and ensure quality control.[8] Also included in the Law are two more chapters dealing with the Constitution and Powers of Criminal Courts and the Powers of Criminal Courts respectively.

SokACJL is made up of 48 parts, 3 chapters 514 sections and 4 schedules providing supplementary materials. First Schedule has to do with General Title of Proceedings made up of 22 Forms; second Schedule has to do with Charges; Third Schedule has to do with Statement of Offence; and Fourth Schedule has to do with Scale of Imprisonment for Non- Payment of Money

[4] 'United Nations Office on Drugs and Crimes UNODC: *Manual for the Development of a System of Criminal Justice Statistics'*, <https://unstats.un.org/unsd/publication/SeriesF/SeriesF_89E.pdf> accessed 10 May 2020.
[5] SokACJL, s7.
[6] SokACJL ,s405.
[7] SokACJL, part 28.
[8] SokACJL, Part 46.

Ordered to be Paid. The Four Schedules provide templated that will guide criminal justice service providers in Sokoto State.

6.2. Compliance with International Best Practices

In a country such as Nigeria which is continually integrating into the global system of governance, the role of international standards and norms in shaping national strategies and guiding policy/ decision makers cannot be over empahsised. It does not only assist them in making informed choices, it also enables them to justify their choices or courses of action.[9] These international standards and norms create the basis of international good practices which many countries strive to emulate. They play a vital role in building the foundation for good governance and institution building[10] for many sectors of an economy, including the criminal justice sector. International instruments abound which are geared towards promoting efficient and responsive criminal justice systems. The United Nations has been active in setting these standards, norms and principles. At the General Assembly level, human rights instruments such as the United Nations Universal Declaration on Human and Peoples Rights,[11] the International Covenant on Civil and Political Rights,[12] and the Convention on the Rights of the Child[13] are instructive. The United Nations Commission Prevention of Crime and Criminal Justice, the principal UN policy making body in this regard has developed various standards and norms to

[9] M Joutsen, 'International Standards and Norms as Guidance in the Criminal Justice System' 58
[10] Ibid. p 64.
[11] 'United Nations'<https://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf> accessed 11 May 2020.
[12] 'United Nations'< https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf> accessed 11 May 2020.
[13] 'UNICEF' <https://www.unicef.org/sites/default/files/2019-04/UN-Convention-Rights-Child-text.pdf> accessed 11 May 2020.

guide criminal justice systems of member states in the administration of justice.[14] They cover areas cover wide areas, including protection of rights of the suspect/ offender, issues surrounding child offenders, women and human rights.[15]The United Nations Office on Drug and Crime (UNODC) has a compendium of UN Minimum Standards and Norms in Crime Prevention and Criminal Justice[16] that is made up of 4 parts.

Part one is broken down into four sections. The first section deals with matters relating Persons in custody, non-custodial sanctions and restorative justice wherein it covers areas such as Treatment of prisoners, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment,[17] Basic Principles for the Treatment of Prisoners,[18] Good Prison Practice,[19] Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders,[20] The second section deals with Alternatives to imprisonment and restorative justice and covers subjects, including: Standard Minimum Rules for Non-custodial Measures,[21]Kadoma Declaration on Community Service and recommendations of the seminar entitled "Criminal justice: the challenge of prison overcrowding", held in San José from 3 to 7 February 1997,[22] Basic principles on the use of restorative justice programmes in criminal matters,[23] The third section deals with Torture and other cruel, inhuman or degrading treatment or punishment and covers areas such as Declaration on the

[14] See for instance, CCPCJ Working Paper on Integrated Approaches to Challenges Facing the Criminal Justice System, <https://undocs.org/A/CONF.234/5> accessed 11 May 2020.
[15] Ibid.
[16] https://www.unodc.org/documents/justice-and-prison-reform/English_book.pdf Accessed 10/05/2020.
[17] UN General Assembly resolution 43/173, annex, of 9 December 1988.
[18] General Assembly resolution 45/111, annex, of 14 December 1990.
[19] Arusha Declaration, Economic and Social Council resolution 1999/27, annex, of 28 July 1999.
[20] "*The Bangkok Rules*" UN General Assembly resolution 65/229, annex, of 21 December 2010.
[21] "*The Tokyo Rules*" UN General Assembly resolution 45/110, annex, of 14 December 1990.
[22] UN Economic and Social Council resolution 1998/23, annexes I and II, of 28 July 1998.
[23] UN Economic and Social Council resolution 2002/12, annex, of 24 July 2002.

Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,[24] Principles of Medical Ethics relevant to the role of health personnel, particularly physicians, in the protection of prisoners and detainees against torture and other cruel, inhuman or degrading treatment or punishment,[25] Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,[26] The fourth section deals with Capital punishment and cover Capital punishment,[27]Safeguards guaranteeing protection of the rights of those facing the death penalty,[28] Implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty,[29]Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions,[30]and Safeguards guaranteeing protection of the rights of those facing the death penalty.[31]

Part two of the compendium deals with Justice for children and covers Standard Minimum Rules for the Administration of Juvenile Justice,[32] United Nations Guidelines for the Prevention of Juvenile Delinquency,[33] United Nations Rules for the Protection of Juveniles Deprived of their Liberty,[34]Guidelines for Action on Children in the Criminal Justice System,[35]Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime,[36]and the United

[24] UN General Assembly resolution 3452 (XXX), annex, of 9 December 1975.
[25] UN General Assembly resolution 37/194, annex, of 18 December 1982.
[26] UN General Assembly resolution 55/89, annex, of 4 December 2000.
[27] UN General Assembly resolution 2857 (XXVI), of 20 December 1971.
[28] UN Economic and Social Council resolution 1984/50, annex, of 25 May 1984.
[29] UN Economic and Social Council resolution 1989/64, of 24 May 1989.
[30] UN Economic and Social Council resolution 1989/65, annex, of 24 May 1989.
[31] Economic and Social Council resolution 1996/15, adopted on 23 July 1996.
[32] "*The Beijing Rules*" UN General Assembly resolution 40/33, annex, of 29 November 1985.
[33] "*The Riyadh Guidelines*" UN General Assembly resolution 45/112, annex, of 14 December 1990.
[34] UN General Assembly resolution 45/113, annex, of 14 December 1990.
[35] UN Economic and Social Council resolution 1997/30, annex, of 21 July 1997.
[36] UN Economic and Social Council resolution 2005/20, annex, of 22 July 2005.

Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice.[37]

Part three deals with Crime prevention, violence against women and victim issues and is broken down into three to address these issues. Section I addresses Crime prevention which covers Guidelines for cooperation and technical assistance in the field of urban crime prevention,[38] United Nations Declaration on Crime and Public Security,[39] Firearm regulation for purposes of crime prevention and public health and safety,[40]Guidelines for the Prevention of Crime,[41]International Guidelines for Crime Prevention and Criminal Justice Responses with Respect to Trafficking in Cultural Property and Other Related Offences,[42]Section II addresses Violence against women and covers Declaration on the Elimination of Violence against Women,[43] Updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice,[44]Section III addresses Victims and covers Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power,[45] 34. Implementation of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power,[46] and Plan of action for the implementation of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power,[47]

[37] UN General Assembly resolution 69/194, annex, of 18 December 2014.
[38] UN Economic and Social Council resolution 1995/9, annex, of 24 July 1995.
[39] UN General Assembly resolution 51/60, annex, of 12 December 1996.
[40] UN Economic and Social Council resolution 1997/28, of 21 July 1997.
[41] UN Economic and Social Council resolution 2002/13, annex, of 24 July 2002.
[42] UN General Assembly resolution 69/196, annex, of 18 December 2014.
[43] UN General Assembly resolution 48/104, of 20 December 1993.
[44] UN General Assembly resolution 65/228, annex, of 21 December 2010.
[45] UN General Assembly resolution 40/34, annex, of 29 November 1985.
[46] UN Economic and Social Council resolution 1989/57, of 24 May 1989.
[47] UN Economic and Social Council resolution 1998/21, annex, of 28 July 1998.

Part four of the compendium deals with Good governance, the independence of the judiciary, the integrity of criminal justice personnel and access to legal aid. It is broken down into two sections. Section I covers Good governance, the independence of the judiciary and the integrity of criminal justice personnel and addresses issues such as Code of Conduct for Law Enforcement Officials,[48] Guidelines for the Effective Implementation of the Code of Conduct for Law Enforcement Officials,[49] Basic Principles on the Use of Force and Firearms by Law Enforcement Officials,[50] Basic Principles on the Independence of the Judiciary,[51] Procedures for the effective implementation of the Basic Principles on the Independence of the Judiciary,[52] of Judicial Conduct,[53]and Guidelines on the Role of Prosecutors,[54] International Code of Conduct for Public Officials.[55] Section II covers Access to legal aid and legal representation and addresses Basic Principles on the Role of Lawyers[56] and United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems[57]

Part five of the compendium deals with Legal, institutional and practical arrangements for international cooperation. This part is not particularly relevant for the present analysis. Having said that, the provisions of the SokACJL such as S.167 (3) which recognises a woman's right to stand as a surety, S.189

[48] UN General Assembly resolution 34/169, annex, of 17 December 1979).
[49] UN Economic and Social Council resolution 1989/61, annex, of 24 May 1989.
[50] UN Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990.
[51] UN Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985.
[52] UN Economic and Social Council resolution 1989/60, annex, of 24 May 1989.
[53] UN Economic and Social Council resolution 2006/23, annex, of 27 July 2006.
[54] UN Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27
August-7 September 1990.
[55] UN General Assembly resolution 51/59, annex, of 12 December 1996.
[56] UN Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990.
[57] UN General Assembly resolution 67/187, annex, of 20 December 2012.

(g) which recognises a woman's right to own property, S.191 and 192 which recognises a woman's rights against her husband and others regarding her person or property, as well as her ability to appear in a proceeding against her husband as a competent and compellable witness. S.404 which deals with sentencing in the case of pregnancy, Part 39 which deals with Procedure Where Woman Convicted Of Capital Offence Is Alleged To Be Pregnant; are in line with international best practices. Also, aspects of Part 19- Bail and recognizance which are applicable to a child such as S. 160 dealing with recognizance by parents of a suspect who is a child that takes the child's safety into account, S.163 (1)(c) which deals with recognizance by a child, S. 260 which deals with excluding persons when taking evidence from a child, reference to the Childs Rights Act in S.264 and S. 370- proceeding against a child, S.265 which deals with age at the time of offence, S.405 on sentencing a child offender, Part 43 which deals with Child Offender and procedure for trying child offenders, S.467 on remanding a child offender are all in line with international best practice as these and most of the provisions of the Law appear to have incorporated some of the elements mentioned in the compendium.

6.3. Comparative Analysis of ACJA and ACJL of Sokoto State

The ACJA brought some commendable innovations into administration of criminal justice system in Nigeria, which has at its fore protection of the human rights and dignity of suspects, accused, defendants and victims of crimes in Nigeria. It provided an alternative to remand (non- custodial sentencing), accepting a lesser offence through negotiation (plea bargain), created incentive to ensure a defendant appears before a court on appointed date

(bonds person) and more. The objective of this comparison is to determine the extent to which the SokACJL has embraced these innovations, and whether or not similarities exist between the ACJL and SokACJL. This is with the view to highlighting possible challenges, if any, with implementing the SokACJL in the state.

#	CONCEPT	ACJA	SOKACJL	COMPLEMENTARY PROVISIONS	ANALYSIS
1	Arrangement of Sections	Made up of one Chapter with 49 Parts.	Made up of three Chapters. Chapter I has 49 parts.		• Chapter II of the SokACJL deals with The Constitution and Powers of Criminal Courts, while Chapter III covers The Powers of Criminal Courts. • Chapter II clearly outlines 9 classes of criminal courts in the state and empowers the Chief Judge to

					establish, designate and vary the limits of magisterial districts. It also covers the appointment of magistrates by the Judicial Service Commission and the role of the Chief Magistrate is the structuring of magisterial districts. • Chapter III deals with the powers of the Courts as regards the provisions of the Penal Code of the State. It specified the provisions of the Penal Code that may be tried by any court conferred with

					the powers and jurisdiction to do so. It covers the jurisdictional limits of magistrate courts and the powers of the Governor to increase such limit on the recommendation of the Chief Judge. It also deals with powers of courts regarding sentencing and imprisonment and fines over matters within their jurisdictions.
2	• Purpose	• S.1	• S.1		• The purpose of the ACJA and SokACJL are exactly the same. The purpose of the

					ACJA and SokACJL are exactly the same. Their purpose include to promote efficient management of criminal justice institutions, speedy dispensation of justice, protection of society from crimes, the interests of suspect, defendant and victim 1 (1). It also seeks to ensure that courts, law enforcement agencies and other officials involved in the administration of justice comply with the Laws 1 (2) it also sets out its scope of application by stating that it should apply to criminal trials for offences established

					and punishable under by Law of the Federal Capital Territory (F.C.T.), and Sokoto State respectively 2(1), with the exclusion of Court Martial 2(2). • At the core of their purposes is the foundation for transforming Nigeria's criminal justice system and its administration. To promote efficient management of criminal institutions, timelines and procedures have been set out for trials, to document court processes and imposing fines for delays (see generally Part 8 of ACJA and SokACJL respectively). The provision empowers the courts to

					compel attendance by a suspect, sets out procedure for making complaint. When it comes to speedy dispensation of justice, provisions relating to day to day trials are instructive. For instance, S.349 (8) of both the ACJA and SokACJL provide that a legal practitioner who seeks to disengage from a matter shall serve notice to the court and all the parties within 3 days before the date fixed for hearing. S.350 (1) (c) of both the ACJA and SokACJL allow for summary trial for offences punishable with less than 3 years in magistrate

					courts. 350 (2) also allows for frontloading by requiring the prosecution to provide the defendant with all materials that it intends to rely on at the trial before the commencement of the trial. These provisions relating to trials reduce the chances of springing surprises in court, and enable both parties to reconcile their positions and discards issues that are not in contention which usually cause delay as the other party will seek adjournments to review the information provided as they become available. On protecting the society against

					crimes, provisions relating to powers of the court to compel the attendance of a defendant (S. 352 of both the ACJL and SokACJL), provisions relating to arrest, bail and restorative justice and those relating to sentencing are all designed to protect society from crimes. In seeking to protect the accused, defendant and victims, provisions relating to bail, women and children are clear illustrations. The transformational shift to a more human and responsive criminal justice system is continually

					demonstrated in the provisions that seek to protect human rights of the accused, defendant and victim. Instances of these include provisions relating to arrest, bail, security for good behaviour, right to make complaint as well as sentencing and punishment. • When it comes to applicability, the ACJA has a Federal coverage, and applied to Federal Court, while the SokACJL applied to State Courts in Sokoto State. It is however worth pointing out that there are instances where some Federal

					Offences come before State courts. Federal offences such as economic and financial crimes come to mind. In such instances, they are still within the purpose of both SokACJL, as the fall under S.2 (1) which includes in its coverage "… *other offences punishable in the state*".
3	• Definitions: • Adult.	• S.494 (1) A person who has attained the age of 18 years or above. • S.49- A person under the age of 18 years.	• S.514 (1) A person who attains 18 years or above.		• Both the ACJL and the SokACJL definition of an adult are the same. • Given that both the ACJA and SokACJL have provided procedure for trying child

	• Child.		• S.514 - A person under the age of 18 years.	S. 277 Childs Rights Act 2003- A person under the age of 18 years.	offenders (Part 43 S. 452 of both Laws), and that of sentencing a child offender (S. 405 of both ACJL and SokACJL), there is a need to both define who an adult is, and clearly define a child is. This has clearly been done by both Law, and clears any doubt as to who a child is and how he should be protected even in the event that he is a suspect (See S. 160 and 166 ACJA and SokACJL dealing with recognizance by a parent or

					guardian, and recognizance in respect of a child respectively), or has been found to have committed an offence. It is noteworthy to point out that neither of the Laws made a distinction between the age of a child and a culpability age of a child as obtains in some Penal Codes. S.405 of both the ACJA and SokACJL, the provisions of which are exactly the same provides for life imprisonment or other term as the court

					may deem appropriate for a convict who had not attained the age of 18 years at the time of committing the offence. What this means os that both Laws. What this does is that it prohibits the application capital punishment to a child. However, these Laws do not specify the minimum age of criminality as it obtains in Penal Laws of some states. For instance, S.3 of the Kaduna State Penal Code Law 2017, as

					amended in 2018 defines a child to be a person under the age of 14 years, while it pegs the age for criminal responsibility as 7 years. When taken alongside KadACJL, and the possible application of the Kaduna State Child and Young Persons Law, it presents contradictions which makes application unclear and inconsistent. In such situations, it makes a child vulnerable to harsh and severe punishment which the

					ACJA seeks to avoid. Having said that, it may not be the case with SokACJL as it defers to the Childs Rights Act definition of a child for the purpose of determining age in S.264.
1	•	• Child offender.	• S.405 , Part 43.	S. 405, Part 43.	• Part 43 SokACJL is the exact replica of Par 43 ACJA. In line with the objective of protecting suspects, defendants, accused and victim as explained in S. 1 & 2, the provisions seek to protect child offenders.

2 3	• Arrest	• Provided for in Part Two, Sections 1-29.	• Provided for in Part Two, Sections 1-29.		• Both laws have similar provisions relating to arrest but for some few differences in wordings, for instance: • Mode of Arrest: S. 4 ACJA provides that an arresting officer shall *"actually"* touch or confine the body of a suspect during arrest, while S.4 SOKACJL says the arresting officer shall *"lawfully"* touch or confine the body of a suspect during arrest.

					• Ss. 5 of both Laws prohibit restraint of suspect except for safety reasons, or by order of the court. • In S.6 (1)(d) which deals with notification of arrest, SOKAJL added "*by usual means of communication of*" the requirement to notify the next of kin of a suspect at no cost. • S.7 of both Laws prohibit arrest of a person in lieu of a suspect. A sub- section has however been added

					to the SOKACJL which states that in the event of non-compliance with the prohibition in (1), it will amount to a misconduct that will attract disciplinary penalty by the agency to whom the officer is answerable. • S. 8 which deals with humane treatment of suspects is similar in both Laws. However, SOKACJL added another subsection (5) (a) & (b) (i) - (iii) which

					defines what amounts to arraignment. • S.9(4) of ACJA empowers an arresting police officer to take away any instrument of violence or poisonous substance from a person he arrested. No similar provision exists in S.9 of SOKACJL. What this suggests is that the arresting officer is not duty bound to remove any harmful substance from the person he arrested. Given the reason behind the review of

					the Penal Code by the 19 Northern Governors (to address emerging crimes such as terrorism, insurgency, kidnapping, etc), not removing such substance from the arrested person may be counterproductive. This is without losing sight of the fact that suicide bombing is a real threat. Hence, in the event that such removal is contemplated, it should be qualified so as to take into

					account threats such as suicide bombing. • S.16 of ACJA provides for the creation of a central criminal registry by the Nigerian Police Force. No similar provision exist in SOKACJL. This perhaps is may be because the ACJL is a Federal legislation. • S. 29 of both Laws deal with quarterly remittance of report of arrest to the Attorney-General by the Inspector-General of

					Police or the Commissioner of Police as the case may be. (2) requires the report to contain full particulars of the arrest in line with S. 15 of the Laws. SOKACJL goes further to request the inclusion of *"the reason(s) for the arrest and the nature of the arrest for which he was arrested"*. •
5	• Bail	• Provided for in Part 2.	• Provided for in Part 2.		• S.3 (4) of ACJA provides that the Attorney – General shall, upon request by the Human Rights Commission, Legal Aid

					Council, or a Non-Governmental Organisation, make the report available to them. No similar provision exist in the SOKACJL.
3 5	• Warrants	• Provided for in Part 3, S.35-49.	• Provided for in Part 3, S.35-49.		• S.36 of both Laws deal with the content of a warrant of arrest. (2) requires it to contain "*all necessary particulars*". SOKACJL goes further to elaborate that it should include: the name of the person, nature of arrest, and the period within which

					the warrant will be executed.
4 76	• Trial and Summary Trials Generally	• Provided for in Part 36.	• Provided for in Part 36.		• S.376 in both Laws requires a magistrate to submit to the Attorney – General the case file of an offence which was brought before it, but over which it does not have jurisdiction. ACJA requires the magistrate to do so within 14 days, while SOKACJL requires him to do so within 21 days. • S.381 of both laws are almost identical but for some minor differences. The ACJA began by

					stating who may file an *information*, while the SOKACJL mentioned who may file an *information* or a *charge*. • S. 385SokACJA and ACJA has to do with venue of trial. The provisions SokACJL is almost the exact replica of the ACJA but for some minor differences. The ACJA provides that "*the place of trial shall be determined in accordance with the Act*". The SOKACJL describes it to be the "… *a court within*

					the local limit of whose jurisdiction the offence was wholly or partly committed or some consequence of the offence ensued". • S.469 of both Laws deal with the establishment and composition of Justice Monitoring Committee. The composition in ACJA includes a Senior Advocate of Nigeria, while SOKACJL does not.
5	• Elevation of Judges and	• S.396 (7). • S. 98.	• S.396 (7). • S. 98.		• The provisions of S. 396 (7) SokACJL is the exact replica

	• Transfer of Cases (trial *de novo*)				of S. 396 (7) ACJA. It provides 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 elevation. It also requires such matter to be concluded within reasonable time. The dispensation is however subject to it not preventing the judge from assuming duty as a Justice of the Court of Appeal. In 2019, the immediate past President of the Court of

					Appeal Justice Zainab Bulkachuwa issued more 10 fiats to Judges who had been elevated to the Court of Appeal to go back complete the part- heard criminal matters that were pending before them at the time of their elevation. The objective of this provision is to prevent trials from starting *de novo* which causes delay and clogs the system. This is because pre ACJA, when a judge gets elevation and leaves behind a part- heard matter, it gets reassigned to another judge who hears the matter *de novo*. It should however be noted that while S.396 (7) clearly details

					the handling of pre – heard matters where a judge has been elevated to the Court of Appeal, the SokACJL is silent regarding what happens to pre – heard matters relating transfer of judges.
6	Sentencing • General Provisions other than capital offence.	• Part 40 ACJA • S. 416 – S. 4 37.	• Part 40 SokACJL. • S. 416 – 437.		• Provision of S.416 – S. 4 37 SokACJL and ACJA are exact replicas of the same provisions of ACJA. S. 416 (2) (a) - (k). outlines the objectives of sentencing.

	• Sentence of Death.	• Part 38 ACJA.	• Part 38 SokACJL.		• There is a slight distinction in the wordings of Part 38 of the ACJA and SokACJL. Under the ACJA, its heading reads "*PROVISIONS RELATING TO SENTENCE OF*
7	• Plea-bargaining	• Part 28- S.270.	• Part 28- S. 270.	S. 14 (2) Economic and Financial Crimes Commission (EFCC) Act 2004.	• Plea bargain was introduced into the Nigeria Criminal Justice System during the early day of Nigeria's fight against corruption. It came into the system through the EFCC Act 2004 and was at the time met with some reservation by part of the legal and academic community. Although plea

					bargain is a feature of the EFCC Act 2004 it was not described as such, it was incorporated as compounding an offence. S.14 (2) EFCC Act provides among others that subject to the powers conferred on the Attorney – General of the Federation to institute, takeover or discontinue proceedings … by S. 174 of the 1999 Constitution, the EFCC compound any offence punishable under the EFCC Act by accepting sums of money it deems fit. The said sum may however exceed the maximum amount to which the person would have been

					liable for if convicted for the offence for which he is charged. With the advent of ACJA (which has been domesticated by close to 27 states with modifications) , plea bargain has become more entrenched and incorporated into the Nigerian Criminal Justice System. • S. 270 SokACJL is the exact replica of S.270 ACJA. The heading of Part 28 clearly say *PLEA BARGAIN AND PLEA GENERALLY*. S.270 (1) (a) empowers the prosecutor to receive and consider plea bargain from a defendant either directly or on his behalf. (1) (b)

					also empowers the prosecutor to offer the same to an offender charged with an offence. (2) allows prosecutors to enter into plea bargain with the consent of the victim or his representative during or after the presentation of evidence of the prosecution, but before the presentation of evidence of the defence. It is however expected to do so subject to certain conditions, including insufficient evidence to prove offe3nce beyond reasonable doubt, where the defendant agrees to return the proceeds of crime or make

					restitution to the victim, or where a defendant fully cooperates with investigation and prosecution that resulted in successful prosecution of the offender. The prosecutor is empowered to accept the plea in the interest of justice, public policy/ interest, and the need to prevent abuse of legal process (3). The introduction of plea bargain into ACJA and SokACJL gives it a wider application, unlike ts limited application to economic crimes in the EFCC Act. Under Both the ACJA and SokACJL, it is applicable to as no limit to its

					application. Plea bargain also aligns with the speedy dispensation of justice purpose of both ACJA and SokACJL. Given that plea bargain is here to stay in our Nigeria's criminal justice system, and considering that it had been used to successfully prosecute some cases, the need to further explore and harness its potential cannot be over empahsised.
8	• Women's right to own property.	• S.189 (g).	• S.189 (g).		• S. 192 SokACJL is the exact replica of S. 192 ACJA. Both ACJA and SokACJL contain the exact provision verbatim. The

	• Remedies of married woman. • Women as competent and compellable witnesses.	• S. 191. • Part 20- S. 192	• S. 191. • Part 20- S.192		strength of the provision lies in the power it gives a married woman to take control of her life, particularly as it relates to domestic abuse. This is because gives her as a distinct and individual personality separate from her marriage or marital status. It also reflects positive steps towards gender mainstreaming in the country's criminal justice system. • S. 191 further

					supports the S. 189 (g) above by empowering a woman to seek the same remedies and redress for the protection and security of her person and property against all person's including her husband, through criminal proceeding in her own name. • S. 192 SokACJL is the exact replica of S. 192 ACJA. Both the ACJA and SokACJL provides that a husband or a wife shall be competent

					and compellable witnesses in criminal proceedings for the protection of a woman's person or property in line with the criminal proceedings provided for in S. 191. The provision actively discourages discrimination on the basis of gender, protects women and their property, it empowers women with tools to stand up against abuse (competence and compellability), and

					promotes gender mainstreaming in the Nigerian Criminal Justice System.
9	Women Surety.	• S.167 (3).	• S.167 (3).		• S. 167 (3) SokACJL is the exact replica of S. 167 ACJA. It provides that a person shall not be denied, prevented or restricted from entering into recognizance or standing as surety for any defendant or applicant on the ground that such a person is a woman. The provision effectively abolishes discrimination against women regarding bail matters,

					ensure gender mainstreaming in the criminal justice system which further entrench SDG Goal 5, and further enforce women's constitutional freedom from discrimination.
10	• Lay Prosecutors	• S. 106.	• S. 106.		• S. 106 SokACJL is the exact replica of S.106 ACJA. The provision has phased out prosecution by lay persons. It clearly vests the power to prosecute in the Attorney-General, to be undertaken by the Attorney – General himself or a law officer in his Ministry or department, a

					legal practitioner authorised by the Attorney – General, or a legal practitioner authorised to prosecute by law.
11	• Monitoring Committee.	• Part 46- S. 469 – 476.	• Part 46- S. 469 – 476.		• The provisions of Part 46 is the exact replica of Part 46 ACJA. It creates a mechanism that provides oversight which will ensure transparency, accountability and due diligence in the dispensation of justice and efficient

					implementation of both Laws.
12 7	• Chapter II	• The Constitution and Powers of Criminal Courts.	• There is no such Chapter in ACJA.		• Chapter is an additional feature of the SokACJL. • SOKACJL sets out nine classes of criminal courts in the state, including Sharia Courts as established (S.495). • S.496 empowers the Chief Judge to divide the state into magisterial districts, distinguish them by name, and vary their limits (a) - (d). • S.497 establishes, in the magisterial

					districts, magistrate courts (1). The courts shall exercise powers as conferred upon them by the SOKACJL and any other law, subject to constitutional limitations. • The focus of the Chapter is on the framework of magistrate courts. It covers the entire magistracy, from creation of districts, to reiterating the powers of magistrates, their appointment, as well as the powers of the Chief Magistrate to

					organise group of magistrates within his magistracy for more effective administration of criminal justice in the state.
13 8	Chapter III	The Powers of Criminal Courts.	No similar Chapter exist.	The Chapter exists.	• The Chapter defined offences which criminal courts are empowered to try, sets out the jurisdictional limits of magistrate courts, and offences which may not be tried by any criminal court, except the courts specified in the SOKACJL or the Penal

					Code as the case may be. • S.505 provides that any offence not mentioned by the penal Code may be tried by any court, and where the where the law is silent on which court should try an offence, the matter should be tried by the High Court. • S.507 empowers the Governor, on the recommendation of the Chief Judge to increase the jurisdiction of magistrate courts from time to time. This provision

					creates room to ensure that the courts are able to adapt to the realities of change at any given time. • S.510 empowers a court which has powers to impose imprisonment, but has no specific authority to impose fine, to use his discretion to do so provided the fine imposed does not exceed his powers. This provision does not on pave the way for courts to decongest prisons by imposing fines

					instead of imprisonment, it also enables the courts to provide alternative punishments in non- serious offences which helps speed up trials. The provision also allows for imprisonment in default of fine.

Table VI: Comparison between ACJA 2015 and Sokoto State ACJL

6.4. Practical Challenges with the Sokoto State ACJL.

I. Imprisonment in lieu of payment of fine.

S.510 SOKACJL allows for discretionary award of fine instead of imprisonment. It also allows for imprisonment in default of payment of imposed fine. The reason behind the default may well be that the convict is unable to pay the fine due to financial constraint or other circumstances beyond his control. Furthermore, one of the reasons behind the SOKACJL is to decongest the prisons. Imprisoning a convict for default of payment of fine, particularly for lesser offences may defeat the aim of the Law.

II. Request for report by Legal aid council or Non – governmental organisations.

S.3 (4) of ACJA provides that the Attorney – General shall, upon request by the Human Rights Commission, Legal Aid Council, or a Non-Governmental Organisation, make the report available to them. No similar provision exist in the SOKACJL. Absence of this provision in SokACJL could lead to denying a person access to justice. This is because such reports may highlight the plight of persons in need of legal services.

III. **Funding**

Funding has been a key challenge to administration of justice in Nigeria. It plays a vital role in all the components of the criminal justice system. It assists in effective investigation as the investigators need to travel to scenes of crimes, interview witnesses and preserve evidence. Funds are also required during trials to transport suspect, and witnesses among other things. It is also required to provide essential care to inmates who have been sentenced to prisons. While funds are critical to successfully implementing ACJA and SokACJL, funding is in short supply. This hampers investigation, securing the attendance of suspects and witnesses in court, etc. the implication of this is that the criminal justice system still remains vulnerable and susceptible to abuse.

IV. **Lack of collaboration between police investigators and prosecutors**

Flowing from international best practice, ACJL and SokACJL successful and emulation worthy prosecution results from effective collaboration between investigation and prosecuting components of the criminal justice system. However, pre ACJA 2015, this relationship had mostly been characterised by rivalry inter-agency rivalry and poor collaboration. This poor relationship is manifest in relationship between the police and the office of the Director

of Public Prosecution (DPP) which is some cases involves allegations of withholding information, shoddy investigation and disrespect for procedure. A genesis of this rivalry which ACJA and SokACJL seek to cure is lay persons acting as prosecutors in criminal cases. Given that it had been going on for long, these lay prosecutors see legal officers as competitor which perhaps contributed to the lack of synergy between them.

6.5. Recommendations

I. The law can go a step further to provide alternative to fine and imprisonment as provided under section 510 SokACJL by adding a third option which allows the court to, in line with the correctional service Act and non- custodial sentencing, carry out community service in lieu of fine. Such community service should take into account the skills, experience and knowledge of the convict, to enable the state utilise him to fill gaps in their public service delivery, or in line with S.461- 467.

II. SokACJL can provide more access to justice to persons in need with the inclusion of a provision similar to S.3 (4) of ACJL in its similar section. This will promote transparency and accountability.

III. There is the need to improve funding for all the components of the criminal justice system to enable them effectively carry out their duties while implementing the SokACJL.

IV. Although the SokACJL has abolished law prosecution in criminal matters, there is the need to take more steps to improve inter – agency cooperation in criminal justice administration. This can be done in several ways, including more sensitisation training to reorient the police who regularly used to prosecute in magistrate courts, as well as carrying

them along to make them own the process through information sharing, consultations and interactions during preparation for trials.

6.6. Conclusion

The SokACJL is modelled along the ACJA 2015 whose objective is to ensure a more efficient criminal justice sector that provides speedy and responsive justice services. The difference between the two laws is the inclusion of specific chapters dealing criminal courts in the state and the powers conferred on them. This is in addition to a few peculiarities highlighted in the analysis above. The ultimate result of the law is it will reposition and reshape criminal justice service delivery in Sokoto State.

7. Comparative Analysis of the Administration of Criminal Justice Act, 2015 and Anambra State Administration of Criminal Justice Law.

7.1. Introduction

The ACJA and ACJL are both procedural laws governing the administration of criminal justice in Nigeria. The ACJA applies to criminal trials for offences established by an Act of the National Assembly and other offences punishable in the Federal Capital Territory, Abuja; but does not apply to proceedings in a Court Martial. The ACJA repealed The Criminal Procedure Act CAP. C41 LFN 2004, Criminal Procedure (Northern States) Act Cap C42 LFN 2004, and the Administration of Justice Commission Act CAP A3 LFN 2004.[1] The ACJL applies to all cases filed after the commencement of the Law; and existing cases filed under the Criminal Procedure Law Cap 37, 1991. The Law repeals the Criminal Procedure Law Cap 37, 1991[2]

7.2. Overview of ACJA and Anambra State ACJL

Section 1 of the ACJA explains the purpose of the Act thus:

> The purpose of this Act is to ensure that the system of administration of criminal justice in Nigeria promotes efficient management of criminal justice institutions, speedy dispensation of justice, protection of the society from crime and protection of the rights and interests of the suspect, the defendant, and the victim.

The provisions of the Act apply to criminal trials for offences established by an

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[1] ACJA, s493

[2] ACJL Anambra State, s1(3)

Act of the National Assembly and other offences punishable in the Federal Capital Territory, Abuja.[3] The ACJA has 48 parts with 495 sections. The ACJA has a number of innovative provisions such as a person not being arrested in place of a suspect[4]; humane treatment of arrested suspect[5]; central criminal records registry to be established[6]; remedies of married women against husband- section 191.Of special mention is the non-custodial penal measures such as payment of expenses or compensation – section 319; restitution – section 321; probation orders – section 455; suspended sentence and community service – section 460.

The Administration of Criminal Justice Law (ACJL) of Anambra State 2010, unlike the ACJA did not commence with a purpose statement; rather it starts with a savings and transitional provision which provides that 'it applies to all cases filed after the commencement of this law and existing cases filed under the Criminal Procedure Law Cap 37, 1991'.

The ACJL has 35 Chapters and 467 Sections. The law contains provisions on sundry aspects of criminal procedure such as arrests, bail, trial proceedings etc. There are also provisions on probation, restitution and some other non-custodial measures. The general outlook of the law is on speedy dispensation of justice which is the hallmark of administration of criminal justice.

7.3. Compliance with international Best Practices in Criminal Justice Administration

Best practices in criminal justice administration hinges on provisions that respect rights of the defendant and the complainant; guarantees justice for all

[3] ACJA 2015, s2(1)
[4] ACJA 2015, s7
[5] section 8 A
[6] ACJA, s16

in criminal proceedings; promotes efficient and speedy trials; and fosters confidence in the criminal justice system. Going by these, both legislation have provisions geared towards effective administration of the criminal justice system

The Anambra State ACJL has more of traditional provisions dealing with basic criminal procedure issues such as arrests; bail; searches; duties of the Attorney- General; etc. The Law also contains provisions on costs, compensation and damages; probation; seizure, restitution, forfeiture and disposal of property amongst others. However, as a procedural law the ACJL has few procedural steps attached to its provisions. Notably, the Law barely stipulates timelines within which tasks should be accomplished. The failure to stipulate timelines has serious implications for speedy trials.

Another notable drawback of the Anambra State ACJL is that, the Law is more focused on retributive justice and custodial sentences as against the best practice in criminal justice administration which ; while not, jettisoning retribution in most deserving cases is now more focused on restorative justice and non-custodial remedies, such as community service and victim remediation.

The ACJA on the other hand shows manifest improvement on the areas highlighted above. There are more procedural steps for accomplishing tasks in its provisions; more use of timelines to ensure speedy disposition of matters and hence reduce trial delays. The Act also has a number of novel provisions on restorative and non-custodial remedies in line with best practices in criminal justice administration. The Act has also created Institutions for collaborative actions and contains provisions that require collaboration of stakeholders in criminal justice administration.

The Act is relatively new and it is perhaps too early to assess its success. Nevertheless, it is important to state that having salutary provisions in a law and

their faithful implementation is another matter. For instance, the provisions on day to day trials in section 369 of the ACJA is meant to facilitate speedy trials and eliminate incessant and unnecessary adjournments, but it is apparent that the provision has not been applied by the courts in the manner envisaged by the Act.

There is the need then for all stakeholders to cooperate and collaborate towards the realization of the objectives of the Act. This calls for synergy across the criminal justice system.

7.4. Comparison ACJA /Anambra state ACJL.

Generally, the ACJA and Anambra State ACJL contain similar provisions on sundry issues such as arrests, bail and recognizances, searches, warrants, proofs of evidence, remand proceedings, institution of criminal proceedings, power of the Attorney-General, summary trials, charges, information etc.

In this section we note provisions where there are differences in both laws; and how the provisions align or dis-align with best practices in criminal justice administration.

No	CONCEPT	ACJA	ACJL	COMPARISON	ANALYSIS
	Preliminary issues/ purpose	Section 1(1) states purpose of the Act	Section 1 deals with title, commencement and transitional provisions	The ACJA states the purpose of the Act which the ACJL failed to do	The failure of the Anambra State ACJL to provide for a purpose and compliance provision for best practice is a major drawback of the Law. Even though administrators of

					Criminal justice are expected to seek speedy dispensation of justice and protection of society from crime and protection of rights of suspect, defendant and victim; expressly providing for it puts a high responsibility on those concerned to ensure that these ideals are adhered to and keeps the ideals of the law in their consciousness.
2.	Arrest, Bail, Preventive justice	Part 2 ACJA: Arrest, Bail and Preventive Justice	Chapter 2 ACJL: Arrest	ACJA provides for particulars and timelines which the ACJL did not provide for	Timelines are important in securing speedy dispensation of justice. Failure of the ACJL to provide for a timeline for the process of recording and leaving the process only to reasonable time would not

					secure speedy dispensation of processes. It may give room to inefficiency and lack of proper management of the procedure.
3.	Bail and Recognizance	Part 19 ACJA	Chapter 5 ACJL	The ACJA provides for bail of minors and registration of bonds persons; the ACJL does not provide for these	The provision for registration of bonds persons is a novel provision of ACJA and is geared towards efficient administration of the criminal justice system
4.	Remand proceedings	Part 30 ACJA	Chapter 7 ACJL	ACJA provides for 14 days and an extension of 14 days; while ACJL provides for 60 days and an extension of 30 days	The ACJA shows sensitivity to the rights of the suspect by providing for minimal remand time. It ensures that suspects are not unduly remanded in the absence of evidence
5.	Institution of proceedings	Part 12 ACJA	Chapter 11 ACJL	The ACJA unlike the ACJL in addition	This provision is geared towards collaborative action of

				provides for returns by the Comptroller General of Prisons to the CJ of FHC, CJ of FCT HC, President NIC, CJ SHC, AC of the Federation	stakeholders in the administration of Justice, in line with best practices with a view to realizing the purpose of the ACJA
6.	Summary trials	Parts 35 and 36 ACJA	Chapters 12-14 ACJL	The ACJA in line with its procedural stance has more details in terms of procedures which are lacking in ACJL	Provisions of the ACJA for electronic record of evidence accords with the realities of the time
7.	Probation and non- custodial alternatives	Part 44 ACJA provides for probation and non-custodial alternatives	Chapter 28 ACJL provides for Probation	The ACJA does not make any limitation as to amount be paid as damages for injury while the ACJL makes a limitation.	For decongestion of our correctional centres, there is need for more non-custodial sentences such as suspended sentences and community service which is provided by the ACJA in line

				Further, The ACJA makes provision for suspended sentences and community service	with best practices in criminal justice administration
8.	Seizure, forfeiture, confiscation and destruction of instrumentality of crime	Part 34 ACJA	Chapter 29 ACJL	ACJA contains more procedural provisions	Procedures are important in law and especially in criminal trials and processes as they establish that the rights of the accused is safeguarded.

Table VII: Comparison between ACJA 2015 and Anambra ACJL

There are several novel provisions of the ACJA not found in the Anambra State ACJL. The novel provisions include the following:

I. Section 16- establishment of the Central Criminal Records Registry: Section 16 of the ACJA provides that:

16. (1) There shall be established at the Nigeria Police Force a Central Criminal Records Registry.

(2) For the purposes of subsection (1) of this Section, 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.

(3) The State or Federal Capital Territory (FCT) Police Command shall ensure that the decisions of the court in all criminal trials are transmitted to the Central Criminal Records Registry within 30 days of the judgement.

This is directed at coordinated keeping of records for effective criminal justice administration.

II. Section 29 – quarterly report of arrests to the Attorney – General

29. (1) The Inspector General of Police and the head of every agency authorised by law to make arrest shall remit quarterly to the Attorney-General of the Federation a record of all arrests made with or without warrant in relation to federal offences within Nigeria.

(2) The Commissioner of Police in a State and head of every agency authorised by law to make arrest within a State shall remit quarterly to the Attorney-General of that State a record of all arrests made with or without warrant in relation to State offences or arrests within the State.

(3)…….

(4)……..

(5) The Attorney-General of the Federation shall establish an electronic and manual database of all records of arrests at the Federal and State level.

Record keeping has always been an issue in Nigeria. Hopefully this provision if effectively implemented will ensure that records are kept. This will assist with planning and proper intervention in the criminal justice administration in Nigeria.

III. Section 33 Police to report to supervising Magistrates

33. (1) An officer in charge of a police station or an official in charge of an agency authorised to make arrest shall on the last working day of every month report to the nearest Magistrate the cases of all suspects arrested without warrant within the limits of their respective stations or agency whether the suspects have been admitted to bail or not.

This provision will ensure that arrested suspects are not unduly remanded in custody. This has implications for decongesting our custodial centres and speedy trials.

IV. Section 34 chief Magistrate to visit Police Station every month

34. (1) 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, at least every month, conduct an inspection of police stations or other places of detention within his territorial jurisdiction other than the prison.

This is oversight function given to judicial officers to ensure that proper records of arrests are kept; suspects are arraigned on time; grant bail in deserving cases thereby dispensing justice and proper management of criminal justice system

V. Section 110 (7) power of Administration of Justice Monitoring Committee

110 (7) The Administration of Criminal Justice Monitoring Committee, shall have power to consider all returns made to the Chief Judge under subsections (4) and (5) of this section for the purpose of ensuring expeditious disposal of cases, and the National Human Rights Commission set up under the National Human Rights Commission Act shall have access to the returns on request to the Chief Judge.

Cooperation and collaboration is necessary to create the needed synergy amongst stakeholders in criminal justice administration.

VI. Section 111 returns by Comptroller- General Prisons

111. (1) The Comptroller-General of Prisons shall make return every ninety days to the Chief Judge of the Federal High Court, Chief Judge of the Federal Capital Territory, the Chief Judge of the State in which the prison is situated and to the Attorney-General of the Federation of all persons awaiting trial held in custody in Nigerian Prisons for a period beyond 180 days from the date of arraignment.

Such returns is necessary for the recipient to take such steps as are necessary to address the issues raised in the return in furtherance of the objectives of this Act.

VII. Section 187 Registration of bonds persons

187. (1) The Chief Judge of the Federal High Court or of the High Court of the Federal Capital Territory, Abuja may make regulation for the registration and licensing of corporate bodies or persons to act as bondspersons within the jurisdiction of the court in which they are registered.

This has become necessary to assist those who cannot meet bail conditions on their own. Such services can now be rendered by licensed bondspersons and will help in decongesting our remand and correctional facilities.

VIII. Section 270 Plea Bargain

270. (1) Notwithstanding anything in this Act or in any other law, the Prosecutor may:

(a) receive and consider a plea bargain from a defendant charged with an offence either directly from that defendant or on his behalf;

(b) offer a plea bargain to a defendant charged with an offence.

Plea bargain helps in speedy dispensation of justice and in some cases like corruption cases where proof is difficult plea bargain facilitates conviction to a bargained plea.

IX. Section 321 power of court to order restitution

321. A court after conviction may adjourn proceedings, to consider and determine sentence appropriate for each convict:

(a) in addition to or in lieu of any other penalty authorised by law, order the convict to make restitution or pay compensation to any victim of the crime for which the offender was convicted, or to the victim's estate; or

(b) order for the restitution or compensation for the loss or destruction of the Victim's property and in so doing the court may direct the convict: (i) to return the property to the owner or to a person designated by the owner; (ii) where the return of the property is impossible or impracticable, to pay an amount equal to the value of the property; or (iii) where the property to be returned is inadequate or insufficient, to pay an amount equal to the property calculated on the basis of what is fair and just.

Victim remediation is evolving as best practice in criminal justice administration. Compensation or restitution of victims of crime, and not just punishing the offender speaks to an efficient criminal justice system.

X. Section 364 Electronic record of proceedings

364. (1) Without prejudice to section 348(2) of this Act, Court proceedings may be recorded electronically and verbatim such that at the end of each day's proceeding a transcript of such recording shall be printed to enable

certification or authentication by the judge or magistrate who conducted the proceedings. Speedy trial is the hallmark of criminal justice adjudication. Electronic recording of proceedings will no doubt impact on speedy trials

XI. Section 396 - Day to day trial

396 (3) Upon arraignment the trial of the defendant shall proceed from day-to-day until the conclusion of the trial.

(4) Where day-to-day trial is impracticable after arraignment, no party shall be entitled to more than five adjournments from arraignment to final judgment: provided always that the interval between each adjournment shall not exceed 14 working days.

(5) 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 inclusive of weekends.

(6) In all circumstances, the court may award reasonable costs in order to discourage frivolous adjournments.

This one provision if effectively implemented will dispense with frivolous adjournments and ensure speedy trials and early conclusion of cases once commenced.

XII. Section 438 detention in a safe custody other than prison or mental health asylum

438. (1) Where a person is ordered to be detained in a safe custody or suitable place other than prison or mental health asylum, he is notwithstanding anything in this Act or in any other law, liable to be detained in a prison or asylum or such other place as provided under this Act or any law as the

Attorney-General of the Federation may direct and whilst so detained shall be deemed to be in legal custody.

(2) A person detained in a safe custody or suitable place other than prison or mental health asylum may at any time be discharged by the Attorney-General of the Federation on licence.

(3) The Attorney-General of the Federation may at any time revoke or vary a licence and where a licence has been revoked, the person to whom the licence relates shall proceed to such place as the Attorney-General of the Federation may direct and if he fails to do so may be arrested without warrant and taken to the place.

This provision considers the rights of suspect to dignity of their human persons. In a country where remand and correctional centres are stretched beyond capacity; there is need to designate other appropriate place for remand.

XIII. Section 440 Deportation

440. Where a defendant is convicted of an offence punishable by imprisonment without the option of a fine, the court may, in addition to, or instead of any other punishment make a recommendation to the Minister of Interior that the convict be deported, where it appears to the court to be in the interest of peace, order and good governance.

It may be in the interest of peace, order and good governance that convicted foreigners serve the prison terms in their country.

XIV. Confinement in Rehabilitation and correctional centre

467. (1) A defendant convicted of an offence triable summarily may be sentenced and ordered to serve the sentence at a Rehabilitation and Correctional Centre established by the Federal Government in lieu of imprisonment.

This is to ensure that an offender is not kept in facilities that worsen their situation. Such as a minor or a first offender being kept with hardened criminals.

XV. Section 469 establishment of the Administration of Criminal Justice Monitoring Committee

469. (1) There is hereby established a body to be known as the Administration of Criminal Justice Monitoring Committee (in this Act referred to as "the Committee").

(2) The Committee shall consist of:

(a) the Chief Judge of the FCT who shall be the Chairman;

(b) Attorney-General of the Federation or his representative who shall not be below the rank of a Director in the Ministry;

(c) a Judge of the Federal High Court;

(d) the Inspector General of Police or his representative who shall not be below the rank of Commissioner of Police;

(e) the Comptroller-General of the Nigeria Prisons Service or his representative who shall not be below the rank of Comptroller of Prisons;

(f) the Executive Secretary of the National Human Rights Commission or representative not below the rank of Director;

(g) the Chairman of any of the local branches of the Nigeria Bar Association in the FCT to serve for two years only.

(h) the Director-General of the Legal Aid Council of Nigeria or representative not below the rank of Director;

(i) a representative of the Civil Society to be appointed by the Committee to serve for a period of two years only.

The composition of the Committee encompasses stakeholders in the Criminal Justice Administration and therefore speaks of the synergy that must exist for the criminal justice system to work efficiently and effectively.

7.5. Practical challenges with the ACJA / Anambra State ACJL

Challenges are difficulties encountered in implementation of the legislations. There is hardly a perfect legislation. The success of any legislation would be measured by how easily its provisions are complied with and how efficiently and effectively it achieves its purpose. The ACJA stated clearly its objective or purpose. Though the ACJL did not expressly state its purpose; it is a given that its purpose is same as those of the ACJA. The essence of criminal justice administration is generally as enunciated in the ACJA to ensure that the system of administration of criminal justice in Nigeria promotes efficient management of criminal justice institutions, speedy dispensation of justice, protection of the society from crime and protection of the rights and interests of the suspect, the defendant, and the victim.

Some practical challenges that militate against realizing the above objectives include:

I. lack of requisite infrastructure and conducive environment for speedy trials and efficient management of criminal justice institutions. A lot needs to be done in the area of infrastructure and conducive work and system environment.
   a) Currently the system has inadequate courts both at the Magistrates and Higher courts. As shown in some reports a building may house many courts; so presiding officers just have a few hours within the working day to sit and consider cases. This greatly impacts speedy trials negatively
   b) Lack of electronic recorders. Though the ACJA provides for electronic recording of proceedings this rarely happens. Our judicial

officers record proceedings in long hand thereby taking up much time that could have been used in treating many more cases

c) Constant power outages that makes it difficult for judicial officers to sit or sit for long, thereby reducing time that would otherwise have been spent in hearing cases

d) Problems of transportation to and from courts especially for Magistrates in rural areas

II. Attitudinal issues – willingness and preparedness of presiding officers to apply the provisions of the Act; for instance, the day to day trial provisions and the number of adjournments can only work if presiding officers are willing and prepared to insist on its observance. The same can also be said of counsel both of the prosecution and the defence.

III. Attitude of law enforcement agencies in not adhering to arrests, searches and remand provisions also militate against realizing the objectives of the Act.

IV. Attendance of witnesses at trial- proceedings can go on if witnesses are available to give evidence; though the Act makes provision for payment for witnesses to attend court lack of resources continue to frustrate this.

7.6. Recommendations.

I. Provision of requisite infrastructure for efficient management of criminal justice

II. Development of mechanism for effective day to day trial as envisaged under the ACJA

III. The ACJA has a number of provisions promoting cooperation and synergy among stakeholders; actual implementation is paramount in realizing the purpose of the Act

IV. Attitudinal change of all stakeholders - attitude to adjournments, remand, evidence giving by witness all geared towards realizing the objectives of the Act cannot be overemphasized.

7.7. Conclusion

The criminal justice system needs to be managed efficiently and effectively to achieve its desired objectives which is to "promote efficient management of criminal justice institutions, speedy dispensation of justice, protection of the society from crime and protection of the rights and interests of the suspect, the defendant, and the victim." Good governance wherein public resources and problems are managed effectively and efficiently in response to critical needs is key in realizing the objectives of the Act. Cooperation and collaboration among stakeholders is important in garnering the needed synergy for effective implementation of the provisions of the Act and Law. Attitudinal change to justice delivery by actors in the justice system; accountability and transparency are paramount in changing the perception of the public about the justice system.

8. Comparative Analysis of the Administration of Criminal Justice Act, 2015 and Enugu State Administration of Criminal Justice Law.

8.1. Overview of the ACJA 2015 and Anambra ACJL

Criminal procedure in Nigeria until the introduction of ACJA, 2015 was governed by two basic legislation. They are the Criminal Procedure Act[1] and the Criminal Procedure Code[2].

The Administration of Criminal Justice Act, 2015 signed into law in 2015 (hereinafter called "ACJA, 2015") is one of Nigeria's latest legislation introduced mechanisms in the Nigeria's criminal justice framework. The purpose of ACJA, 2015 is to ensure that the system of administration of criminal justice in Nigeria promotes:

a) Efficient management of criminal justice institutions;
b) Speedy dispensation of justice;
c) Protection of the society from crimes;
d) Protection of the rights and interests of the suspect/defendant;
e) Protection of the rights and interests of the victim

It applies to Federal Courts and federal offences as the case may be. As expected, various states in Nigeria are enjoined to enact and domesticate the provisions of ACJA. It repeals the Criminal Procedure Act,[3] Criminal Procedure (Northern States) Act,[4] and the Administration of Criminal Justice Act.[5]

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[1] The Act came into being as Ordinance No. 42 of 1945, re-enacted as Ordinance No. 43 of 1948 and amended at various times. It was incorporated as Cap. 80, LFN 1990 and later as Cap C41, LFN 2004. It is the principal enactment governing criminal procedure in the Southern States of Nigeria.

[222] This was 1960 enactment by the Northern Nigeria and it applies only to Northern Nigeria.

[3] Cap C1, LFN, 2004

[4] Cap C42, LFN, 2004

[5] Cap A3, LFN 2004

On the other hand, Enugu State passed into law on the 26th day of January, 2017, the Administration of Criminal Law, hereinafter referred to as "ACJL, 2017". It repealed the Criminal Procedure Law Cap. 31 of the Laws of Enugu State, 2004.[6] ACJA has 49 Parts and a total of 495 sections. Although, under the Enugu State Administration of Criminal Justice Law (ACJL), 2017, the main purposes of the Law are not expressly stated, but like the provision of section 1 of ACJA, 2015, promoting efficient management of criminal justice institutions and speedy dispensation of justice, protecting the society from crime and protecting the rights and the interests of the defendant and the victim, seem to be the summary of the objects of ACJL, 2017

The ACJL just like the ACJA introduced numerous innovations aimed at fast-tracking justice delivery with the goal of preserving the rights of accused persons who are now referred to as defendants. It is made up of 45 Chapters and 551 sections.

8.1.1. Applicability of ACJA and ACJL

The general provisions of ACJL, 2017 of Enugu State shall apply to criminal trials and other criminal proceedings in the High Court and Magistrates' Courts except when express provision is made in the Law or in any Law in respect of any particular court or form of trial.[7] The ACJA, 2015 on the other hand, applies to criminal trials for offences established by an Act of the National Assembly and other offences punishable in the Federal Capital Territory, Abuja.[8] Its provisions do not apply to a Court-Martial.[9] Therefore, the application of ACJA is very limited. However, section 2 (1) of ACJA gives the Act a Federal application. This is more so when section 494 of the ACJA explains "court" in the Act to include Federal courts, the Magistrates' Courts and the Federal

[6] ACJL, s1 (b).
[7] ACJL, 2017, s 3.
[8] ACJA, 2015, s2 (1).
[9] Section 2 (2), ibid

Capital Territory Courts presided over by Legal practitioners. However, where there are no provisions in the Act, the courts are empowered to apply a procedure that will meet the justice of the case.

8.1.2. Paradigm change from Punishment based Justice to Restorative based Justice

There is a deliberate shift from punishment as the main goal of the criminal justice to restorative justice that pays attention to the needs of the society, the victims and vulnerable persons and human dignity.[10] These objectives are reflected in the provisions of ACJL, 2017 and ACJA, 2015 Sentencing Guidelines as enumerated under the ACJL[11] and ACJA.[12] The purport of the guidelines is to ensure uniformity in sentencing in the State such that at all times the court will bear in mind prevention, restraint, rehabilitation, deterrence, education of the public, retribution, restitution and restoration in sentencing a convict…[13]

It should be noted that before the passage of ACJL, 2017 and ACJA, 2015, restorative justice principles were not lawfully entrenched in the Nigerian criminal justice system. ACJL, 2017 provides for the following restorative alternatives: Restitution as provided for under section 457;[14] Probation orders in section 458;[15]Suspended Sentence under section 469, Community Service in sections 469, 470, 471[16] and Compensation[17] Also, ACJA provides for

[10] Yemi Akinseye-George, 'The Administration of Criminal Justice Act (ACJA) 2015: An Overview in relation to Criminal Cases Adjudication in the Federal High Court' A Tribute to Chief Wole Olanipekun, SAN, p 10.
[11] ACJL, ss 391-393.
[12] ACJA, 2015, s8.
[13] O H Oshodi, Sentencing: Practice and Procedure under the Administration of Criminal Justice Act and Criminal Justice Laws, p 18.
[14] ACJA, s321; ACJL 2011, s296.
[15] ACJA, s455; ACJL, 2011, ss 342-345.
[16]ACJL 2011, s347.
[17] ACJL 2011, ss285-289.

suspended sentence;[18] community service[19] as well as compensation[20] as restorative alternatives. According to Alobo and Inaku, [21] the practical implication of restorative justice is that ACJA has endeavoured to remedy the problem of prison congestion by offering other potent alternatives to imprisonment.

8.1.3. Human Rights Protections under ACJL, 2017 and ACJA, 2015

Both ACJL, 2017 and ACJA, 2015 adopt deliberate policies of promoting human rights and vulnerable groups. Accordingly, section 8 of ACJL, 2017 specifically prohibits arrest in lieu; hence, a person shall not be arrested in place of a suspect. In the Federal ACJA, 2015, a similar provision is contained under section 7. All these sections provide for humane treatment of arrested persons in line with the provisions of section 34 (1) (a) and (b) of the 1999 Constitution as amended. Under section 96 (3) of ACJL and section 167 (3) of ACJA, a person shall not be denied, prevented or restricted from entering into a recognizance or standing as surety for any defendant or applicant on the ground only that the person is a woman. Thus, both the ACJL and ACJA promote equality between men and women by clearly stating the rights of women to serve as sureties for arrested persons. Further, both the ACJL and ACJA remove the stigma attached to describing suspects as accused persons. They therefore refer to accused persons as defendants, terms mainly used in civil proceedings. The justification for this is rooted in the Constitution which presumes a person innocent until proven guilty.[22] Also, a suspect shall not be

[18] ACJA, s461.
[19] ACJA, ss460-466.
[20] ACJA, ss454 (3) (a).
[21] E E Alobo, J Inaku, 'An Appraisal of the Principle of Restorative Justice in the Nigerian Criminal Justice System', (2018) Vol.5 *International Journal of Engineering Technologies and Management Research*, 142. Also available <http://www.ijetmr.com(c)InternationalJournalofEngineringTechnologiesandManagementResearch> accessed 27 March 2020
[22] Yemi Akinseye-George, (n 10)10; see also CFRN, 1999, s36 (5).

arrested on a civil wrong or breach of contract. The aim behind this provision is to put a stop to arrest and detain or prosecuting persons resulting from disagreements that purely civil, but not criminal.

8.1.4. Central criminal Records Registry

Section 18 of ACJL, 2017 and section 16, ACJA, 2015 provide for Central Criminal Records Registry at the headquarters of the Police command and at the Nigeria Police Force respectively. They shall keep and transmit all criminal records to the Central Criminal Registry. The keeping of decisions of the courts in all criminal trials in Criminal Registry is important in view of the provisions of section 250 of the Evidence Act, 2011 that relates to mode of proof in criminal proceedings of a previous conviction. According to Momodu, the Central Criminal Registry can also be made to be like a crime information database system which works like the internet providing terminals to only authorize to access and enter crime information into the system.[23] This has helped in tracking and arresting many offenders in situations where it seemed impossible to discover the author of a crime…[24] The transmission is to be made within 30 days.[25] Section 18 (2) is very specific that the Chief Registrar of the Courts shall be responsible for such transmission.

8.1.5. Witness Protection

Witnesses are the cornerstones of successful national criminal justice system. The entire process of investigating and prosecuting of offences depends largely on the information and testimony of witnesses. Hence, witness protection is an indispensable tool in the fight against domestic and international crime. Due to the importance of witnesses, it is a good practice

[23] B Momodu, *Federal Republic of Nigeria Administration of Criminal Justice Act, 2015* (Benin: Momodu B. Law Publishing, 2019) 47
[24] Ibid
[25] ACJL, s18 (2); ACJA, s16 (2)

for criminal justice system to provide assistance and support measures to witnesses so as to facilitate their ability to fully participate in the criminal justice system and give the kid of testimony that is required for the maintenance of rule of law.[26]

In view of the above, section 335 of ACJL, 2017, Enugu State and section 232, ACJA, 2015, provide procedures for trial on charge for certain offences. The provisions under ACJL and ACJA are very similar. Consequently, the sections of the ACJL and ACJA permit witnesses to some offences to give evidence in camera. The ACJL under section 335 (4) enumerates the offences as:

(a). offences under sections 196, 198, 200, 203, 204, 205, 209, 222 and 308 of the Criminal Code

(b). offences under Prevention of Terrorism Act 2011

(c). Offences relating to trafficking in persons

(d). any other offence that may be permitted by a law of the State House of Assembly or an Act of the National Assembly.

It is interesting to note that section 232, ACJA also included sexual related offences.

Under both provisions, the names and identity of the victims of such offences or witnesses shall not be disclosed in any charge, record or report of the proceedings and it shall be sufficient to designate the names with alphabets.[27]

Further, section 335 (3), ACJL and section 232 (3), ACJA, provide 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.

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[26] Keynote address by the Deputy Minister of Justice and Constitutional Development, the Hon. J.I .Jeffrey, M.P., at the International Conference of AU members on Witness Protections, Pretoria, 25 August, 2014; also available at <http://www.justice.guy.za/m_speeches/2014/20140825_WitnessProtection.htm//sthash.6s51.5Ec7.pdf > accessed on 26 March 2020

[27] See ACJL, s335 (2) and ACJA, s232(2) respectively.

(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.

Both the Law and the Act under subsection (5) stipulate that anyone who contravenes the provisions of sections 335, ACJL and 232, ACJA shall be sentenced to a minimum term of one year imprisonment. See the following cases: *F.R.N. v. Nnamdi Kanu & Ors*[28]; where the 1st respondent, hitherto the Director of Radio Biafra and Television and his cohorts were alleged to have committed treasonable felony, an offence punishable under section 41(1) of the Criminal Code Act, Cap.C38, Laws of the Federation of Nigeria (Kanu was alleged to have illegally smuggled radio transmitters into Nigeria which he used to disseminate "hateful broadcasts", encouraging the "succession of the Republic of Biafra" from Nigeria), the Federal High Court sitting in Abuja upheld Federal Government's application to screen witnesses/shield witnesses who will testify against the leader of the Indigenous People of Biafra (IPOB), Mazi Nnamdi Kanu. The decision is aimed at protecting the identity of the witnesses. The technology of video conferencing was well explained in the case of *State of Maharashtra v. Dr. Praful B. Desai* (AIR 2003 SC 2053), where the Supreme Court of India held that video conferencing is an advancement of science and technology which permit seeing, hearing and talking with someone who is not physically present; and *Twentieth Century Fox Film Corporation v. N.R.A. Film Production Associates Ltd* (AIR 2003 KANT 148).[29], the Supreme Court of

[28] Unreported; also available at 'Court Offers Partial Protection for Witnesses in Kanu's Treason Trial' <http://www.thisdaylive.com/index.php/2016/03/08/court-offers-partial…> accessed 20 April 2020

[29] See also Provisions under NAPTIP; TPAA, 2013 and South Africa's Witness Protection Act, 112 of 1998 and UNTOC, Article 24; United Nations Good Practices for the Protection of Witnesses-UNODC; The Rome Statute of the International Criminal Court (Rome Statute), Article 68 respectively.

India laid down some conditions for video recording of evidence some of which include:

a. Before a witness is examined in terms of the audio-video link, witness is to file an affidavit or an undertaking duly verified before a notary or a judge that the person who is shown as the witness is the same person as who is going to depose on the screen. A copy to be made available to the other side (Identification Affidavit);
b. The person who examines the witness on the screen is also to file an affidavit/undertaking before examining the witness with a copy to the other side with regards to identification;
c. Learned judge is to record such remarks as is material regarding the demur of the witness while on the screen,[30] etc

8.1.6. Plea Bargain

The object of plea bargaining introduced by ACJA 2015 and ACJL, 2017, is to discourage litigation and persuade the parties to compromise and agree for a sentence for a less heinous offence than the one committed by the accused. It implies an active negotiation process whereby an offender is allowed to confess his guilt before the court (if he so desires) in exchange for a lighter punishment that would have been given for such an offence. Normally, plea bargaining usually occurs prior to trial, but it may be permitted any time during the trial before a judgment is delivered.[31]

The plea bargain is a veritable caseload management tool in the hand of prosecutors.[32] It is generally an agreement in a criminal trial whereby a prosecutor and an accused person arrange to settle the case against the

[30] Furthermore, see B Momodu, (N 23) 117.
[31] N V Paranjape, *Criminology, Penology Victimology* (Darbhanga: Central Law Publications, 2017)482.
[32] Yemi Akinseye-George, (n 10) 17.

accused usually in exchange for concessions.[33] It is a new concept under Nigeria's criminal justice system. It is provided for in ACJA under Part 28 (sections 270-277), while it is provided for under Chapter 23 (section 367) of ACJL. Plea bargain has many attractions and it involves the prosecutor, the defendant and legal representative, the victim in appropriate cases and the court.

8.1.7. Establishment of the Justice Sector Reform Team (EJSRT) and Administration of Criminal Justice Monitoring Committee (ACJMC)

While the ACJL of Enugu State has established the Enugu State Justice Reform Team, referred to as "the ESJRT",[34] the ACJA establishes the Administration of Criminal Justice Monitoring Committee.[35] The ESJRT under the ACJL comprises 21 members with the Chief Judge of Enugu as the Chairman. By virtue of section 539, the functions of the Team are laid out. Among the functions are the following:

a. monitor delivery service;

b. identify issues that prevent effective, fair and efficient criminal justice delivery in the state;

c. initiate reforms and help identify reform options;

d. facilitate the increased use of alternative dispute resolution methods;

e. facilitate human rights observance in the administration of justice,

f. encourage effective and responsible policing by adoption of international policing best practices in the State;

g. identify the problems that militate against speedy, efficient and equitable administration of justice in the State, e.t.c.

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[33] J A Agaba, *Practical Approach to Criminal Litigation in Nigeria* (Abuja: Bloom Legal Temple, 2017)586

[34] Section 538 (1), ACJL, 2017

[35] Section 469, ACJA, 2015

Section 539 (3) of the ACJL provides that the provisions of the Law are effectively and efficiently implemented in the State.

While, by virtue of section 470 of ACJA, the Committee has the responsibility of ensuring effective and efficient application of the Act by the relevant agencies. The Committee shall among other things ensure that criminal matters are speedily dealt with, congestion of criminal cases in courts is drastically reduced and persons awaiting trial are, as far as possible, not detained in prison custody. It is interesting to note that section 471 of the ACJA establishes the secretariat for the Committee; fund for the Committee is established under section 472, ACJA and section 476 of ACJA provides for proceedings and quorum of the Committee. By this establishment, the ACJA becomes the first legislation in the Nigerian administration of criminal justice framework to establish a body charged with the responsibility of ensuring effective application of the Act.[36]

Chapter 44, ACJL is dealing with the Justice Sector Reform Team and Part 46 of ACJA concerns the Administration of Criminal Justice Monitoring Committee in no doubt have the sole aim of the effective and efficient administration of criminal justice in Enugu State in particular and Nigeria as a whole.

8.2. Compliance of ACJA, 2015 and ACJL, 2017 with International Best Practices.

Criminal justice has traditionally been regarded as a sovereign matter. Each country has decided on its own what conduct it regards as criminal, and how it responds to criminal acts. Despite this, criminal justice is not entirely territorial as those responsible for public order and administration of justice have to be concerned with what happens elsewhere. It is in view of this that Nigeria as a

[36]R E Abajuo, 'An Appraisal of the Administration of Criminal Justice Act, 2015' <http://ssrn.com/abstract=2665611> accessed 25 March 2020.

sovereign country in 2015 introduced a new legislation that transformed the criminal system to reflect the true letters of its 1999 Constitution and the demands of a democratic society.

From the purpose of the ACJA, 2015 and ACJL, 2017, which is to ensure the system of administration of criminal justice in Nigeria promotes speedy dispensation of justice, protection of the society from crimes, protection of the rights of the suspect/defendant and the victim and also the efficient management of criminal justice institutions, it may be safely concluded that both laws have substantially complied with international best practices.

A careful perusal of the laws reveals various innovations and provisions that revolutionized the administration of criminal justice both in Nigeria and Enugu State respectively.

8.2.1. Bail Recognizance

Detention prior to conviction is a serious curtailment on the rights of defendants and has many real life repercussions. In view of this, ACJA, sections 31 and 32 and ACJL, section 87, provide remedy to a person detained in custody. Arrest is also a "severe infringement of the right to liberty and security of person" guaranteed in Article 9 of the ICCPR and Article 5 of the ECHR. Article 9 of the ICCPR also forbids "arbitrary arrest or detention." Hence, by subsection (1), section 30, ACJA, 2015 a suspect detained without a warrant shall be released on bail on his entering into a recognizance with or without sureties for a reasonable amount of money to appear later as specified in the recognizance where the offence is not a capital offence. Consequently, the general provisions of bail and recognizances under sections 30-32, ACJA, 2015 and sections 86-116, ACJL, 2017, and section 35 of the Constitution of the Federal Republic of Nigeria, 1999, significantly comply with international best practices

regarding the principles underlying bail under criminal justice administration. The laws therefore comply with article 9 of ICCPR and article 50 of ECHR.

8.2.2. Use of Restorative Justice/paradigm shift from punishment to restorative justice

The concepts of reconciliation, restitution, reintegration and restoration that are the key values of restorative justice are amply provided for in both ACJA and ACJL, 2017. The provisions are in accordance with international framework relating to restorative justice. Of considerable importance for promoting restorative justice at the global level are the United Nations Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters, 2000. Furthermore, the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 1989 underlines the value of informal dispute resolution processes to enhance conciliation and redress. The provisions under sections 452-468, ACJA, 2015 and sections 455-477of ACJL 2017 are also as reflected in other United Nations documents, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, the 'Beijing Rules', 1985; the United Nations Standard Minimum Rules for Non-custodial Measures-the 'Tokyo Rules', 1990 and the United Nations Rules for the Treatment of Women Offenders-the 'Bangkok Rules', 2010. In addition, the recent 2015 Doha Declaration (GA Resolution 70/174) emphasizes the importance of restorative justice in the resolution of social conflict through dialogue and mechanisms of community participation, as well as in the area of prisoner reintegration (article 5(1) and 10 (d).[37]

Restorative justice as obtainable in Nigeria, represents a paradigm shift in dispensation of criminal justice by involving the offender, the victim and the

[37] See also Council of Europe (CoE) Recommendation, 2018, and the European Union Victims' Rights Directive, 2012.

community as a whole, to ensure a balance between offender's punishment and protection of victim's rights. Therefore, the concept of restorative justice is woven around four major themes, namely: restoration, accountability, community protection and skill development.[38]

8.2.3. Speedy dispensation of criminal justice

The speedy trial right has "its roots at the very foundation of the English law heritage".[39] For the defendant, it "is an important safeguard to prevent undue and oppressive incarceration prior to trial, to minimize anxiety and concern accompanying public accusation and to limit the possibilities that long delay will impair the ability of an accused to defend himself.[40] The right to speedy trial has been endorsed in almost all relevant International Charters and Conventions, most notably the ICCPR.

The right to a fair hearing, in both criminal and non-criminal proceedings involves the right to a trial 'without delay' or 'within a reasonable time'. The right to a timely hearing includes the right to a timely judgment. Consequently, both ACJA, 2015[41] and ACJL, 2017, provide among others that application for stay of proceedings in criminal matters shall not be entertained. Also, section 36 (4), CFRN, 1999, emphasised that the trial must be within a reasonable time by a court or a tribunal.

8.2.4. Respects for Human Rights

Provisions under the ACJA and ACJL, 2017, especially in respect of humane treatment of arrested person, have accorded respect to human rights. This is

[38] N V Paranjape,(n 31) 777
[39] *Klopfer v. N.C.*, 386 u.s.213, 223, 226 (1967)
[40] *U.S. v. Ewell*, 383 U.S. 116, 120 (1966)
[41] Section 306

due to the adoption of minimum legal safeguards and certain mechanisms in these criminal legislation where they have been previously absent and inconsistently recognized. The legislation have provided respect for human rights that has been recognized as promoting effective crime prevention and control nationally. The legislation are in accord with the 1948 Universal Declaration of Human Rights and the 1966 Covenant on Civil and Political Rights.[42]

In the United States of America, Due Process Clause of the Fourteenth Amendment and the Sixth Amendment to the United States Constitution is the primary source of law guaranteeing a defendant charged with a felony the right to a timely prosecution and a speedy trial. The provisions under ACJA and ACJL are in tandem with the United States' Due Process Clause.

8.2.5. Plea Bargain

The following provisions under both ACJA, 2015[43] and ACJL, 2011[44] and ACJL, 2017,[45] despite some criticisms, are in consonance with global best practices[46]:-

a) The provision of writing and signing under the ACJA, ACJL is an improvement on the U.S. practice under the Federal Rules of Criminal Procedure (as amended). Rule 11(c) (2) of the U.S. Rules above merely requires that the parties must disclose the plea agreement in open court when the plea is offered. It does not require that it be in writing or signed.

[42] ACJA, ss 1, 3, 4, 5, 8, 9-11 and chapters 2, 3, ACJL, 2017 clearly point to respect for human rights in Nigeria.
[43]Sections 270-271.
[44] Sections 75-76.
[45] Section 367.
[46] See J A Agaba, (n 33) 606-607.

b) the requirement that the court should inquire from the accused whether he admits the allegations in the charge to which he has pleaded is in accord with the practice under Rule 11 (b) (3)

c) also the additional safeguard in not making use of the evidence obtained during bargain is in accord with Rule 410 of the Federal Rules of Procedure. The Rule declares as inadmissible any statement made in the course of proceedings under Rule 11 of the FRCP and any statement made in the course of plea discussion with an attorney for the prosecuting authority which do not result in a plea of guilty later withdrawn

d) the role of the court cannot be overemphasized in a plea bargain. The power given to the court under ACJL and ACJA to reject a plea bargain and to give a higher sentence is also another practice in the U.S

8.2.6. Witness Protection

Both sections 232, ACJA and 335, ACJL, 2017, provide for witness protections (couched as "procedure for trial on charge for certain offences"). This is partially in accord with the UN Conventions against Transnational Organized Crime and against Corruption that requires States Parties to take appropriate measures within their means to effectively protect witnesses in criminal proceedings who give testimony concerning offences covered by the Convention. It is also pertinent to mention briefly some UN and International witness protection programmes that align with the provisions of ACJA and ACJL, 2017:

a. UNODC=Victim Support, Witness Assistance, Protection and Procedure Measures, and Covert and Procedural Measures;
b. UNAC-United Nations Convention against Corruption;

c. Statute of the African Court of Justice and Human Rights;
d. The African Union (AU) Draft Model National Law on Universal Jurisdiction over Internal Crimes;
e. The International Criminal Tribunal for the former Yugoslavia (ICTY), and
f. The Rome Statute of the International Criminal Court (Rome Statute)

To be able to fully comply with the international best practice, it is suggested that the provisions of both ACJA and ACJL, 2017 should provide for comprehensive witness and victims' programmes in line with the above stated UN and International Tribunals witness and victims programmes.

8.2.7. Sentencing

In complying with international best practices, both ACJA, 2015 and ACJL, 2017, in sentencing defendants, their provisions included the following underlying considerations/principles:

i) The principle of respect for human dignity;
ii) The principle of equality;
iii) The principle of parsimony; (since punishments involve inflicting pain, it should be used sparingly as possible)
iv) The principle of economy;
v) The principle of respect for rule of law values ;
vi) Principle of equal impact;
vii) The principle of restraint in the use of custody; and
viii) The proportionality principle.[47]

[47] For more, see 'Determination of Sentences: Principles, Policy and Policy' <https://shodhganga.inflibnet.ac.in> accessed 7 April 2020

8.3. Comparative Analysis of ACJA, 2015 and ACJL, 2017

Choosing broad topics, this segment compares the provisions of the ACJA with those of ACJL, 2017. The object of the comparative analysis is to identify their similarities and differences, their strengths and weaknesses. The table below reflect some key distinctions between the federal Act and the state law.

	CONCEPT	**ACJA,2015**	**ACJL,2017**	**COMPLEMENTARY PROVISIONS**	**ANALYSIS**
1	ARREST Generally; arrest in lieu is prohibited; humane treatment of suspects/notification of cause of arrest and rights of the arrested person	Sections 3-34	Sections 7-35	ACJL, 2O11, sections 1, 4; section 3 (2) (3) and especially, PART 1 covers Arrest generally. section 35 (1), 1999 Constitution, i.e. right to personal liberty is very fundamental to an individual in Nigeria. Arrested person to be brought to court within reasonable time. Section 34(1) (a), 1999 Constitution, i.e. right to dignity of human person. section 38 CPC, (notification of cause of arrest) section 101, CPL, section 382 of CPC ,	Arrest connotes a seizure or forcible restraint or an exercise of the power to deprive a person of his liberty, consequent upon or sequel to a criminal charge. The aim of arrest is to bring the person arrested before a court. A suspect shall not however be handcuffed, otherwise bound or be subjected to unnecessary restraint unless

				section 98, ACJL, 2011 and section 136 of ACJA deal on irregularity in the issuance and execution of warrant of arrest. see also Hassan *v. EFCC* (2014)1NWLR (pt. 1389),607, where the court held that a citizen's freedom or liberty is not absolute in spite of his constitutional guarantee. *Okotie v. C.O.P* (1959) 4FSC 125-where the court held that the defect in the process of arrest merely makes the arrest unlawful but it does not affect the validity of the trial. However, in the case of *I.G.P v Ubah,* (2015) 11 NWLR (pt. 1471) 405, the court is of the opinion that an arrest properly made by the police cannot amount to a breach of fundamental rights	on the order of the court or unless there is reasonable apprehension of violence or an attempt to escape or if the restraint is considered necessary for the safety of the person arrested. Arrest properly made by the police cannot amount to a breach of fundamental rights. Arrest is made where there is reasonable ground for suspicion of guilt. Any trespass to the person, however slight, gives a right of action to recover any nominal damages. The

					police, judge, magistrate, justice of the peace and private person can arrest without a warrant.
2	SEARCHES-search of persons and premises	Section 3,9,10, 12, 143-157,	Section 11, 12,14, 52-63	Section 3 of ACJA more precise than section 112 (3) of CPA with respect to search of a woman. Also, section 6 (2) of the same Act and section 82 and 44 (3) of CPC are also more specific to the effect that no search on a woman to be carried out except by a woman. Sections 28,29, Police deal with power of police to detain and search the body of a suspect for the purpose of recovering any item suspected to have been obtained illegally. It also introduced element	Both the ACJL and ACJA recognize the observation of the rule of decency in the conduct of search of persons. Unlike the ACJA, CPL, CPC and ACJL are silent on the question of urgency of having search done by a person of the same sex

				of reasonability to be met in detaining a suspect. Act, Section 6 (1), CPL; section 44, CPC; section 5 (10, ACJL, 2011; section 150 (1) Customs and Excise Management Act and section 32 of the National Drug Law Enforcement Act; section 82, CPC; all the above statutes are in consonant with the power of police to conduct search on the body of a person. sections 37 and 45 (1) of the 1999 Constitution as amended refer to right of privacy and restriction and derogation from fundamental rights. see also, sections 7(1), CPL, 34 &85, CPC, 7(1) ACJL, 2011, are all exceptions to the general rule that a premises shall not be	

				searched without warrant. Other exceptions to the above general rule are found in the following statutes: section 147 (1),CEMA, section 32, NDLEA Act; section 112 (3), CPA, section 82, CPC; *Haruna v. A.G, Federation* (2012) 9NWLR (pt. 1306), p. 419, where it was held that once evidence is probative of the fact in issue, it is considered to be relevant and therefore admissible.	
3	BAIL-introduction, types of bail, factors guiding the grant of bail	Sections 158-188	Sections 88, 92-102	In line with sections 35 & 36, 1999 Constitution, searches should be conducted with respect to the right to personal liberty of the suspect and his right to fair hearing. Other relevant statutes dealing with searches include:	The law of bail is an integral component of the criminal law procedure and the right to bail is subject to statutory stipulation. Every person shall be entitled to his personal

				section 17,118,CPA; section341(2), CPC; section 115, ACJL, 2011-141; Relevant cases are the following: *Akano v. F.R.N* (2016) 10 NWLR (pt. 1519), p. 17; *Adeniyi v. F.R.N*. (2012) 21 NWLR, 284; *Bameiyi v. State* (2001) 8 NWLR (pt. 715), 270; *Abacha v. State* (2002) 3 NWLR (pt. 761, 638; *Bolakale v. State* (2006)1NWLR (pt. 962), 507; *Dokubo-Asari v. FRN* (2007) All FWLR (pt. 375), 588	liberty and no one should be deprived of such liberty except as permitted by law; Basically, bail pending trial is a constitutional right; right to freedom of movement, right to presumption of innocence, and right to fair trial. basically there are some criteria that provide guidelines to trial courts in the exercise of their discretion on matters of bail pending appeal. Generally, bail are granted by the police, by the court and bail pending trial

4	Powers of the Attorney-General, control of criminal proceedings by the Attorney-General- his powers, controls and delegation	Sections 104-108	Sections 166-171	Sections 69-74, ACJL, 2011, all deal with powers of the Attorney-General. Sections 150, 211, 174, 1999 CFRN concern powers of the Federal and State Attorneys-General; Section 253 (2), CPC-concerns stay of proceedings by Attorney-General. Relevant cases dealing with the powers of Attorney-General in criminal proceedings include the following: *Rabiu v. State* (1981) 2 NCLR 293, *George v. FRN* (2011) 10 NWLR (pt. 1254) 1, *Ibrahim v. State* (1988) 1 NWLR (pt. 18) 650, *Bagudu v. FRN* (2004) 1NWLR (pt. 853)182, *Tukur v. Gov, Gongola State* (1988) 1NWLR (pt. 68) 39; *Anyebe v. The State* (1986) 1 SC 87.	The power of the AG of the Federation to institute criminal proceedings is entrenched in the 1999 Constitution. The AG can also brief legal practitioners to prosecute matters on his behalf. The power of the AG under section 174, CFRN, is discretionary and is not open to court to question the exercise of such discretion. The AG cannot institute any proceedings in matters outside his legal limits, and in situation whereby the office of the AG is vacant no other officer

					can act for him or his behalf.
5	PLEA BARGAIN- conditions for plea bargain, the essence of plea bargain, practice and procedure of plea bargain under ACJL, 2011, etc	Sections 270-277	Section 367	Sections 36 (5), 174 (1), CFRN; section 135, Evidence Act, 2011 refers to proof beyond reasonable doubt. Inspite of section 187, CPC; sections 180, 215, CPA; Part 8 (sections 75-76); there is nowhere under Nigeria's law that plea bargain is recognized, however, the closest our law came to recognize plea bargain was the provision of EFCC Act, section 13(2). However, by section 174 (10, CFRN, 1999, it has left a vacuum that can be exploited by the prosecution to engage in negotiation with the defendant. Guidelines set out by Presidential Advisory Committee Against	It is an agreement in a criminal trial in which prosecutor and the defendant reach an agreement to settle the case against him in exchange for concessions. It is a newly introduced concept under the Nigerian criminal proceedings. The prosecutors, the defendant, his legal representative and the court are the people involved in plea bargain. The judge and the magistrate shall not be parties to the agreement, however, the prosecutor shall

				Corruption (PACAC), 2016 came out with a plea bargain manual setting out guidelines to be followed when considering the disposal of criminal matters.; Few relevant cases involving plea bargain: *FRN v. Nwude & Ors* (2016) 5 NWLR (pt. 1506) 471; *PML (Nig) Ltd v. FRN* (2017) LPELR-438480 (SC); *FRN v. Lucky N.Igbinedion & Ors* (2014) LPELR-22760 (CA); However, with the concept of plea bargain, the defendant's following rights may be affected: the right to fair trial in pubic (s. 36 (4); the presumption of innocence (s. 36 (5), the right to remain silent (s. 36 (11) and the right to examine	inform the court that the parties have reached an agreement and the court will in turn inquire of the defendant of the correctness of such information and agreement. The agreement must be in writing and signed by the parties.

				witnesses called by the prosecution (36 (6) (d) of 1999 Constitution, as amended	
6	CHARGES-rules guiding the drafting of charges, duplicity, misjoinder of offenders, misjoinder of offences	Sections 193-215	Sections 283-335	Section 36 (6), CFRN, 1999; sections 146-172, ACJL, 2011; sections 2, 153, 155-161,CPA, section 221-216, CPC; Few relevant cases here include: *Okoye v. C.O.P.* (2015) All FWLR (pt. 799), 1102; *Timoth v. FRN* (2008) All FWLR (pt. 402), 1136; *Madukolu v. Nkemdilim* (1962) SCNLR 341; *Igba v. State* (2018) 6 NWLR (pt. 1614), 44; *Mohammad v. C.O.P.* (2018) 6NWLR (pt. 1615), 289; *Ikpa v. State* (2018) 4NWLR (pt. 1609), 175; *Sule v. The State* (2018) 10 NWLR (pt. 1628), 545	The whole idea of charges is hinged on the constitutional provision that an accused person shall be informed of the offence against him/her. Definition of charges under CPL and ACJL, 2017 very similar and restrictive unlike the meaning under the ACJA and ACJL, 2011. Form and content of the charge, content of the charge, particulars of offences, rules of drafting charges, amendments of

					charges are some obvious aspects of charges.

Table VIII: Key Distinctions between ACJA 2015 and Enugu ACJL 2017

8.3.1. Purpose of ACJA and ACJL, 2011 and 2017

The purpose of ACJA is visibly stated at section 1. It is to ensure that the system of administration of criminal justice in Nigeria promotes-

a) Efficient management of criminal justice institutions;
b) Speedy dispensation of justice;
c) Protection of the society from crimes;
d) Protection of the rights and interests of the suspect/defendant;
e) Protection of the rights and interests of the victim.

However, under the provisions of the Enugu State Administration of Criminal Justice Law (ACJL), and also the ACJL, 200, of Lagos State no purpose of the Law is stated even though on a cursory look at their provisions, they have the same purpose with ACJA as enumerated above.

8.3.2. Arrest

The provisions of ACJA under sections 3-34 and sections 7-34, ACJL, 2017 pertaining to arrest are very similar. However, under section 6 (c) of ACJA, there is a provision for free legal representation by the Legal Aid Council of Nigeria as one of the rights of the detainees. This section is clearly lacking under ACJL. In addition, section 32 (1) of ACJA that provides for the remedy of suspect detained in custody is more restrictive than section 10, ACJL that provides for the rights of the accused person. Under section 10 (1) CPL and section 26, CPC, a police officer can arrest any person without warrant where he reasonably suspects him to have committed an offence in any of the

circumstances listed in section 10 (1) CPL. However, in addition to the conditions stated under section 10 (1), section 18, ACJA has added new paragraphs (j)-(i), whereby the police is given some additional power of arrest without warrant. ACJL, 2011, provides for arrest under sections 1-33 and it has added a new subsection (3) to the original section 10 of the CPL. Sections 19, ACJA and 20, ACJL, 2017 introduced new innovations to enhance the delivery criminal justice administration. The sections pertain to refusal to give name and residence upon arrest. Section 11, ACJL, 2011, also has similar provisions. Circumstances under which private persons can effect arrest without under CPL, CPC, ACJA and ACJL, 2011, 2017 are different. Again, under ACJA and ACJL, 2017 unlike what obtains under ACJL, 2011[48], the private person who effects the arrest does not make any statement. Section 17, ACJA and section 17, ACJL, 2017, all deals with recording of the statement of the suspect. However, section 17 (2), ACJL, 2017 uses the terms "where any person …volunteers to make a confessional statement".

8.3.3. Central criminal Records Registry

This provision aids crime prevention and detection. Any default therein in transmitting decisions of court in all criminal trials within 30 days after its delivery, the Chief Registrar shall be liable to appropriate disciplinary measures by the Judicial Service Commission. This provision of section 18(3) under the ACJL, 2017 is visibly omitted from ACJA, 2015. In addition, ACJA is not equivocal the type of records to be transmitted. It simply states under section 16 (2) …"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.". As in ACJL, 2017, it also creates a Criminal Records Registry

[48] Section 14(3).

in every State Police Command which shall keep and transmit criminal records to the central records registry. The essence of these records is that it will be useful for prosecutors in verifying or tracking past records of suspects. An innovation is also introduced under section 18 (7) of ACJL, 2017, with the establishment of a forensic laboratory at the Police headquarters or any appropriate location. This provision is conspicuously omitted from ACJA.

8.3.4. Video recording of Confessional Statement

Sections 15 (4), ACJA and 17 (2), of ACJL, 2017 and ACJL, 2011, section 9 (3) concern video recording of confession of a suspect. While provisions under ACJL, 2011 and 2017 employ "shall", that under ACJA employs "may". Both ACJL, 2011 and 2017, provided further that the said statement shall be in writing in the presence of a private legal practitioner or any other person of his choice. This is absent from the provisions of ACJA, 2015. However, ACJL, 2017, section 17 (3) further added that the private practitioner or any other person referred to above shall endorse with his full particulars and indication of having witnessed the recording. Such endorsement shall also be made in presence of the officer in charge of the Human Rights Desk where available or in his absence, before a superior police officer.[49]

The issue of the use of "may" in place of "shall" under ACJA sometimes pose a problem, as it is capable of being subjected to different interpretation. This has indeed been demonstrated in the case of *Mohammed* v. *State*,(2018) 5 NWLR (pt. 1613) 540, it was held that ordinarily, the word "may" unlike "shall" is not mandatory, but a permissive word, although it may acquire a mandatory meaning from the context in which it is used, just as shall which is mandatory

[49] ACJL 2017, s17(4).

word may be deprived of obligatory force and become permissive in the context in which it appears.

8.3.5. Searches

A search involves police actions designed to find, ascertain or recover evidence of crimes and sometimes arrest of fleeing suspects of crime. Common targets of searches include homes, documents, effects and persons suspected of criminal involvement. By virtue of section 37 and section 45 (1) of the 1999 Constitution a search cannot lawfully be done unless there is a law permitting that it be done and the law complies with section45 (1) of the Constitution. So any police crime prevention action in the form of a search that is not permitted by a law is unconstitutional. This was the judgment in the case of *Enyinnaya v. The State* (2014) LPELR-22924 (CA). Sections 9 and 12 of ACJA concern search of arrested suspect and search of premises entered by the suspect while sections 11 and 14 of ACJL also deal with search of arrested person and search of premises entered by the suspect respectively.

a. Searches of persons: Search means an examination of a person's body, property, or other area that the person would reasonably be expected to consider as private, conducted by a law enforcement officer for purpose of finding evidence of crime.[50]

ACJA empowers the police to search arrested suspects using such reasonable force as necessary for the purpose.[51] This provision is lacking under the ACJL. Under Part B, that is sections 52-63, ACJL, 2017 generally deals with search warrant: issue and execution. Sections 4 and 29 of the Police Act is also relevant here. Police officer who without reasonable suspicion conducts the search of a person would render himself liable in damages. Also, where the

[50] B Garner, Black's Law Dictionary, 9th ed (U.S.A: West Publishing Co, 2009)427
[51] ACJA, s9; CPA Cap C41, LFN, 2004, s6; CPC, s44.

police officer makes a lawful arrest, he has the power to search the body of such person.[52]

Furthermore, unlike ACJL, 2017, ACJA, section 9 (3) and ACJL, 2011, section 5 (2), in providing for the procedure for search of persons, did not stop at providing for decency and search by a person of the same sex, but there is a proviso in case of an urgent situation where it is impracticable for search to be carried out by a person of the same sex.[53] Section 13, ACJL, 2017, provides an innovation that where it is necessary, in examining an arrested person, a qualified medical practitioner or any certified professional acting at the request of the examining police officer may make such examination. This is commendable as it is very absent under the provisions of CPC, ACJA and ACJL, 2011. It should be noted that no provision is made specifically in the ACJL, 2017, as to whether the examination can be carried out by man to man or woman to woman. This kind of examinations is more common with drug related offences.[54]

b. Search of Premises: As a general rule, a search cannot be conducted on a premise without a search warrant. This in no doubt complies with section 37, CFRN, 1999. Sections 144 ACJA and section 52, ACJL, 2017 are similar. However, the general rule that a premise shall not be searched without warrant has some exceptions: see the following-section 7(1) CPL, section 34 CPC, section 7 (1), ACJL, 2011; section 85, CPC:- all are to the effect that "where person to be arrested under a warrant is suspected to be within a premises, the premises may be searched for purposes of having him arrested."

Section 147, CEMA;-provides that a Customs officer may enter and break into a place where there are reasonable grounds to suspect that anything liable to

[52] See CPL, s6(1); CPC, s44(3),; ACJA, s9(3); ACJL, 2011, s5(2) and the proviso to section 150(1),CEMA Act.
[53] ACJA, s9(3)
[54] J A Agaba, (n 33) 230; see also CPL, s6(6).

forfeiture is kept or concealed; section 32, NDLEA Act:-where the NDLEA Act empowers a Police officer, a customs officer, a member of the Armed Forces, the Director or any other officer of the agency, without warrant, enter, search any land, building, e.t.c. which he has reason to believe is connected with the commission of an offence under the Act.

8.3.6. Registration of Bondsperson

Section 118, ACJL, 2017, has made a new provision to the effect that the Chief Judge may make a regulation for the registration and licensing of corporate bodies or persons to act as bondsperson within the jurisdiction of the court in which they are registered. This is also provided for in section 138, ACJL, 2011 and 187 (1), ACJA, 2015. To qualify as a bondsperson, the individual must be of unquestionable character and integrity. [55] In addition to these requirements, ACJL, 2017 and ACJL, 2011 provide that there must be deposits with the Chief Judge sufficient bank guarantee in such amount as may be determined by the Chief Judge in the regulation, having regard to the registered class or limit of the bondsman's recognizance.[56] The law equally makes it an offence for any person who engages in bail bond services without being duly registered and licensed.[57]

8.3.7. Interlocutory Proceedings/Stay of Proceedings

Stay of proceedings is a serious, grave and fundamental interruption in the right that a party has to conduct his litigation in the trial on the basis of the merits of his case. Consequently, the court's general practice is that a stay of proceedings should not be imposed unless the proceedings, beyond all doubt,

[55] ACJA, s187 (6); ACJL 2017, s118 (6) and ACJL 2011, s138(6).
[56] ACJL, s118(6) and ACJL 2011, s138(6).
[57] ACJA, s187 (2); ACJL 2017, s118(6), ACJL 2011, s138 (3).

ought to be allowed to continue.[58] Just like the 2013 Practice Direction on the Federal High Court in Criminal matters, the ACJA and ACJL, 2017, attempt to address the problem posed by interlocutory appeals. ACJA provides in section 306 that an application for stay of proceedings in respect of criminal matters shall not be entertained. Similarly, section 258, ACJL, 2017, provides that any interlocutory appeal in respect of an objection taken before plea shall not operate as a stay of proceedings in the trial court.

Thus, sections 306, ACJA and 258, 273 ACJL, 2011 and section 259 ACJL, 2017, are revolutionary and unprecedented given the delays occasioned to the trial process by interlocutory applications to stay proceedings on preliminary matter that prohibit stays. The Supreme Court in the case of *Olisa Metu v. FRN*[59] upheld the constitutionality of section 306 of the ACJA and section 40 of the EFCC Act, 2004 which prohibit stay of criminal proceedings. (Per Ogunbiyi, JSC, as he then was).

In order to avoid delay of trial in criminal cases, section 259 (e), ACJL, 2017, further provides that "for all other interlocutory applications, a maximum period of 90 (ninety) days.

8.4. Practical Challenges with the Implementation of ACJA, 2015 and ACJL, 2017 Provisions

There are challenges in the implementation of the ACJA, 2015 and the ACJL, 2017. Some of these challenges are highlighted below.

It is obvious that courts and police that are mandated to ensure compliance with provisions of the laws for the realization of the purposes of the laws are grossly under equipped due to lack of funding. Therefore, the purpose of

[58] *Agu v. C.O.P.* (2017) 2 NWLR (pt. 1549); *TSA Ind. (Nig) Ltd. v. F.B.N. Plc (No.2)* (2012) 14 NWLR (pt. 1320) 372.

[59] (2017) 11 NWLR (pt. 1575) 157.

ACJA, 2015 and ACJL, 2017 as outlined in the laws will not be achieved or realized.

In most police stations where ACJA, 2015 and ACJL, 2017 are applicable, illegal arrests and detention occur on regular basis, resulting into people being detained beyond twenty four to forty eight hours as stated in both laws without arraignment in courts. Also, suspects still pay money for their bail at police stations; arrest in lieu is still in vogue and women are still not allowed to stand as sureties for suspects. Also, in practical reality, lawyers are still prohibited from staying with their clients while their statements are obtained.

In addition to the above, the police are considered as one of the major stakeholders in Nigerian criminal justice system. Under the ACJA, 2015 and ACJL, 2017, they are conferred with powers such as powers of arrest, investigation, arraignment and other ancillary issues thereto. However, they abused these powers due to corruption, favouritism, fraud, tribalism, ethnicity, and so on. In addition, most men and women of the Nigeria police are not very familiar with the key provisions of ACJA, 2015 and ACJL, 2017, hence, they are ignorant of the relevant innovations and changes they have introduced to the performance of their official duties.

By making electronic recording of confessional statement optional under section 15 (4) of ACJA, 2015, the Act has willingly created a loophole which will be taken advantage of by the Investigating Police Officer to the detriment of the suspect. However, the provision of section 17 (2), ACJL, 2017, the taking of such statement on video or other retrievable electronic device is mandatory.

Both ACJA, 2015, section 469 and ACJL, 2017, section 538 provide for the Administration of Criminal Justice Monitoring Committee and the Enugu State Justice Reform Team with various functions towards ensuring effective and efficient application of the Laws. However, the bodies are weighed down by

lack of adequate funding. Therefore, it has become obvious that they cannot carry out their functions properly.

The provisions of section 16 ACJA, 2015 and section 18, ACJL, 2017 regarding the establishment of Central Criminal Records Registry are hampered due to lack of data or statistics. The aim of the provisions is thwarted as the crime information database cannot be assessed by authorized users to enter crime information. It has therefore made it impossible in tracking and arresting offenders.

In view of the above, much remains to be done in providing human, materials and institutional resources necessary to ensure effective implementations of the provisions of ACJA, 2015 and ACJL, 2017 respectively.

8.5. Recommendations

In view of the review and analysis of both ACJA, 2015 and ACJL, 2017, the following recommendations are necessary to accomplish the desired intent of the laws. They are:

a. Due to the recurrent funding constraints adduced that militate against the effective and practical implementation of the ACJA and ACJL, by the relevant criminal agencies, it is therefore imperative that in order to achieve implementation of the laws, ample investment and budgetary provisions, in terms of human and material resources be made available by both the Federal and Enugu State;
b. The Administration of Criminal Justice Monitoring Committee and the Justice Sector Reform Team saddled with the obligation of implementing the laws should be fully funded and equipped and given the much

needed independence to deliver on their mandates as stipulated under the ACJA and ACJL[60];

c. The need for continuous capacity building and reorientation of officials across the relevant criminal justice agencies on the foundational principles, objectives and benefits of ACJA and ACJL, cannot be over emphasized. Well groomed officials would in the long run not only change the negative perceptions and attitudes towards improving the criminal justice system, but also bring about efficiency and better service delivery;[61]
d. There is necessity of training police investigators and other law enforcement agencies on the provisions of the laws, in respect of arrest, detention, bail and prosecutions. The police therefore require adequate and effective electronic system and ICT equipment to record statements of suspects and for easy transfer to courts and other appropriate channels;
e. Attention should be paid to section 468 of ACJA and section 477 of ACJL dealing with parole where the courts are directed to release prisoners before completion of sentence to decongest prisons;
f. Public education and sensitization about the provisions of ACJA, 2015 and ACJL, 2017, is vital to enable them monitor and demand accountability from relevant criminal justice agencies, where they breach the provisions of the laws. Equally, efforts should be intensified by civil society organizations, media to educate the masses on the provisions of the laws;[62]

[60] See also S Akpan, 'Assessing the Administration of Criminal Justice in Nigeria' *Premium Times*, (Nigeria, 9 February 2018) 12.
[61] Ibid.
[62] Ibid.

g. Concerted efforts must be made to strengthen all sectors involved in the administration of criminal justice, hence, all key players in the criminal justice system must cooperate to maximize the inherent potentials of the new reforms being introduced by both ACJA, 2015 and ACJL, 2017.
h. The Bar, the Bench and the Law Enforcement Agents must ensure that the laudable objectives of the laws are achieved.

8.6. Conclusion

The work has attempted a review of the provisions of ACJA, 2015 and ACJL, 2017. It has also pointed out various similarities and differences that exist between ACJA and ACJL. This work has also exposed some practical challenges confronting implementation of the laws and the extent to which they comply with international best practices. From the appraisal, it is safe to assert that the provisions of the ACJA and ACJL to a very reasonable extent aim at achieving the purposes of the laws.

ACJA 2015 and ACJL, 2017, Enugu State are proactive legislation aimed at enhancing the criminal justice process particularly with the innovative provisions that are comparable with advanced criminal jurisdictions. The principles and practice embodied in both legislation is a paradigm shift from a justice dispensation that underscores imprisonment and fines in convictions to a criminal system that veers to non-custodial sentences as preferred means of punishment of offenders.

Notwithstanding some systemic problems of ACJA and ACJL, 2017, there has been bold and courageous attempts made to improve the criminal procedure system of the country. In view of the anticipated problems, ACJA, section 490 and ACJL, 2017, section 551 allow the Chief Judge of the Federal High Court and the Chief Judge of Enugu State to make supplementary rules to fill up gaps that may be noticed.

However, much remains to be done in providing the human, material and institutional resources necessary to ensure an effective implantation of the laws. The Nigerian people, and the Bar in particular must respond with the right attitude and support for the judiciary to enable to actualization of the lofty objectives of the Administration of Criminal Justice Act[63] and the Law. For Nigerians to enjoy the lofty provisions of ACJA and ACJL, vis-à-vis the Nigerian Constitution, the Nigerian government needs to be fully committed to improving all that is needed to make both laws work.

[63] Yemi Akinseye-George, (n 10) 40.

9. Comparative Analysis of the Administration of Criminal Justice Act, 2015, Kaduna State Administration of Criminal Justice Law and Rivers State Administration of Criminal Justice Law, 2016.

9.1. An overview of the Rivers State Administration of Criminal Justice Law, No. 7 of 2015

Enacted to ensure the effective administration of criminal justice in Rivers state, the Rivers State Administration of Criminal Justice Law (RSACJL) was signed into law in September 2016.[1] The RSACJL is structured into 49 parts made up of 505 sections. The Law adopts similar outline to the ACJA, that is, it provides an arrangement into sections. The benefit of this is that it allows for easy location of specific provisions. Note that the headings of the 49 parts are almost similar to those of the ACJA. The difference is that while Part 13 of the RSACJL is titled 'Receiving Complaints and Filing Charges', in the ACJA, it reads 'First Information Report.'

While taking cognisance of its peculiarities, forty-one (41) out of the forty-nine (49) parts of the RSACJL share similar headings and contents with the ACJA. Also, in expounding on some provisions similar to the ACJA, the RSACJL makes them concise and simple. For example, Part 13 in ACJA contains only one section, that is section 112. The RSACJL expands this part to reflect (i) jurisdiction to try matter, (ii) suspect having the option to be tried at magistrate or state high court, (iii) the procedure where suspect chooses magistrate court, (iv) the procedure where magistrate lacks jurisdiction, (v) procedure for magistrate to undertake where suspect chooses high court.

Other dissimilarities between RSACJL and ACJA include:

[1] Anayo Okolie, 'Wike Approves Administration of Criminal Justice, LG Laws' *This Day* (Nigeria, September 18 2016) <www.thisdaylive.com/index.php/2016/09/18/wike-approves-administration-of-criminal-justice-lg-laws/> accessed 26 April 2020.

i. Part 9: which has been edited to reflect state peculiarities and jurisdiction. The RSACJL is silent on 'offences at sea and outside Nigeria' and 'Chief Judge to decide question as to court of inquiry or place of trial' as provided in the ACJA. Instead, it provides for 'jurisdiction over offences committed elsewhere' and 'offences against Federal Laws.'

ii. Part 19: RSACJL omits provisions on registration of bondsperson and the power of a bondsperson to arrest an absconding suspect or defendant as provided in the ACJA. Instead, it provides for regard to be had to sections 35 and 36 of the 1999 Constitution when bail is considered. This part also allows a defendant to choose to be tried and convicted in his absence. These provisions are not in the ACJA.

iii. Part 21: ACJA provides for what is known as criminal breach of trust or fraudulent appropriation of property. In the RSACJL it is couched as 'stealing and other form of fraudulent appropriation of property.' ACJA does not define what constitutes 'criminal breach of trust' and RSACJL does not define what constitutes 'stealing.' In spite of the difference in drafting, both provisions are the same.

iv. Part 37: The ACJA is silent on the capacity of the prosecutor to give evidence concerning the admission, confession, or other statement of an accused person made at any time during trial. RSACJL provides for this in section 408. The admission, confession, or statement of the accused needs to be by law admissible in evidence.

vii. Part 49: Although RSACJL provides for several definitions similar to those contained in the ACJA, some terms are however absent from the RSACJL.

These include (i) federation, (ii) federal law, (iii) legal guardian, and (iv) further enactment.

Also, some terms provided in RSACJL are absent in the ACJA and they are: (i) absolute discharge, (ii) legal advice, (iii) legal representative, and (iv) public nuisance. There is also a slight difference in nomenclature in reference to the Administration of Criminal Justice Monitoring Committee (ACJMC) which is referred to as Administration of Criminal Justice Monitoring Council (ACJMC) in the RSACJL.

These differences show that while adopting the ACJA, the states took cognisance of their peculiarities and reflected them. It also shows that while the ACJA is adopted as a template, it does not preclude states from including additional provisions aimed at ensuring effective administration of criminal justice in the states. The next section examines the RSACJL in the light of international best practices.

9.2. The RSACJL and Compliance with International Best Practices

In assessing compliance by the RSACJL with international best practices, two documents have been used namely: (i) the World Justice Project (WJP) Rule of Law Index 2020,[2] and (ii) the United Nations Office on Drugs and Crime (UNODC) Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice.[3] While the UNODC compendium sets out international norms and standards that nation-states can adopt to meet their

[2] Juan Carlos Botero and others, *World Justice Project (WJP) Rule of Law Index 2020* (World Justice Project 2020).

[3] United Nations Office on Drugs and Crime (UNODC), 'Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice' <www.unodc.org/pdf/criminal_justice/Compendium_UN_Standards_and_Norms_CP_and_CJ_English.pdf> accessed 26 April 2020.

individual needs, the WJP Rule of Law Index, provides indices to ascertain whether a country has an effective criminal justice system.

9.2.1. WJP Rule of Law Index

Section 1(1) of ACJA 2015 explicitly states that the objective of the Act is to ensure (i) efficient management of criminal justice institutions, (ii) speedy dispensation of justice, (iii) protection of the society from crime, (iv) the protection of the rights and interests of the suspect, the defendant, and the victim.[4] The RSACJL reflects the same objectives. Given the above, it is evident that there is the push to have an effective criminal justice system in Nigeria.

In evaluating the level of effectiveness of a country's criminal justice system, the WJP Rule of Law Index highlights seven (7) factors.[5] See **Image 2, Figure I** for details. Based on the empirical study undertaken in 2018, through face-to-face questionnaires administered to one thousand and eighty-three (1083) participants, in having an effective criminal justice system,[6] Nigeria ranked 76 over 128 countries evaluated in the research, with a factor score of 0.40.[7] The factor score indicates the country's adherence to rule of law.[8] See **Image 1** for details.

To understand the significance of the indicated rank and score above, this research compared it with the WJP Rule of Law Index 2012-2013.[9] Based on the empirical study done in 2009, through face-to-face questionnaires administered to one thousand and one (1001) participants, in evaluating the effectiveness of Nigeria's criminal justice system,[10] Nigeria ranked 94 out of the

[4]See ACJA 2015, s1(1).
[5] Botero and others, (n 2) 14.
[6] ibid, 167.
[7] Ibid, 118.
[8] Ibid, 6 and 29.
[9] Mark David Agrast and others, *The World Justice Project Rule of Law Index 2012-2013* (World Justice Project 2012).
[10] Ibid, 187.

97 countries evaluated and had a factor score of 0.28.[11] The import of the rank and score is that it shows that progress being made.

Comparing the 2009 results with those of 2018, it can be argued that by enacting the ACJA 2015 which explicitly seeks to ensure and realise an effective criminal justice system in Nigeria, the country was able to increase her factor score from a dismal 0.28 to a 0.40.

[11] Ibid, 122.

Image 1: Indicates Factor Score

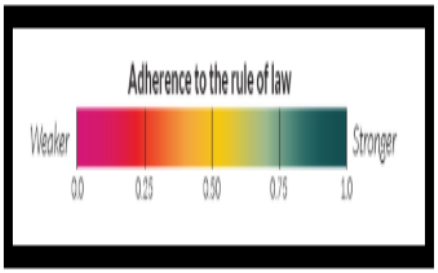


Image 2: Factors that indicate an Effective Criminal Justice System

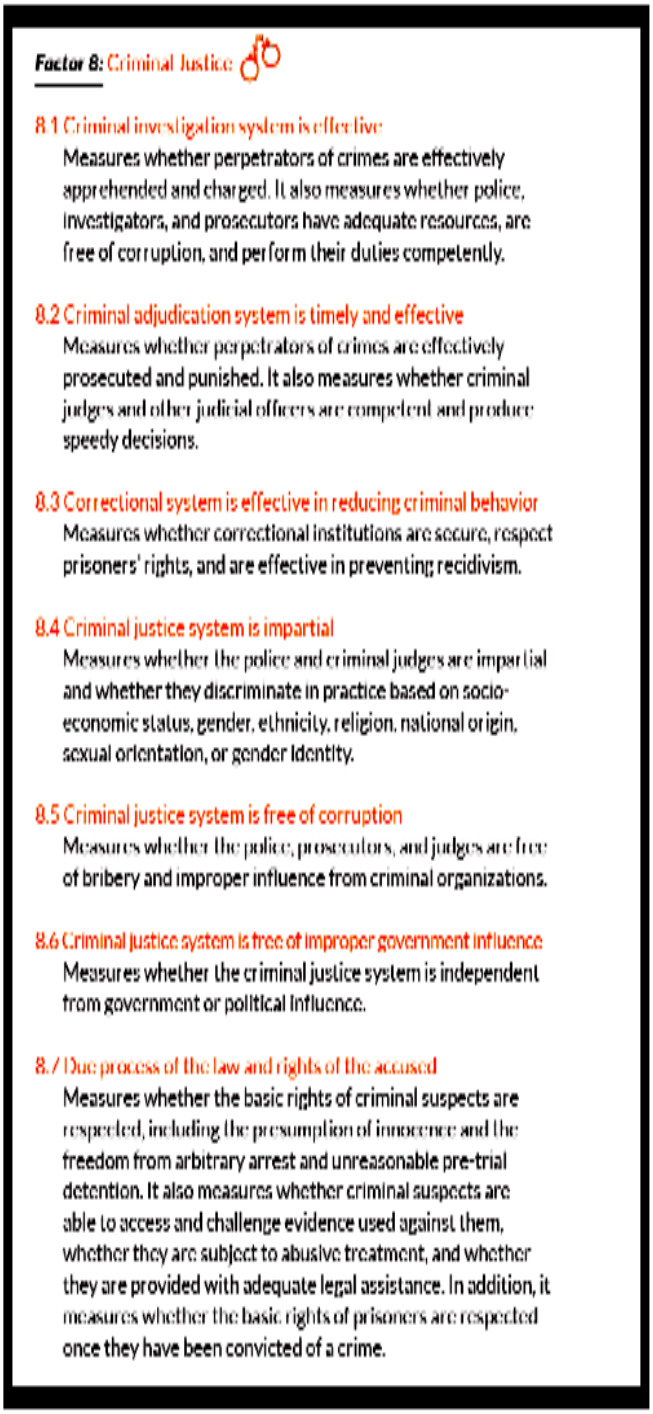


Figure 1: WJP Rule of Law Index

Although, this factor score still shows that there is still a lot more work to be done to ensure a more effective criminal justice system, it demonstrates that implementation of the ACJA and ACJL is critical to realising this goal.

9.2.2. United Nations Office on Drugs and Crime (UNODC) Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice

There is no global uniform criminal justice system as each country adopts a system necessary to meet its national needs. Notwithstanding, as part of its efforts towards promoting 'internationally recognised principles in crime prevention and criminal justice,' the United Nations has developed 'a considerable body of …standards and norms related'[12] to addressing these issues. Although these standards and norms, are 'soft-law in nature,'[13] they create 'a collective vision of how criminal justice system should be structured' and 'have made significant contribution to the promotion of more effective and fair criminal justice structures.[14]

In addressing the RSACJL's adherence to these norms and standards, the following are relevant: (i) Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment;[15] (ii) Kampala Declaration on Prison Conditions in Africa;[16] (iii) United Nations Standard Minimum Rules for Non-Custodial Measures (the Tokyo Rules);[17] and (iv) Kadoma Declaration on Community Service and Recommendations of the Seminar entitled 'Criminal Justice: the Challenge of Prison Overcrowding,' held in San Jose from 3 to 7

[12] Ibid.
[13] Ibid.
[14] Ibid.
[15] Ibid, 31.
[16] Ibid, 43.
[17] Ibid, 117.

February 1997.[18] These documents reflect on two key aspects of criminal justice, namely: arrest and non-custodial sentencing.

9.2.2.1. Arrest

The *Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment* defines the term 'arrest' to mean 'an act of apprehending a person for the alleged commission of an offence or by the action of an authority.'[19] It further provides a number of principles which apply for the protection of an apprehended person.

i. Principle 2:[20] mandates that arrest must only be carried out in accordance with the provisions of the law and by competent officials or persons authorised for that purpose. Adhering to this principle, section 3 of RSACJL states that a suspect or defendant shall be arrested according to the RSACJL.

ii. Principles 10, 13, 14, and 17:[21] make it mandatory that anyone arrested has to be informed at the time of arrest, in the language he understands, of the reason for the arrest; be promptly informed of any charges against him; his rights and how to enforce them; Sections 6 and 14 of RSACJL explicitly abides by these principles.

iii. Principle 12:[22] mandates that the following information be recorded, namely, the reasons for arrest, time of arrest, time of taking the arrested person to the place of custody, time of first appearance before a judicial or other authority, the identity of the law enforcement official

[18] Ibid, 128.
[19] Ibid, 31.
[20] Ibid, 32.
[21] Ibid, 33, 34, and 35.
[22] Ibid, 34.

concerned, and the place of custody. The recorded information shall be communicated to the detained person or his counsel. Section 15 of RSACJL provides for the recording of the alleged offence, the date and circumstance of arrest, and so on.

9.2.2.2. Non-custodial sentencing

Taking cognisance of the benefit of community service and other non-custodial measures in place of imprisonment, as cost-effective means of ensuring criminal justice and reducing prison overcrowding, the following documents highlight the need for countries to develop non-custodial sentencing alternatives and adopt minimum safeguards for persons subject to such alternatives. They are: (i) the Kampala Declaration on Prison Conditions in Africa; (iii) United Nations Standard Minimum Rules for Non-Custodial Measures (the Tokyo Rules); and (iv) Kadoma Declaration on Community Service and Recommendations of the Seminar on 'Criminal Justice: the Challenge of Prison Overcrowding,' held in San Jose from 3 to 7 February 1997.

Adhering to the provision of non-custodial measures as alternatives to imprisonment, Part 44, (sections 463 – 477) of RSACJL provide for probation and non-custodial alternatives such as community service and serving sentence at a rehabilitation and correctional centre.

9.3. Differences between the RSACJL and the KDACJL

As indicted above, this section compares the RSACJL and the KDACJL to tease out dissimilarities between the laws. One might ask the basis for comparing a criminal code state with a penal code state. The essence is to provide a platform for states yet to adopt ACJA to have a template where these states at a glance are able to view the peculiar adoptions of these states. It is also a

'cross-breeding-tool' such that a penal code state may choose to adopt some of the provisions in the criminal code state, and vice visa.

The section is focused on the differences because both Laws are adopted from the ACJA and maintain similar sections and contents to the federal legislation. It is necessary to note that the KDACJL was enacted in 2017, this is two years after the enactment of the ACJA 2015 and its active implementation. It is expected that in addition to reflecting its peculiarities, the KDACJL might also have taken notice of some of the salient challenges the ACJA might have and addressed it in the Law. It should be noted also that the RSACJL was passed into law in 2016, that is, a year before the KDACJL.

Table IX: Comparison between Rivers State ACJL and Kaduna ACJL

ISSUES	***RSACJL***	***KDACJL***
Structure	- The RSACJL is structured into forty-nine (49) parts similar to the ACJA. As indicated above, several of the parts are couched in the same way and have the same contents.	- Is not structured like the ACJA but some of the parts are couched in the same way as the ACJA and RSACJL. The absence of an outline makes it hard to easily find provisions. This research recommends the need for an outline for easy reading. - While both the ACJA and RSACJL have the interpretation section as one of the last sections, the interpretation section is included in Part 1: Preliminary in the KDACJL. The benefit of this is that it

		makes it easy for a reader to immediately see the definitions of terms, - Unlike the ACJA and RSACJL, the KDACJL is structured into 50 parts with 493 sections. Note that on the body of the Law, it shows 51 parts. There is a typographical error as Part 38 is missing. The text reads from Part 37 and jumps to Part 39. This, however, does not affect the sections.
Interpretation of terms	- Terms absent in KDACJL are absolute discharge; administration of criminal justice monitoring council; infant; legal advice, police; public nuisance; legal representation; justice of peace; and young persons	- Terms absent in RSACJL are administration of criminal justice committee; house of assembly; governor; future enactment; law enforcement officer; licensed courier company.
Constitution and Powers of Criminal Courts	- Absent in the RSACJL	- Provides for classes of criminal courts in the state. It establishes and specifies the jurisdiction of magistrate courts in each magisterial district as well as the jurisdiction of the high court. Also, with respect to the trial of offences under the Penal Code.

Arrest	- Makes it discretionary to handcuff, bind, or subject the suspect to restraint. - Providing for search of arrested suspect, states that the suspect shall be taken to the police station without delay; makes it discretionary to search the suspect; and mandatory to record and place in safe custody any article found.	- Is explicit on the instances police may conduct arrest. - Unlike the RSACJL, the police are mandated not to use restraint, handcuff, or bind the suspect. This is based on certain exceptions. - Qualifies the stage at which the police officer or person making an arrest is mandated to inform the suspect of the reason for the arrest. - Unlike RSACJL, states that force may be used in searching the suspect and does not provide for immediate transfer of the suspect to the police station. - Provides additional factors to be included when taking record for the purpose of identifying the suspect, and they are the Bank Verification Number (BVN), national identity number, DNA, and telephone number.

Legal Advice	- Is elaborate on the provision of legal advice and makes it mandatory for the Commissioner of Police to within 48 hours of the completion of his investigation or where he decides that there is a prima facie case, to forward a duplicate case file with respect to an offence triable on information to the office of the Attorney General for the purpose of issuing legal advice. - Includes a police officer as one of the persons who can be authorised by the Attorney General to prosecute an offence in a Court of the State.	- Does not include police officer as one of the persons with the power to prosecute criminal cases. - Makes it mandatory for the Attorney General to assign a law officer in conjunction with the police to investigate a complaint relating to the commission of an offence punishable with death. - Makes it mandatory for the Commissioner of Police to within 7 days of receipt of a compliant relating to the commission of an offence punishable by death to notify the Attorney General.
Non-custodial sentencing	- Community service order shall not be for a period of more than 12 months - Part of the functions of the Department of Probation and Community Services include: coordination, monitoring, and evaluation of probation and community service orders across the state; creating in every judicial	- Community service order shall not be for a period of more than 6 months - Is silent on the cost of counselling for convict - Silent on review of sentence of an offender on probation who has shown remorse.

	division a probation and community service centre headed by the registrar; the design and implementation of measures for effective execution and operation of probation and communication service orders; providing and facilitating counselling at no cost to the convict; reporting to the Chief Judge of the ACJMC; maintaining an up to date record of the ongoing, completed, suspended or cancelled probation activities; recommending to the court a review of the sentence of an offender on probation or community service who has shown remorse; ensuring that its staff are adequately trained. - Provides for the Department of Probation and Community Service to draw personnel from the State's Department of Social Services. This officer shall not: have a criminal record, be a judgment debtor, be a bankrupt, and must not be under 21 years of age. This provision is absent in the KDACJL. - Part of the community service includes assisting in the maintenance of state properties. This is absent in KDACJL.	- Incudes bank verification number, national identification number or voter's identification card, telephone number, and email, as additional information that would be kept on convicts sentenced to community service.

Parole	- Provides extensively on the procedure for parole, including that of a prisoner sentenced to life imprisonment. It also provides instances where the parole licence can be revoked. - Makes it mandatory for the ACJMC to set the procedure and guidelines for parole.	- Brief provision compared with the RSACJL. It only requires that the Comptroller of Prisons make recommendations to the committee on Prerogative of Mercy for their consideration. It is silent on the other issues set out in RSACJL.
Administration of Criminal Justice Committee / Council	- Functions included in RSACJL but absent in KDACJL include speedy and smooth running of the administration of criminal justice; the effective and efficient application of RSACJL by relevant agencies; decisions on parole are speedily and effectively dealt with. - Headed by the Secretary appointed by the State Judicial Service Commission. - Secretary should be a legal practitioner of not less than twelve (12) years post-call experience. - No limits on staff strength	- Headed by the Secretary nominated by the Attorney General - Secretary should be a legal practitioner with not less than five (5) years post call experience. - Needs approval of Governor for staff strength of more than ten (10). 1. Composition is different from RSACJL. It includes the following as members of the Committee: Grand khadi or khadi; President of the Customary Court of Appeal or judge; Attorney General or his representative not below the rank of Director in the Ministry; Commissioner of Police or representative not below the rank of Chief

		Superintendent; Comptroller of Nigeria Prisons in the state or representative not below rank of chief superintendent; state director of the department of security service or his representative.
Appeals	- Provides for appeals from magistrate courts to high courts	- Expands this to provide for appeals from the customary courts, magistrate courts, to the high courts.
Supplementary provisions compounding of offences	- Silent on this	- Provides for compounding of offences punishable in the Penal Code.

9.4. The RSACJL, Challenges to Realising an Effective Criminal Justice System

Having examined the RSACL, this section discusses the practical challenges which might affect the achievement of an effective criminal justice system in River State in implementing the RSACJL.

Calling to mind the seven WJP Rule of Law index factors for measuring the effectiveness of a criminal justice system, namely, (i) effective criminal investigation system; (ii) timely and effective adjudication system; (iii) correctional system effective in reducing criminal behaviour; (iv) impartial criminal justice system; (v) corruption-free criminal justice system; (vi) A system

that is free from improper government influence; (vii) a system in which the due process of law is followed and the rights of the accused ensured. Given the purpose of the RSACJL which is to ensure the promotion of effective management of the criminal justice institutions, speedy dispensation of justice, protection of the society from crime and protection of the rights and interests of a suspect, defendant, and victim, it further mandates the courts, law enforcement agencies, other authorities or persons involved in criminal justice administration to ensure compliance with the Law. It can be argued that adequate implementation of RSACJL might achieve an effective criminal justice system in Rivers State. However, challenges to realising this abound. The WJP Rule of Law Index shall serve as the framework through which these challenges are identified and examined. The focus in this context is on effective criminal investigation system, timely and effective adjudication system, as well as correctional system effective in reducing criminal behaviour.

i. Effective Criminal Investigation System

An effective criminal investigation system refers to one where the 'perpetrators of crimes are effectively apprehended and charged; the police, investigators, and prosecutors have adequate resources, and are free from corruption, and perform their duties competently.[23]

There are several innovations the RSACJL has introduced to ensure a criminal justice administration system in which perpetrators of crime are effectively apprehended, including making provisions for the maintenance of a crime records registry, the electronic recording of statements, adherence to international best practices in effecting arrest, monthly submission of reports to the Magistrate of suspects arrested without warrants, monthly inspection of police stations by the Magistrate, submission of records of arrest and bail to the

[23] Botero and others, (n 2) 14.

visiting Magistrate, the treatment of default by the relevant officer as misconduct and shall be dealt with in accordance with the relevant police regulations under the Police Act. Funding is however critical to realising these. In April 2019, the Senate passed the Bill for an Act to establish the Nigeria Police Trust Fund and related matters.[24] The President signed this into law in June 2019.[25] The main crux of the Act is the establishment of a fund which would resolve the incessant complaints of paucity of funds available to enable the police effectively undertake their duties.[26]

In examining the application of this Act, Obayomi and Erikume and others, identified some of the lacunas which include the absence of 'provisions on collection and administration of the levy,'[27] dispute resolution mechanism,[28] and ambiguity as to whether 'companies operating in Nigeria include non-resident companies carrying on business in Nigeria.'[29] Notwithstanding, the Act provides a welcome platform for addressing the lack of funding consistently associated with the police force. More so, in view of the WJP Rule of Law Index, it shows that the police will have access to funds to enable them to undertake their duties.

[24] 'Nigeria Police Trust Fund (Establishment, Etc.) Bill 2019' <https://placng.org/wp/wp-content/uploads/2019/05/Nigeria-Police-Trust-Fund-Establishment-etc-Bill-2019.pdf> accessed 27 April 2020; Kenneth Erikume, Emeka Chime and Jumoke Oyebode, 'Companies Operating in Nigeria to Pay New Police Fund Levy' <www.pwc.com/ng/en/assets/pdf/nigerian-police-trust-fund-act-2019.pdf> accessed 27 April 2020; Wole Obayomi, 'Companies Operating in Nigeria are to Contribute 0.005% of their Net Profit to the Nigeria Police Trust Fund' <https://home.kpmg/ng/en/home/insights/2019/09/companies-operating-in-nigeria-are-to-contribute-0-005--of-their.html> accessed 27 April 2020.

[25] Erikume, Chime and Oyebode (n 24).

[26] Obayomi (n 24).

[27] Erikume, Chime and Oyebode (n 24).

[28] Obayomi (n 24).

[29] Ibid.

ii. Timely and effective adjudication system

A timely and effective adjudication system refers to one in which the perpetrators of crime are effectively prosecuted and punished, and the judges are competent and produce speedy decisions.[30]

The RSACJL mandates the courts to comply with the provisions of the Law to ensure speedy dispensation of justice and effective administration of criminal justice in Rivers State.

A number of the innovations provided by RSACJL to realise this include (i) making it mandatory for the Chief Judge to ensure that information filed is assigned to a court for trial within 10 working days of it being filed; (ii) daily conduct of the trial until its conclusion, unless it is impracticable and even so, parties are not entitled to more than three adjournments from arraignment to final judgment; (iii) the court is mandated to actively examine every application for adjournment and can only grant this in exceptional cases in the interest of justice. (iv)Allowing exemption for judges elevated to the court of appeal to conclude the part-heard criminal matters being tried by them prior to being elevated to the Court of Appeal. This exemption is to enable the judge to conclude the cases within a reasonable time. Also, the exemption shall not prevent the judge from assuming duty as a Justice of the Court of Appeal.

As laudable as the provision for daily trial is, the socio-economic situation in Nigeria presents a challenge to realising this. Specifically, the country is constantly dealing with power outages. Many court buildings lack satisfactory facilities to ensure this. Adequate funding is critical to solving these problems.

[30] Botero and others, (n 3) 14.

iii. Correctional systems effective in reducing criminal behaviour

The objective of an effective correctional system is the establishment and sustenance of correctional institutions that respect prisoners' rights, are secure, and prevent recidivism. As part of the innovations towards ensuring effective administration of criminal justice, the RSACJL provides for the application of community service and other non-custodial measures as alternatives to imprisonment. The Law establishes the Department of Probation and Community Services with the mandate to amongst others, coordinate, monitor, and evaluate probation and community service orders across the state; maintain detailed information on convicts sentenced to probation and community service; ensure adequate training of staff. These can also not be achieved without adequate funding

9.5. Recommendations

In ensuring the realisation of an effective criminal justice administration system, it is evident from the foregoing that the state cannot stop at enacting the Law. It would also have to actively provide the necessary infrastructure. To recap, the critical factors for achieving these laudable innovations are (i) adequate funding, (ii) human capacity development to create awareness and train the active justice sector actors on the application of the Law. In view of this, the research recommends as follows:

i. The police can collaborate with international donor agencies to provide criminal records and electronic recording infrastructure.
ii. Given the enactment of the Police Fund Act, the Police force can take advantage of this to address the consistent paucity of funds which hinders the ability to effectively undertake their duties.
iii. State justice actors should collaborate with institutions such as NIALS, to provide capacity development.

9.6. Conclusion

This analysis has examined the RSACJL to assess its level of adherence to international best practices; highlight the differences between the Law and another state Law; tease out challenges to the implementation of the innovative provisions. It finds that the RSACJL does provide an essential tool necessary to achieving effective criminal justice administration in Rivers State. It notes that where the challenges identified are not resolved, the law might remain a mere enactment. The research also provides a template that states yet to adopt the ACJA may choose to inculcate in their adoption process.

10. A Comparative Analysis of the Administration of Criminal Justice Act (ACJA) 2015 and Administration of Criminal Justice Law, Delta State (ACJL)2016.

10.1. Overview of the Delta State Administration of Criminal Justice Law 2016

The Administration of Criminal Justice Law (ACJL) Delta, 2016 was enacted to provide for the administration of criminal justice in Delta State and for other related matters. By virtue of section (1), the ACJL came into force on the 15th of March, 2017.[1] It is relevant to mention from the onset that the ACJL largely re-enacts provisions of the Administration of Criminal Justice Act, the federal legislation on the same subject matter, legislated in 2015.

10.1.1. Purpose

The purpose of the ACJL is captured in the explanatory note attached to the legislation. The purpose which is on all fours with the Federal legislation on Administration of Criminal Justice, ACJA 2015[2] is to re-organise the management of criminal justice processes and procedures to improve its administration. Writings and studies generally identify criminal justice in Nigeria pre- ACJA 2015 passing, as largely flawed.[3] The system was primarily stagnated

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[1] The Governor of the state assented to the Law on the 19th of September, 2017. By virtue of section 100 of the 1999 Constitution, which provides for the assent of the Governor for a bill to become law, the commencement day as contained in the Law arguably defective. The relevance of discrepancy as to the commencement date of the Law may arise where its application is arguably retroactive, in contravention of section 4(9) of the 1999 Constitution.

[2] ACJA, s2.

[3] See generally Yemi Akinseye-George, 'Innovative Provisions of Administration of Criminal Justice Act 2015' *The Nation* (Nigeria June 2 2015); Marshal Umukoro, 'Emerging Trends in Criminal Proceedings' (Being a Paper Delivered at the 2016 Refresher Course for Judicial Officers at The National Judicial Institute, Abuja Wednesday, 16th March, 2016) <https://nji.gov.ng/images/Workshop_Papers/2016/Refresher_Judicial_Officers/s08a.pdf>; Fatima Waziri-Azi, 'Compliance to the Administration of Criminal Justice Act, 2015 in

and failed to reflect emerging trends in criminal behavior and procedures. Provisions in the two principal federal legislation- the Criminal Procedure Code and Criminal Procedure Act and their state replica governing criminal proceedings were obsolete and adverse to the interest of criminal justice in Nigeria.[4] For these reasons the enactment of the federal legislation and the state counterpart became imperative to improve justice delivery. The federal legislation which repeals the prior principal legislation of criminal procedure law is identified as the foundation of the revolutionizing of the criminal justice system in the country. Several state, including Delta State have followed suit. The Delta ACJL through section 493, repeals the Criminal Procedure Law which previously governed criminal procedure in the State.

An essential feature of the ACJA as well as the ACJL is the remarkable shift from punishment as the main goal of the criminal justice system towards a restorative justice spectrum by concentrating more on human dignity as a general concept, the needs of the society, the victims and vulnerable persons.

10.1.2. Extent of Application

The Delta ACJL introduces fundamental reforms to criminal justice as a process and a system of the state. The ACJL applies with respect to offences established by Laws enacted by the Delta State House of Assembly. Accordingly, Delta ACJL section 3 provides that the process of investigation, arrest, trial or sentencing of a suspect or defendant alleged or charged with an offence established by any Law in the state must be according to the provisions of the ACJL. The ACJL is also applicable in the trial of offence contrary to the provisions of an Act of the National Assembly (otherwise known as federal offences) once they take place in state's owned courts. The

Prosecuting High Profile Corruption Cases in Nigeria (2015 – 2017)' (2017) 5(2) *Journal of law and Criminal Justice,* 113.

[4] Umukoro (n 3) 2

application of the ACJL in this manner is connected to the like jurisdiction conferred on state high courts by the 1999 Constitution (as amended), to hear and determine criminal trials of persons for federal offences. Precisely section 268(1)(c) provides that the Jurisdiction conferred on a Court of a State pursuant subsection (1)(b), 'shall be exercised in conformity with the practice and procedure for the time being prescribed in relation to its jurisdiction over … criminal causes other than Federal causes.' Furthermore, the provisions of the ACJA recognizes a limitation of the application of the Act with respect to federal offences. The ACJA 2015 by virtue of section 2(1) applies to criminal trials for offences punishable under or by an Act enacted by the National Assembly and other offences punishable in the Federal Capital Territory (FCT). The applicability of the ACJA is however subject to section 86 which provides that certain aspects of the Act are not relevant to trials where specific provisions are made in respect of any particular court or form of trial or proceedings. The provisions of the ACJA *are thus in clear recognition and in line with 286(3) of the Constitution vesting State Courts with the jurisdiction to try Federal offences and apply state law on practice and procedure in such trials.*[5] In Wagbatsoma v. FRN,[6] the Appellant was charged with among other offences, offences contrary to the provisions of the Advance Fee Fraud and Other Related offences Act, 2016, an Act enacted by the National Assembly. The Appellant was arraigned and tried before the Lagos State High Court. The ACJL, 2011 was the extant law enacted by the Lagos State House of Assembly in the exercise of its criminal jurisdiction in criminal trials/cases. The Court of Appeal held that '*by both the provisions of the Constitution and the ACJA, 2015,…the provisions of the ACJL, 2011 and not the ACJA, 2015 were applicable to and in the trial of the Appellant before the High Court of Lagos*

[5] *Wagbatsoma v. FRN*, Suit No: CA/L/348C/2017.
[6] Ibid.

State for the Federal offences he was charged for.'[7] Notably, section 87 provides an exception to the applicability of the ACJL. Similarly worded as section 86 of the ACJA, it provides that aspects of the Law, (particularly under Parts 8 and 9- 29)[8] are not applicable where specific provision are made in respect of any particular court or form of trial or proceedings.

10.1.3. Summary of the Delta ACJL

The Law consists of 493 sections, clustered into 48 parts. There are 7 schedules made pursuant to various sections of the Law. There are also two regulations - The Bondspersons Regulations 2016 and the Rules of Court for Community Service Order, made pursuant to the sections 187 and 455 as well as 493 of the ACJL respectively. Like the ACJA, the Delta ACJL contains significant reforms in the criminal law procedure from the time of investigation and arrest, adding value to the Nigerian justice system.

Part 1 consisting of two sections highlight the preliminary matters relating to the commencement and interpretation of words and terms used in the Law.

Arrest, bail (before conclusion of investigation), and preventive justice are the focus of Part 2 covering sections 3 -35. Part 2 provides for the process of arrest of a suspect by a police or other private persons, with or without a warrant, upon commission or reasonable suspicion of the commission of an offence.[9] This part also provides for how a suspect should be treated to ensure the respect for human dignity and prevent a violation of the rights and interest of the suspect as provided for under the Constitution.[10] Additionally, the provisions in Part 2 addresses fundamental flaws in the state criminal justice process that

[7] Ibid.
[8] Part 8 of the ACJL applies generally with respect to matters under Parts 8 and 9 where there is no express provision.
[9] ACJL, ss 4,18, 20.
[10] ACJL, ss 5, 6, 8, 9(2)(3), 10,15, 17, 24.

allowed the common police practices such as arrest in lieu[11] or civil wrong[12] that violates the rights of persons who have not been involved in or suspected to have committed a crime. Sections16[13] and 30[14] which provide for sharing of information on records of arrest and concluded trials between the Court, Police and the office of the Attorney General at state the relevant institutions at federal level form part of the monitoring mechanism to ensure compliance and collaboration among justice sector actors for an improved criminal justice system

The issuance and execution of an arrest warrant, prevention of offence as well as security of good behavior and procedure for furnishing same are covered by Parts 3- 5. How the police conduct an arrest following the issuance of a warrant is covered by of Part 3 consisting of sections 36-50. The Act places an obligation on a police officer to act within his ability to prevent the commission of a crime.[15]The duty of prevent the commission of a crime is also extended to other public officers charged with maintaining law and order.

Provisions relating to criminal inquires in general and the location of criminal trials are covered in Parts 8 and 9 while Part 10 and 11 provide for the powers of and control of proceedings by the state Attorney General, with respect to offences created by any law of the state. The sections under these parts highlight the powers of the Attorney General to issue legal advice or other directive to the police for the purpose of instituting criminal proceedings, institute or authorize or persons to institute criminal proceedings as well as

[11] ACJL, s7.
[12] ACJL, s8(2).
[13] This section creates the Criminal Records Registry at the Delta State Command of the Nigerian Police force. The registry serves the twin purpose of monitoring arrests and concluded criminal trials in the state and providing the required data for the Central Criminal Registry.
[14] Commissioner of Police is obligated to remit quarterly reports of the record of arrest to the state Attorney General.
[15] ACJL, s51.

discontinue any criminal proceeding.[16] Section 107 provides also that any other legal practitioner or person authorised by any state law or an Act of the National Assembly as well an officer of the police force, in the absence of a legal practitioner in the Nigerian Police Force, may institute criminal proceedings in the state.

Instituting criminal proceedings, issuance and execution of the summons on the suspect as other issues related to the process of instituting proceedings are covered in sections 110 to 140 under Parts 12-16. These sections provide for the process of instituting criminal trials in the state either at the Magistrate or High Court . Proceedings are instituted either by First Information report at the Magistrate courts and at the High Court by Information or Charge Criminal proceedings instituted by charges are dealt with in more details under Part 20 and 21. The Delta ACJL provides for the process of frontloading by both prosecution and defense.[17] Section 111 provides a timeframe for institution of the proceedings and for the Magistrate to complete to the trial. Notably, failure to complete the trial within the stipulated 180 days does not vitiate the trial. To ensure compliance, Magistrate courts seised of criminal matters shall make quarterly returns to the Chief Judge and in situations of failure to complete within the 180 days, bring to the his attention the particulars of the case and reasons for failure to commence or complete it within the time frame provided by the ACJL. Section 111(7) gives powers to the Administration of Criminal Justice Committee set up by virtue of the provisions under Part 45 (sections 461-478) and the National Huan Rights Commission to access for the purpose of monitoring and ensuring expeditious disposal of cases. Additionally, the State Comptroller of Police is required to make quarterly report on the

[16] ACJL, ss 106-108.
[17] ACJL, s110 (2).

persons awaiting trial in custody beyond the timeframe in section 111 (3), to the Chief Judge and the Attorney General.

The issuance and execution of summons to compel the attendance of a suspect and other miscellaneous issues relating to the process are the focus of Parts 13 to 16, covering sections 113 -141.

Upon arrest and being brought before a court, a suspect is generally entitled to bail. The issues relating to the circumstances and conditions for the grant of bail with respect of the various types of offences; the production of sureties; recognizance and grounds of forfeiture of recognizance arrest on failure to appear and procedure for the use of bondspersons are covered under Part 18, sections 158-188.

The prosecution may by application before a Magistrate Court with no jurisdiction to try the offence, request that the suspect be remanded in custody.[18] The court may grant the application where it finds probable cause or otherwise grant the suspect bail. Sections 293- 299 dealing with remand time limits and protocol provides that the suspect can only be remanded for a maximum period of 56 days pending advice of the Attorney General and actual arraignment.[19] At the expiration of this period, the suspect may be immediately released from custody by the Court.[20]

Part 27 focuses on plea bargain and plea of the defendant generally in criminal proceedings. The ACJL allows the prosecutor to offer, receive and consider a plea bargain in the interest of justice, public interest, public policy and the need to prevent the abuse of legal process.[21] The prosecutor may perform this function any time after the institution of proceedings but before the evidence of the defense.[22] The ACJL provides that the court is under

[18] ACJL, s293.
[19] ACJL, s296.
[20] ACJL, s296(6).
[21] ACJL, s270(3.)
[22] ACJL, s270(2).

obligation to inform the defendant of his rights to plea bargain before he takes his plea to the information or charge. This part of the ACJL also provides for the effect of the plea of the defendant. [23]

Sections dealing with trials and summary trials generally as well as trial by information are contained in Parts 35 and 36, covering section 346-397. The provisions deal with broad issues such as those relating to the non-appearance of counsel of either side; non-appearance of the defendant; taking the plea of the defendant; compelling witnesses; day to day trials; prohibition of stay of proceedings; dispensation of an elevated judge in a partly heard criminal matter to continue to sit till the conclusion of the case; and warrant of arrest for a witness who disobeys summons.

Part 30 covering sections 300 -316 provide for the presentation of case by the prosecution and defence during the course of the trial.[24] On the conclusion of the hearing, the court gives its decision by discharging him if not guilty or follow the procedure as stated in section 308 to allow for character witness in mitigation of punishment in line with section 311(3). Section 306 provides that the judgement shall be in writing.

Sentencing is provided for generally in Parts 30(section 309- 316) and 37-44. The sections under these parts highlight what the court considers in choosing appropriate sentence;[25]death sentence and the procedure for carrying it out; situations where a death sentence may not be passed;[26] and procedure for seeking prerogative of mercy.[27] Sections 413-443 provides for sentences other than capital sentence which includes imprisonment or payment of fine or both.

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[23] ACJL, ss 273-274.

[24] The procedure for dealing with a special defendants such as persons of unsound mind and child offenders are provided for in Parts 28 (sections 278-292)and 42(sections 444). There are also other sections in the Law that refer to child offender such as section 262 (child offender to be present during his trial) and section 402(sentencing of a child offender.

[25] ACJL, s 309.

[26] In the case of a pregnant woman- section 401 and a child offender- section 402.

[27] ACJL, ss 406-411.

Sections 445- 459 under Part 43 and section 460 under Part 44 provide for non-custodial measures as an alternative to imprisonment. Such non-custodial measures include release on the condition of payment of compensation for loss or injury and of costs; probation; community service; confinement in rehabilitation and correctional centers as well as parole.

Section 312 particularly contributes to the protection of the interest of the victim through the power bestowed on the court the award of commensurate compensation to the victim by the defendant, any other person or the state. This power is distinct from the discretional power the court has to order the defendant during the course of the proceedings, to pay compensation to the victim as provided under section 317(1).

10.2. Compliance with International Best Practice

Irrespective of the broad classification into adversarial and inquisitorial systems, criminal justice systems and administrative cultures vary across countries, accounting for the variety in response to antisocial behaviours. However, in spite of the this diversity, the international community share the consensus that criminal justice administration and systems must reflect a generally minimum set of principles and standards otherwise known as best practices, irrespective of the system. This consensus arises from a realisation that there is convergence among states tied to the transnational nature of some of offences; the realisation of the value of sharing experiences; and the emergent respect for human rights. Areas in which best practice has been identified include ways of dealing with juvenile offenders; the use of restorative justice; the exercise of prosecutorial discretion, and the use of community service and other non - custodial measures as sanctions.[28] The UN Standard and Norms represent best

[28] Matti Joutsen, 'International Standards and Norms as Guidance in the Criminal Justice System' (161st training Course).

practices on a wide range of issues relating to criminal justice and crime prevention which states globally reflect in their respective domestic systems.[29] These best practices hinge largely on respect and protection of rights *all persons* including the offender. Additionally, the practices emphasise restorative justice and the adoption of imprisonment/incarceration as a last option.

With the enactment of the ACJA in 2015, the Nigerian criminal justice system and its administration to a large extent reflected major international best practices. Following the extensive adoption of the ACJA 2015 by several states, including Detla state, these practices are also identifiable in state legislation

10.2.1. Compliance by the ACJL with best practices with respect to Human Rights

The ACJL adopt several measures that reflect the respect the rights and interest of all persons, including the suspect. The provisions promote law enforcement activities that are devoid of discrimination especially based on gender; as well as those that are effective and leading to the speedy dispensation of justice. Instances that reflect best practices of these nature include:

a. Arrest and interrogation of suspect: With respect to the conduct of arrest and Interrogation of suspects, the ACJL provides that at the point of arrest, a suspect must be informed the reason of for his arrest, even if he was in the actual course of the commission of the offence.[30] The suspect must also be informed of his rights including his entitlement to remain

[29] United Nations Office on Drug and Crime, *Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice* (United Nations 2016)xi.

[30] ACJL, s6.

silent; right to consult a counsel and free legal representation.[31] The ACJL also includes provisions that mandate that the right of dignity of person of the suspect must be respected. The arrested suspect should not be subjected to any form of torture, cruelty or degrading treatment.[32] Bringing the suspect before a court is part of humane treatment. The various paths for procedural protection of the rights of the suspect in the ACJL conform with several fundamental rights provisions of the 1999 Constitution (as amended). The relevant provisions in this regard relate to those concerning the entitlement of every individual to respect for dignity of person,[33] and the rights of an arrested or detained persons to silence; being informed in writing the grounds for his arrest as well as being brought before a court of law within a reasonable time.[34]

The ACJL Delta provides a procedure for obtaining confessional statements during the course of investigation and interrogation of suspects. Section 15(4) requires that confessional statement *must be in writing and may be recorded* electronically either on a video disc or other audio-visual means. Ordinarily, a confession without more, is sufficient to ground a conviction.[35] Hence, reliance on confessional statements are prevalent, as the easiest way to secure conviction within the Nigerian criminal justice system. Regrettably, the police may employ unconventional means, including torture to obtain the statement from the accused. In addition, the accused bears the onerous burden to prove during trial, the involuntariness of the confession. The innovation of

[31] ACJL, s6(2)(a)-(c).
[32] ACJL, s8.
[33] 1999 Constitution, s34(1)(a).
[34] 1999 Constitution, s35(2)-(4).
[35] EA 2011, s27.

the ACJL is such that it curtails the abuse of police power. In addition, it would aid the court in disposing with the trial within trial cases faster.

Notably, the ACJL in this section like the federal counterpart, portrays the electronic recording of confessional statement as being at the discretion of the police officer in the use of the word 'may.' The Supreme Court has however in Charles v FRN interpreted the requirement to have visual or audio recording of the confession as mandatory and not permissive. In view of the fact that most police stations are yet to acquire video recording facilities, the proviso to section 15(4) allows for the suspect to make his statement in writing in the presence of any person of his choice. It is recommended that this provision be made mandatory with the proviso expunged for full compliance with best practices.

A significant reform in the ACJL that reflect the rights of all person, contained in the ACJL with respect to arrests is the protection against common police practices that violates the rights of persons who have not been involved in or suspected to have committed a crime. Section 7 prohibits the arrest of persons in lieu. The arrest of family and friends in lieu of a suspect is undertaken with the intent of drawing a wanted person from hiding and forcing their surrender to law enforcement authorities. Section 7 gives statutory flavor to the general principle in law that criminal responsibility is personal and cannot be transferred except in cases of vicarious criminal liability. [36] Another protective provision is section 8(2) which prohibits the arrest of persons for civil wrongs or breach of contract. Prior to the provision of this law, the arrest for civil wrongs had been a lingering malady in the criminal justice fabric.[37]

[36] *ACB V. Okonkwo* (1997)1 NWLR (PT. 480).
[37] *Ibiyeye & Anor. v. Gold and Ors*. CA/IL/M/95/2010, delivered on 7 December, 2011; *Oceanic Securities Int'l Ltd v. Balogun* (2012) All FWLR (Pt.643) 1880 at 1906-1907, per Mbaba JCA.

Umokoro explains that due to their seemingly wide powers, the Police, sometimes dabble into matters that are purely civil in nature.[38] The use of coercive powers in attempting to settle quarreling parties often results in the breach of citizen's right and promote oppression. Hence, the inclusion of this section puts a potential check to arbitrary arrest due to this problem.

b. Entitlement to bail before and during trial: Respect for the presumption of the innocence of the suspect until proven guilty is a right recognized both internationally[39] and nationally.[40] The ACJL in conforming with the recognition of the presumption of innocence, is explicit on the issue of bail before the conclusion of the investigation and after a suspect is charged. A suspect is generally entitled to bail. Sections 31, 32, 33 and 158-188 lists out the conditions and grounds under which a suspect may be admitted to bail before he is charged as well as during the course of the criminal proceedings. Section 158(2) provides that the discretion to grant bail should not excessive. The proviso to section 158(2) presents as strange and unconventional. The proviso which is not contained in the ACJA stipulates that at the time of making an application for bail, the applicant must have deposited a realm of tying sheet paper; two standard office file jackets and a bottle of correction fluid with the Registrar for official use of the Court. Significantly, it is suggestive the possibility of bias against an applicant who fails to adhere to the provisions.

[38] Umokoro (n3) 8-9.
[39] Universal Declaration of Human Rights, Art. 11; International Covenant on Civil and Political Rights, Art 14.
[40] 1999 Constitution (as amended), s 36.

c. Remand Protocol: Section 293 of the ACJL provides that an arrested suspect may be brought before a Magistrate Court within a reasonable time of arrest, for the purpose of remand. It is irrelevant that the Magistrate Court has no jurisdiction over the alleged offence committed by the suspect. The Magistrate may remand the suspect or grant him bail according to the provisions of section 158 to 188 of the ACJL.[41] The ACJL Delta in section 296 specifies the time frame and protocol applicable where the Court finds probable course to remand the suspect. The Remand order shall be not last longer than a maximum of 56 days after which the suspect will be discharged from custody if he is not formally charged. The Remand timeframe and protocol addresses the problem of holding charge which contributed to the steep increase of awaiting trial inmates within the criminal justice system.

d. Trial: The ACJL conforms to international practice that identifies that engaging labels such as accused violates the presumption of innocence. Hence the Law utilises the term' defendant' as a neutral term to identify an individual charged for an offence and undergoing a criminal trial. To ensure speedy dispensation of justice, section 393(4) provides for proceedings to take place daily until the conclusion of the trial. The ACJL places a time limit to the duration of criminal trials at the Magistrate court. Additionally, an application for stay of proceedings in respect of any criminal matter before any Court within the State shall not be entertained until judgment is delivered. Notably, the ACJL jettisons the concept of 'no-case submissions'. This time honored principle,

[41] ACJL, s 295.

recognised especially in common law jurisdictions[42] and international criminal tribunals[43] is anchored on the fundamental right to a presumption of innocence of the defendant and the burden placed on the prosecution by the Evidence Act to prove the guilt of the accused.[44] The no-case submission provision thus helps to ensure that at least a prima facie case exists that warrants the court to call the defendant to open his defence. The absence of provisions relating to no-case submission falls short of best practice.

10.2.2. Non-Custodial sentences as international best practice

Current trends in criminal justice system identify that imprisonment especially of non-violent criminals does not constitute a panacea to either crime prevention or to the social reintegration of offenders. In many countries the prison system faces major challenges because of overcrowded and outdated facilities. As a result, with the result that prisoners often find themselves in deplorable conditions of detention that can have adverse effects on their physical and mental health thereby affecting also, their chances of adjusting to an ordinary life in the community when they regain their freedom. International standards thus promotes measures that reduce the rate of incarceration

The UN Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules)[45] highlights that the criminal justice system of a state should provide a wide

[42] This principle is applicable in England (see ***R V Galbraith*** [1981] 2 All ER 1060); Australia (see *Doney v The Queen* (1990) 17 CLR 207 at 217) ; Scotland (s. 97,Criminal Procedure (Scotland) Act 1995.

[43] See *ICC, Prosecutor v William Samoei Ruto* and *Joshua Arap Sang*, ICC-01/09-01/11-1334, Decision No 5 on the Conduct of Trial Proceedings (Principles and Procedures on 'No Case to Answer' Motions), 3 June 2014 ('Ruto and Sang Decision No 5').

[44] International Bar Association,(IBA),*Evidence Matters in ICC Trials* (IBA 2016)54.

[45] (Tokyo Rules, A/RES/45/110.)

range of non-custodial measures, from pretrial to post-sentencing dispositions. These non-custodial measures provide greater flexibility consistent with the nature and gravity of offences; the personality and background of the offender; the protection of society and to avoid unnecessary use of imprisonment. Several jurisdictions including the United States of America, France,[46] United Kingdom; adopt the concept of non-custodial measures. For instance the United kingdom adopts measures such as Discharge,[47] fines,[48] community orders[49] and suspended sentence orders.[50] The UK Criminal justice system reserves custodial sentences for the most serious offences especially those involving violence.[51] Hence, over 90% of the sentence for the period Jan-June 2019 were non-custodial measures not involving any prison sentence.

In line with international best practice, the ACJL addresses the problem of excessive use of imprisonment by introducing some alternatives to incarceration. The ACJL reflects the use of non-custodial measures at the trial, sentencing as well as post sentence stage. The non-custodial measures include conditional release and payment of compensation for injury or loss causes (section 446); probation (section 447); suspended sentences and community service (section 452), confinement to a rehabilitation or correctional centre in lieu of imprisonment and parole. (section 460). The implementation of these measures provide potential gains of reducing the financial burden that incarceration under the administration of criminal justice places on the state.

[46] French Criminal Code, Arts 132-154; French Code of Criminal Procedure, Art 747. See also Richard Frase, 'Sentencing Laws and Practices in France' 1995 7(6)*Federal Sentencing Reporter* 275.
[47] UK Criminal Justice Act 2003, ss162-164.
[48] UK Criminal Justice Act 2003, ss162-164.
[49] UK Criminal Justice Act, 2003, ss 147, 177; UK Legal Aid, Sentencing and Punishment of Offenders Act 2012, s66.
[50] Legal Aid, Sentencing and Punishment of Offenders Act 2012, s68
[51] UK Parliament, 'Non-Custodial Sentences' Post Note, (No 613, January 2020) 2 <file:///Users/chikito/Downloads/POST-PN-0613%20(1).pdf>.

10.2.3. Restorative Justice

Modern trend in criminal justice system and its administration highlight the concept of restorative justice as a means of redirecting focus from an offender- centric justice system to one that accommodates the feelings of the victim. Restorative justice aims to support victims, allows them to participate in the process voluntarily, provides room for the defendant to rectify the loss suffered to the victim and to realize the consequence of commission of his offence. The ACJL through several provisions reflects a shift from the traditional justice system of punishing the offender to include the participation of the victim

a. Compensation of victims and restitution: The Law bestows on the court the award of commensurate compensation to the victim by the defendant, any other person or the state.

b. Plea bargaining: The ACJL Delta State empowers the prosecutor to receive, enter and or negotiate plea bargain. The doctrine of plea bargaining was alien to the Nigerian criminal procedure law until its inclusion in the Economic and Financial Crimes Commission Act.[52] The doctrine helps in the quick disposition and management of caseloads by allowing the defendant enter a plea of guilty for a lesser offence or a reduced sentence for the offence charged. Section 270 (1) provides that plea bargain offered or accepted should be with the consent of the victim or his representative, where certain conditions as stipulated in subsection (2) are present. A plea bargain may also be offered or accepted where in the view of the prosecutor, it is in the interest of

[52] EFFC Act Cap E LFN 2004, section 14(2).

justice, public interest, public policy or to prevent abuse of the legal process. Section 270(9) provides that the prosecutor shall inform the court of the plea bargain agreement. The Judge or Magistrate may if satisfied enter the agreement as the decision of the court or order that the trial continue.

10.2.4. Efficient monitoring and management of criminal justice institutions

From the perspective of criminal justice as a system, the ACJL contains several provisions that target both the improvement of interagency collaboration among the justice institutions and the reduction of institutional abuse of the criminal justice system. These provisions include

a. The creation of Record of Arrest: To further reduce the abuse of the power of arrest, the ACJL requires the creation of a record of the arrest by the arresting police officer or officer in charge of the agency effecting the arrest. The Law mandates the record of arrest containing the prescribed particulars be concluded within 48hours.[53]
b. The creation of a State Central Registry: Criminal trials are expected to be transmitted to the State Central Registry within 30 days of the judgment[54] the Registrar of the court is saddled with the responsibility of ensuring that the judgment of the court is forwarded to the appropriate police division upon conclusion within fourteen days. The innovation encourages collaboration/synergy between the court and the police to ensure that record of trials is properly documented and also leaves no room for incompetence on the part of the Registrar and the police

[53] ACJL, s15(1)(2).
[54] ACJL, s16.

c. Remittance of Records from the State Central Registry to the Criminal Records Registry at the Federal level: The ACJL provides for the remittance of the records of arrest as well as concluded criminal trials from the state to the Central registry created under the ACJA.

10.3. Comparative Analysis

The ACJL of Delta state is similar in content to the ACJA 2015. However, there appears to be minute yet significant differences between both legislation that have implication on justice service delivery. The table below highlights and compares some key reforms between the ACJL and the ACJA 2015.

	CONCEPT	ACJA	ACJL	COMPLEMENTARY PROVISIONS	ANALYSIS
A.	Preliminary Matters				
1.	Purpose of the Legislation	S. 1	Contained in the Explanatory Note		The explanatory note like marginal notes are not part of the substantive law.[55]However, they may cast light on the contextual scene of the statute and the mischief which the instrument seeks to remedy.[56]

[55] Interpretation Act, s3(2).
[56] On the relevance of marginal notes See *Alegbe v. Oloyo* (I983) 14 NSCC 315 at 327-328; *Attorney-General of the Federation & 2 Ors v. Alhaji Atiku Abubakar & 3 Ors* (S.C. 31/2007) [2007] NGSC 118.

2.	Application	S. 2; S. 86	S. 87	S.4 , Police Act places the responsibility of *the apprehension of offenders* on the Police.	The ACJA explicitly provides for the scope of the application of the federal legislation. The ACJA provides for the applicable procedure in all criminal trials in the Federal Capital Territory. The ACJA also applies to offences established by an Act of the National Assembly except express provision is made in another court.
B	Arrest and Preventive Justice				
3.	Arrest generally	s. 3	s.3	S.4 , Police Act; 35 (4) and (5) of the Constitution of the Federal Republic of Nigeria 1999 delimits the time a suspect shall remain with the Police after which he must be charged to court	While both instrument provide that they are applicable to arrest, investigate, inquire try or deal with a suspect or defendant. However, a slight yet significant difference in the order in the process exists. While the ACJA mentions

					arrest before investigation, the ACJL refers to investigation before arrest. The significance of this re-ordering under the ACJL is linked to the proper procedure that ties to the conclusion of investigations before arrests are made where the suspect was not arrested in the actual cause of the commission of the offence. In *Fawehinmi v IGP*, [57] the Supreme Court stated that : '...in a proper investigation procedure, it is unlawful to arrest until there is sufficient evidence upon which to charge and caution a suspect. It is completely

[57] (2002) 7 NWLR (pt. 767) 606 at 681, per Uwaifo JSC

					wrong to arrest, let alone, caution a suspect, before the police look for evidence implicating him.'
4.	Notification of Cause of arrest and rights of suspects	s. 6 (2),	s. 6(2)	S. 35(2),(3), 1999 Constitution ; s. 14 ACJA; s. 14 ACJL	Both instruments recognise the obligation on the police or other arresting officers to inform the suspect of his rights. However, the ACJL goes a step further to explicitly indicate that the person making the arrest has the responsibility of ensuring that the suspect has the opportunity to exercise his rights. This obligation may be interpreted to include providing the suspect with the opportunity to either contact his legal practitioner or obtain free legal representation.

					Additionally, the ACJL extends the responsibility of the authorities to include affording the suspect a phone call to any person of his choice as an alternative to being responsible for notifying the suspects relative or next of kin of the arrest. The ACJL provides that the notification of relatives or next of kin of the arrest must take place within 24hours of the arrest.
5.	Prohibition of Arrest in Lieu and for civil wrong	s. 7, 8(2)	Same as ACJA	Section 35(1)(c), 1999 Constitution	Both instruments include these laudable provisions that ensure that arrest of persons are only carried out upon reasonable suspicion of the commission of a criminal offence only.

6.	Humane treatment of the suspect	s. 8	s. 8, s.24	s. 35, 1999 Constitution	Both Instrument contain provisions that reflect the protection of the fundamental rights and interest of a suspect during an arrest either by a police officer or other persons authorised to make arrests(s.8) including private persons(s). The ACJL provides further that it is unlawful for a private person who arrests a suspect to subject him to any form of physical abuse, inhuman or degrading treatment; provided that the private person may use reasonable force in defending himself. This addition recognises the need to balance the rights of the suspects with the safety of the

					private person making an arrest.
7.	Arrested person to be taken immediately to police station	s.14	s.14	s. 6 ACJA and ACJL	In line with protecting the rights of the suspects indicated in section 6, both instrument indicate that communication or legal advice from the suspects legal practitioner shall be done in the presence of an officer who has custody of the arrested suspect. The ACJL includes a proviso that such officer shall maintain a distance of 5 meters from the suspect and his lawyer. The inclusion of the distance is arguably to give the suspect and his lawyer some privacy

8.	Recording of Confessional statement	s. 15(4)	s.15(4)	S. 27 Evidence Act on confessional statement	The ACJL includes a proviso stating that in the absence of video facility such statement shall be made in writing in the presence of any person of his choice. The wordings of the *provisio* reflect the reality that not all police stations may have the necessary electronic recording facilities. However, it negates the spirit of the improving the criminal justice system through the reduction of incidents of retraction of confessional statement or trial within trial. This position is supported by the decision of the Supreme court in Charles v FRN, where in

					interpreting s. 15(4) the ACJA which is similarly worded ACJL stated that using recording devices is obligatory and not permissive.
		s. 17 (4)	s. 17(4)	S. 27 Evidence Act on confessional statement	Both Instruments ensure that the statement of a suspect is taken if he wishes to make one. Where the suspect does not understand, speak or write in English 17(4) provides for an interpreter who at the end of the statement, is obligated to endorse his name and other particulars on the statement. In addition, the ACJL provides that the interpreter shall indicate the language which he interpreted to the suspect. This modification

					serves as a further confirmatory step that the suspect understood the statement.
C	Bail				
9.	Bail before investigation is concluded	s. 30-32	s.31- 34	s. 35 (4) and (5) 1999 Constitution- delimits time a suspect shall remain with the Police after which he must be charged to court	Both Instruments provide for the release of a suspect arrested without warrant for an offence other than one punishable by death, if it will not be practicable to bring the suspect before a court within 24 hours of the arrest. Where the suspect is not released within 24 hours, the court may be notified by an application on behalf of the suspect. The Instruments also provide a monitoring mechanism whereby the Police makes a monthly report to the

					supervising Magistrate, to ensure compliance The provisions help to prevent an abuse of the fundamental rights of the suspects.
10.	Entitlement to bail at an appropriate amount	s. 158, 165	s. 158, 165	a. S. 30-32 ACJA and 31-34 ACJL on bail before the suspect is charged; b. s. 293- 295 ACJA and ACJL on remand proceedings; s. 36 (5) 1999 Constitution- presumption of innocence.	The provision of both instruments on the general entitlement of bail reflects the fundamental right of the presumption of innocence of the suspect. Hence, suspects are generally entitled to bail, subject to conditions as stated in instruments. The ACJL adds in section 158 (1) that the court reserves the discretion to grant to set the amount of bail which must not be excessive, having due regards to the circumstances of

					the case. This provision is a repeated in section 165 ACJL which is a replica of the federal instrument. Furthermore 158(2) ACJL provides that at the time of making the application for bail the suspect shall deposit certain materials for the use of the Court. This aspect of the ACJL is rather unconventional and creates room for exploitation.
11.	Registration of bonds person	s. 187	s. 187		Both Instruments makes provisions for professional Bondspersons. 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 ACJL of Delta State goes further to provide that the regulation should stipulate the qualification for registration and grounds for revocation of licence of the bondsperson. The instruments in (9) give the Chief Judge the power to withdraw the licence of the bondsperson. Both instruments identify the contravention of the terms of license as a ground for withdrawal. In addition to this, the Delta State law highlights three other circumstances where a bondsperson's

					license may be withdrawn.
E.	Prosecution				
12.	Prosecutorial powers	s.	s. 106	S 174(1)(2); s. 211(1)(2) 1999 Constitution; s. 23 Police Act	Section 106 of the ACJA stipulates that prosecution of all offences in any court shall be undertaken by: the Attorney-General of the Federation or a Law Officer in his Ministry or Department; legal practitioner authorized by the Attorney- General of the Federation; and a legal practitioner authorized to prosecute by law. addition to these persons , the ACJL includes a legal practitioner in the Nigeria Police Force or in the absence of a legal practitioner, any other police officer and any other person authorised by law. This

					provision perpetuates lay prosecution which is known to contribute to the delay in the criminal justice process.
F.	Remand Protocol / Detention Limit				
13.	Application for Remand	s. 294	s. 293	S 174(1)(2); s. 211(1)(2) 1999 Constitution; s. 23 Police Act	Both instruments provide for the procedure for an application for remand. However, the ACJL includes a third requirement under (2)[58] and (3)[59] not included in the ACJA. The inclusion of subsection (2)(C) and (3) places emphasis on two key administrative process involved in the application for remand and where the Court finds probable cause to

[58] Under 293(2)(c) the application for remand must be accompanied with the original or certified true copy of the case file.
[59] Section 293(3) mandates the Registrar to forward the case file to the Attorney General for legal advice.

					remand a suspect. By transforming these administrative duties to legal obligations, the ACJL ensures that the interest of the suspect is protected.
14.	Remand Order time limit and protocol.	S. 296	S. 296	a. S. 36(5) 1999 Constitution on the presumption of innocence; b. S. 27 Terrorism Prevention (Amendment) Act as an exception to detention time limits as envisaged under the ACJA	Both instruments provide for remand not exceeding 56 days in total, following the protocol established in the respective sections. The slight difference is in relation to the persons to whom the Court issues a hearing notice on to inquire into the position of the case and show cause why the suspect should not be released. The persons under the ACJL are the Commissioner of Police and the

					Attorney General of the State while under the ACJA refers to the Inspector General of Police, the Attorney General of the Federation and the Commissioner of Police of the FCT.
G.	Presentation of Case by Prosecution and Defence				
15.	Trial within Trial	-	s. 300(3)	S. 29(2)(b) Evidence Act which requires the prosecution to prove the voluntariness of a confessional statement objected to by the defendant.	During the course of a criminal trial, the voluntariness of the confessional statement may be in issue. In view of the provision of the evidence Act and a long line of decided cases, the court is obliged to conduct a trial within a trial(TWT).[60] In contrast to the ACJA which is silent on the conduct of TWT, the ACJL abolishes its conduct. The ACJL

[60]*BABARINDE & ORS VS STATE* (2013) LPELR21896(SC) page 1 at 14 – 15; *HASSAN v. STATE* (2016) LPELR-42554(SC); *STATE v. SANI* (2018) LPELR-43598(SC) page 1 at 23.

					provides that where admissibility of confessional statement is in issue on ground of involuntariness, the Court shall only note the objection and make a decision at the end of the trial. The abolition of the TWT by the ACJL is arguably in contravention of the provisions of the Evidence Act relating to the procedure for the determining when a confessional statement is relevant. Notably, safeguards exist under section 15(4) of both ACJA and ACJL to reduce and dispense with the need for TWT. But the total abolition of the procedure may arguably work against the interest

					of the defendant, especially since section 15 (4) of the ACJL is worded in such a manner that permits the absence of electronic recording of the confessional statement.
16.	No case submission	s. 302, 303 and 357	-		Sections 302 and 303 of the ACJA provide for no case submission at the instance of the court or the defence, where the prosecution has not made a prima facie case that requires explanation on the part of the defendant.[61] Section 357 provide for the discharge of a defendant when there is no case to answer.

[61] *Atoyebi v. FRN* (2017) LPELR- 43831(SC).

					The ACJL does not provide for no case submission. The implication is that the defendant must always enter into his defence and cannot plead that he has no case to answer. The absence of a no case submission provision distorts the criminal justice system by jettisoning a key element of the trial process.
17.	Stay of Proceedings.	s. 306	s. 304	S 36(4) 1999 Constitution providing for the right to fair hearing within a reasonable time; S. 40 EFCC Act precluding the court from entertaining a stay of proceedings	Although differently worded, the provision relating to stay of proceedings in both instrument is to the effect that applications on preliminary matters will be not put a stop to the hearing of the substantive issues.[62] Such applications may

[62] The wordings of section 304 are the same with section 40, EFCC Act, 2004.

					only be determined at the time of delivering judgement in the matter. The Supreme court has made it clear in *Metuh v. FRN*[63] that the stay of proceedings in criminal matters as provided by the ACJA is not in violation of the defendant's right to fair hearing. The unprecedented provision in both instruments puts a gag on delays occasioned to the trial process by interlocutory applications to stay proceedings pending appeal on preliminary matters even when the substantive issues

[63] [2017] 11 NWLR (part 1575) 157.

					are yet to be tried on the merits.
H.	Witnesses				
18.	protective measures for witnesses and vulnerable persons	232(2) –(5)	S 232(2) –(5)	a. S. 231 ACJA and ACJL on sexual related offences S. 260 ACJA and ACJL on taking evidence of a child	The criminal procedure instruments allows the court to take certain measures to protect the identity of witnesses and victims with respect to certain offences listed in (4). Such protective measures include the non-disclosure of the particulars of the victim and witness in record proceedings as well as not revealing the facial identity. These provisions are very relevant to criminal litigation in a modern world considering the risk that witnesses and victims face especially in high

					profile and sensitive cases.
	Witness deposition	s. 232 (3)(c) and 362	S. 232 (3)(c) and 359	S. 46, Evidence Act 2011 on admissibility of certain evidence.	Both instruments identify instances where the evidence of a witness may be taken in writing or by electronic means. The inclusion of these provisions are welcomed innovations in both instruments as it prevents delays and abandoning crucial criminal cases due challenges in securing the attendance of a witness.
I.	Trials Generally				
19.	Withdrawal from Prosecution and its implication	S. 355	S. 353		Both instrument provide for the withdrawal from prosecution. However, while ACJA only highlights that the withdrawal by the

					complainant leads to the acquittal of the defendant, the ACJL provides a distinction in the effect of a withdrawal before and after the defendant has been called to make his defense which is a discharge or an acquittal respectively.
20.	No examination of a witness during evidence in chief	-	s. 354(6)	Section 376 ACJL on information to be filed by the prosecution at the Registry.	The ACJL provides that there shall be no oral examination of a witness during his evidence in chief. This is in line with the frontloading requirement provided for in section 379 of the ACJA and sections 111 (2) and 376 of the ACJA and ACJL respectively. In light of this provision, the inclusion of section

					354(6) may be a surplus.
21.	Leave of court required to admit documents not frontloaded	-	S 354(10)	a. Section 111(2)(b) on documents to be filed by the defendants upon receipt of documents from the prosecution b. 376 ACJL on information to be filed by the prosecution at the Registry.	This is in line with the frontloading requirement provided for in section 379 of the ACJA and sections 111 (2) and 376 of the ACJA and ACJL respectively. The ACJA and ACJL in 379(2) and 376(2) respectively provide that additional evidence may be filed and served by the prosecution, any time before judgement However, the ACJA does not place the same obligation on the defendant. The provision of 354(10) thus consolidates on the frontloading obligation on the defendant provided for in section 111(2).
22.	issuance of process to	S. 356	S356		Both instruments provide for the

	compel production of evidence at the instance of the defendant				defendant to apply to the Court to compel the attendance of a witness for the purpose of providing evidence. The ACJL provides in (3) grounds under which the court can refuse to issue the process to compel the witness. The provision leaves wide room for the court to exercise its discretion within the ambit of these grounds.
23.	Legal advice as to the existence or otherwise of a prima facie case	S. 376(2)	S. 373(2)		ACJL provides for a longer time (30 days) than the ACJA (14days) within which the Attorney General shall serve his legal advice as to the existence or otherwise of a prima facie case against the defendant.

24.	Day to Day trial	s. 396(4)-(6)	S. 393 (4)-(6)		Both instruments provide that 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 14 days. The stipulation about the day to day trial is to ensure that criminal cases are expeditiously dealt with in line with the provision of the Constitution.
J.	Cost, Compensation, Damages and Restitution				
25.	Compensation to victims.	S. 319, 321, 336 and 341	S317, 319, 334 and 339	a. S. 49 Cybercrimes (Prohibition, Prevention, etc) Act - order for payment of compensation or restitution; b. S. 11 Advanced	Both instruments provides that the court may either during the course of the proceedings or at the time of passing judgement, order the payment of a sum in compensation to a

				Fee Fraud Act 2006- Order of restitution.	victim who is injured by the offence; order restitution or restoration of possession of a stolen property. The Victim may choose to refuse compensation. These provisions on the compensation of victims are driven by the restorative justice concept in which remedy to the victim and the community who suffer the direct consequence of the crime are given prominence
K.	Non-custodial measures and restorative justice.				
26.	Non-custodial measures	Ss.453-468	Ss 445-460	S. 311 (2) and 209(2) of ACJA and ACJL respectively on what the court should consider in pronouncing sentence of a convict.	The inclusion of these measures in both instruments are commendable as they ensure the state can punish while spending substantially less in

				S. 15(6)(a) Child Rights Act- non-custodial measures applicable to a parent who fails in the duty to ensure his child or ward completes primary and junior secondary school education	terms of cost than imprisonment.
L.	Monitoring Mechanism				
27.	Criminal Records Registry concluded criminal trials	S. 16	S. 16(1)		The criminal records registry created by the ACJA is a national collation centre for reports from all criminal records registry created at the state police command., made pursuant to section 16(2). The Delta ACJL criminal records registry is one of such state registry that submits its own records to the central Criminal Records Registry.
28.	Criminal Records	None	16(4)		The ACJL requires that in addition to

	Registry of records of arrest				the report of concluded trials submitted to the state central registry, various police stations shall also submit records of arrest, showing information as required under section 15 of the Law.
29.	Records for Road Traffic Offences	None	Section 34(6)		Weekly report by the Delta State Transport Management Authority of arrests and fines paid in connection to road traffic offences.
30.	Routine visits	S. 34(1)	S. 35(1) 106(4)		The ACJA and ACJL provides for routine of the visits police stations, prisons or other places of detention to review case files of detained suspects. While the visits under the ACJA are conducted by the Magistrate, the ACJL places the

					obligation to conduct these visits also on the Attorney General.
31.	Administration of Criminal Justice Monitoring Committee (ACJMC)	S. 469	S. 461	Sections 110(7) ACJA and 111(7) ACJL on the monitoring role of the ACJMC in ensuring expeditions disposal of cases.	Both instruments provide for the establishment of the ACJMC. The role of this Monitoring Committee is to ensure that the provisions of the Act are effectively complied with by all stakeholders of the criminal justice system, which includes judges, prison staff, police officers, social workers, the victims and defendants.

Table X: Comparison between ACJA 2015 and Delta State ACJL

10.4. Practical Challenges

The Delta State ACJL from its provisions contributes significantly to the improvement of criminal justice delivery in the state. However, there are several perceived practical challenges which may be inimical to the proper implementation of the Delta State ACJL and the improvement of the state's criminal justice system.

a. Upgrade and Improvement of physical facilities and structures: The provisions of the Delta State ACJL creates a need for a necessary upgrades and improvements in physical structures and facilities relevant to the criminal administration. Notably, the laudable provisions as regards the requirement of obtaining the statement of a suspect using electronic devices; electronic recording of proceedings and providing police presence at least 5meters apart from a suspect and his legal practitioner require interview rooms in the Police station be renovated and provided with possess facilities for the purpose of recording the statement of the suspect. Court rooms as they currently exist are not properly equipped with electronic recording devices and this poses a challenge to the smooth implementation of the ACJL. Furthermore, Complimentary infrastructures are required for the effective supervision and operation of the non-custodial options such as the establishment of a rehabilitation facility, safe custody homes, community service centres as envisaged under the Law.

b. Funding: Closely linked with the practical challenge of identifying appropriate modalities for upgrading and improving physical structures and facilities is the challenge of funding. Undertaking these changes require huge financial commitment which may not be readily available. Inadequate funding has remained a major challenge of the Nigerian judiciary. This challenge is felt more in states where the judiciary is financially dependent on the other arms of government for her operational needs.

c. Electronic recording of the Confessional Statement: Despite the provision providing for the recording of confessional statements in writing and with audio recording means, police officers in the state still continue to record confessional statement in writing, defeating the goal of protecting the

interest of the suspect. Admittedly, the wordings of section 15(4) and its proviso contribute to the problem by utilising words that can be interpreted to mean that not recording the confessional statement using electronic media is permissible.

d. Attitudinal Issues: There is failure to adhere to of key provisions of the ACJL such as those relating to arrests, bail procedures, trial procedures and remand protocols by justice sector collaborators such as the police, defence counsel, prosecutors and judges. This may be due to a lack of awareness or proper understanding of the provisions of the ACJL. Notably, the ACJL generally fails to impose any sanction, especially on the Police officers or those authorised to arrest and investigate criminal offences for failure to adhere to the provisions.

e. Incompatibility issues: The Deltas State ACJL contains certain provisions that appear to be incompatible with extant criminal processes and practices in the ACJA and some other criminal law related legislation may pose a challenge to criminal justice administration in the state. For instance, the absence of the express provision for a no case submission which allows the defendant to ask the court to determine if there is a case to answer before opening his defense. The implication of this fundamental flaw is that, the Law passes on an opportunity to quickly jettison frivolous matters, by distorting a key aspect of the criminal justice system which seeks to ensure that the prosecution has prima facie grounds for the trial.

Another important practice is the trial within trial process which the ACJL by virtue of section 300(3) jettisons. Although the process can contribute to a trial dragging on, it remains relevant in some situation, especially in view of the provisions of section 15 (4) and its proviso. The outright prohibition of the process without concrete arrangement at ensuring that the confessional statement admitted was voluntary creates

potential challenges in complying with the provisions of the Evidence Act which requires the prosecution to prove at the time of dispute, the voluntariness of the statement. If a While a trial within trial is not the only means of proving voluntariness, it is nevertheless allows the court to determine at the material time of dispute as required under the Evidence Act.

Yet another instance of incompatibility is with respect to the recently enacted Correctional Facilitates Act, 2019 and non-custodial measures. Part 44 of the Delta State Law allows for commitment to a rehabilitation or correctional center in lieu of imprisonment as a non-custodial measure. With the recent enactment of the Correctional facilities Act repealing the Prisons Act, a clear demarcation of what is meant by correctional facilitates is becomes an issue.[64]

f. Lack of awareness among members of society of the rights and protection contained in the Law: The absence of knowledge of the laudable provisions of the law acts as a stumbling block to the ACJL proper implementation of the ACJL. Suspects and their relatives are often subjected to treatments not in line with the protection afforded under the Constitution and the ACJL because of ignorance on their part.

10.5. Recommendations.

In view of the state practical challenges in the implementation of the ACJL, it is recommended that:

[64] Section 46 of the Correctional Facilities Act defines a correctional centre as "a prison or any centre that serves as a place for detention, imprisonment or incarceration aimed at promoting a reformation, rehabilitation and reintegration of inmates. Additionally, it provides for non-custodial centres as "designated centres in the community for the administration of non-custodial measures." The latter definition appears to be more in line with the intendment of

a. The provisions of the ACJL should be reviewed in due course. Such a review would be relevant to ensuring that sections that violate the interest and rights of the suspect -defendant [65] or delay the speedy dispensation of justice[66] are expunged. Additionally, sections of the ACJA that promote efficient justice administration can also be introduced.
b. Justice sector collaborators should be adequately trained to attain the twin goal of equipping the justice system with skilled personnel and improving the efficiency and effectiveness of the various synergies among the various justice sector institutions.
c. The state government should invest heavily in the Justice sector to ensure that the required funding to for upgrading and improving facilities are made available
d. Awareness campaigns to enlighten members of the public to the protections and rights that the Law affords every member of the society. Members of the society need to be aware of these rights and protection such as prohibition of arrest in lieu and for civil wrongs, women sureties to be able to claim them and contribute to spurring the much needed attitudinal change for the benefit of the system.

10.6. Conclusion

In reviewing the ACJL Delta state, this work has shown that The Delta State ACJL as the extant criminal procedure law in the state is forms part of Nigeria's criminal justice system architecture which has at its foundation, laudable objectives of promoting efficient management of justice institutions;

[65] Such as the requirement to provide certain items for the court at the time of applying for bail (section 158(2)).
[66] ACJL, s106.

protecting of the interest of the suspect-defendant, the victim and the society. The law is indeed a progressive and timely piece of legislation which conforms largely with the federal legislation and international best practices. However, it is remains key re-orientating justice sector actors that reviews are necessary to accomplish the desired intent of the ACJA.

11. A Comparative Analysis of the Administration of Criminal Justice Law, Lagos (ACJL)2011 and the Administration of Criminal Justice Act (ACJA) 2015.

11.1. Introduction

Nigeria's criminal justice system as a reflection of a federalist mode of government practiced, comprises both federal and state laws. Consequently, the criminal- procedural law of both the state and the centre as the body of rules that guides the process of regulating citizens' conduct for public order and safety are relevant to an effective and efficient system of criminal justice administration. This write-up focuses on criminal justice administration in Lagos state which currently enforces the Administration of Criminal Justice Law (ACJL). It seeks to provide a general overview of the Lagos state law and highlights its compliance or otherwise, with international best practices within the realm of criminal justice administration. The piece then compares the Lagos State Law with its federal equivalent to unravel possible innovations which may broadly benefit Nigeria's criminal justice administration. The write-up also highlights practical challenges that exist in the implementation of the Lagos ACJL and offers potential solutions to them.

11.2. Overview of The Lagos State Administration of Criminal Justice Law

Lagos State first introduced the Administration of Criminal Justice Law in 2007.[1] This 2007 Law was subsequently repealed and re-enacted as the Lagos State

* Osatohanmwen O. Anastasia Eruaga, PhD.

[1] Administration of Criminal Justice Law No 10, 2007.

Administration of Justice (Repeal and Re-enactment) Law (ACJL)in 2011. [2] Notably, the Lagos State ACJL occupies a unique position as the first forward looking legislation, preceding the Administration of Criminal Justice Act, to introduce reforms to criminal justice administration in Nigeria. The ACJA 2015 is similar in purpose, content and language with the Lagos state ACJL.

Prior to the enactment of the now repealed 2007 law , the erstwhile Criminal Procedure Law (CPL) which reflected the procedure system applicable to Southern states under the Criminal Procedure Act regulated the procedure for the administration of criminal justice in the state. Both statutes were faulted for being fraught with numerous irregularities that generated a lot of challenges. In R. v. Zik"s Press Ltd,[3] the now repealed CPA was described as a "rambling, complicated and in many respects ill-drafted piece of legislation." The ill-drafted nature of the instruments were further complicated by practical implementation of their provisions, leading to the existence of controversial issues like coerced and involuntary confessions, court congestion, delays in trials, and detention of awaiting trial suspects. These challenges made it necessary to overhaul the system. The enactment of the Administration of Criminal Justice Law in 2007 which repealed the CPL, was thus a welcome development.[4]

11.2.1. Purpose and Extent of Application

The Lagos state ACJL does not explicitly state its objective or purpose. However, an examination of the Lagos state law reveals that its provisions are geared towards having an effective and just system of criminal justice administration. These objectives were later to be specifically set out in the

[2] Administration of Criminal Justice (Repeal and Re-enactment) Law 2011, ss 370 and 372.
[3] (1947) 12 WACA 202, 205, 206.
[4] In *Akingbola v. FRN* (2012) 9NWLR (Pt. 1306) 511, the Court of Appeal held that any proceeding in Lagos State under the Criminal Procedure Law, repealed by the Administration of Criminal Justice Law of Lagos State 2007 was void.

federal Act, which is similar in many respects to the Lagos law. Section 1 of the ACJA 2015 outlines its purpose as being to ensure that the system of administration of criminal justice in Nigeria promotes efficient management of criminal justice institutions, speedy dispensation of justice, protection of the society from crime and protection of the rights and interest of the suspect, defendant and the victim'. From the long title of the Lagos ACJL and section 1 of the ACJA, one can safely infer that the Lagos state law shares the purpose of the ACJA. Furthermore, the ACJL is applicable to criminal trials for offences established by the laws of Lagos state as well as offences established by Acts of the National Assembly, punishable in the State. The applicability of the Lagos ACJL to federal offences punishable in the state was confirmed by the Court of Appeal in *Wagbatsoma v FRN*[5] where the appellant was charged with, among other offences, offences contrary to the provisions of the Advance Fee Fraud and Other Related offences Act, 2016, an Act enacted by the National Assembly. The Appellate court held that '*by both the provisions of the Constitution and the ACJA, 2015,…the provisions of the ACJL, 2011 and not the ACJA, 2015 were applicable to and in the trial of the Appellant before the High Court of Lagos State for the Federal offences he was charged for.*'[6]

The extant Lagos Law is structured into 29 parts, comprising 372 sections that link together to provide a holistic mechanism for effective criminal justice administration. In addition to the substantive provisions, the law also contains supplementary materials such as the Bondsperson Regulation 2011 and the Rules of Court for Community Service Order made pursuant to provisions of this Law. The repealed 2007 Law and the re-enacted version substantially maintain the procedure system and processes of the CPL. However, they introduce some innovations that brought about radical changes into the administration

[5] Suit No: CA/L/348C/2017.
[6] Ibid.

of Criminal Justice in Lagos State. Some of these reforms are provisions that protect the interest of the suspect;[7] provisions that encourage speedy dispensation of trials;[8] decongestion of correction facilities[9] and provision of non-custodial sentences for juvenile offenders.[10]

11.2.2. Summary of the Lagos ACJL

Part 1 and 2 of the ACJL consisting of 33 section provides for arrest of a suspect generally. An arrest may be made by a police officer or other persons such as a private citizen and a magistrate by touching or confining the body of the suspect, unless he submits by words or action to the arrest.[11] A person arrested must be informed of the cause of arrest, unless the person is in the actual commission of the offence. The arrested person is entitled to notification of other due process rights such as the right to silence and to consult a legal practitioner of his choice. The relatives or other acquittances of a suspect cannot be arrested in lieu.[12] The ACJL mandates that an arrested person while in custody shall be given the facilities to obtain legal advice and make arrangements for his defence or release.[13] The Police is obligated to ensure that any voluntary confessional made while in custody is recorded on video or in the absence of such facilities, be in writing in the presence of his legal practitioner. This provision is included to protect the suspect from incriminating

[7] Section 4- abolition of arrest in lieu; section 9 which places a duty on the police to ensure video recording of confessional statements; section 20(1) requiring the officer in charge of the Police station to report to the Magistrate cases of persons arrested and the Chief Magistrate shall notify the Chief Registrar of such report; and sections 3(3) as well as 74(6) ACJL that establish the Office of the Public Defender.; Part 12 (sections 115, 118, 119 and 138)provisions as to bail generally.

[8] Section 76- Plea bargaining; section 264 on remand protocols and timelines; section 253- abolition of lay prosecutors in High court.

[9] ACJL, part 25- non- custodial sentences.

[10] ACJL, ss 342-348.

[11] ACJL, ss 1, 12 and 16.

[12] ACJL, s4.

[13] ACJL, s9(2).

statements under coercion. Section 19 of the ACJL provides that a person taking into custody for an offence other than one punishable by death shall be released forthwith if evidence is insufficient. To safeguard the right of the suspect, the law requires that the officers in charge of the Police station to report to the nearest Magistrate, a record of the cases of all persons arrested and whether such persons have been admitted to bail or not.

Prevention of Offences and the Preventive Action of the Police are the focus of Parts 3 and 4 respectively. A Magistrate may order a suspect who is likely to commit or is in the habit of committing an offence, to enter recognisance with or without sureties, for a specified period.[14] The procedure for requiring a person to enter and discharge such recognisance as well as repercussion for failure to produce the security as ordered, is covered under this part. Section 52(1) states that police officers may intervene and also conduct an arrest for the purpose of preventing the commission of. any offence.

Part 5 comprises of sections that provision for the place of trial. The sections highlight how the venue of a trial is determined; when courts may send a defendant to another Magistrate or assume jurisdiction for an offence committed in another division or district.[15] The powers of the Attorney General to initiate and control the prosecution of criminal proceedings in the state either personally or by an authorised law officer or private prosecutor are extensively provided for in sections 69 to 74 under Part 7 of the Lagos ACJL and section 253 respectively. Sections 72 and 73 highlight the effect of a discontinuance by the Attorney General for an offence triable by way of Information in a remand proceeding and after the commencement of the trial proper but before judgement is delivered. Where withdrawal is before the

[14] ACJL, ss 34-36.
[15] ACJL, ss 67-68.

defendant is called to make his defence, it amounts to only a discharge whereas if the defendant had entered his defence he will be acquitted in respect of the offence.[16] Section 74 addresses a major cause of delay in criminal trials which is the time spent to waiting to obtain the Advice of the Director of Public Prosecution. The aforementioned section obligates the Commissioner of Police to "forward all duplicate case files with respect to indictable offences to the Office of the Attorney-General for the purpose of issuance of legal advice".

Part 8 focuses on the focuses on plea bargain in criminal proceedings. The concept of plea bargaining was formally introduced to administration of criminal justice procedure by the Lagos ACJL. The ACJL allows the prosecutor to offer, receive and consider a plea bargain in the form of a lesser offence or lesser sentence, in the interest of justice, public interest, public policy and the need to prevent the abuse of legal process.[17] Such a bargain agreement may be entered before the plea is taken subject to the overriding discretion of the judge.[18]

The Lagos ACJL in sections 77 to 97 under Part 9 focus on the commencement of criminal proceedings proper. Section 77 provides that criminal proceedings may be instituted either summarily at the Magistrate court or by way of information and or summarily (in some instances) in the High Court. The court may issue a summons or issue a warrant for his arrest to ensure the defendant's appearance before the court. [19]

Upon arrest and being charged, a suspect is generally entitled to bail, unless it is an offence punishable with death or any other felony.[20] In the instance of being charged with a felony, the court exercises discretion in

[16] ACJL, s73(1).
[17] ACJL, s75.
[18] ACJL, s76(1),(7).
[19] ACJL, ss 79 and 80.
[20] ACJL, s 115.

admitting the defendant to bail. The issues relating to the circumstances and conditions for the grant of bail with respect of the various types of offences; recognizance in respect of children; the production of sureties; recognizance and grounds of forfeiture of recognizance; procedure for the use of bondspersons are covered under Part 12, sections 115-141.

Part 15, comprising of sections 173- 176 highlights the relevance of previous acquittals or conviction to criminal proceedings. The sections under this Part generally provide that a person cannot be tried for an offence he had previously been convicted or acquitted of, by a competent court, unless it is a distinct offence for which a separate charge might have been made against him in the previous trial.[21] A person may also be tried for an offence if the previous conviction or acquittal was not before a competent court.[22]

Sections 177 to 199 under Part 16 provide for the attendance of witnesses at proceedings to give evidence. A witness who fails to attend the Court criminal proceedings in compliance with a summons issued to compel attendance, shall be liable on summary conviction to the payment of a fine. The Law provides for the payment of expenses for the prosecution's witness as approved by the Attorney General. The court exercises discretion to request the Registrar to compensate defendant's witnesses out of general revenue by the Accountant General of the state. While the Law provides that the public generally may have access to hearing, restriction may be applied in certain proceedings such as during the trial of a child or young person and t when children or young persons are giving evidence.[23] The prosecutor, defendant as well as his legal counsel are entitled to be present at criminal proceedings. The defendant however may be removed from court where he misconducts

[21] ACJL, s173 and 174.
[22] ACJL, s174.
[23] ACJL, ss 200-204.

himself by so interrupting the proceedings.[24] The issues relating to access to hearing are dealt with under Part 17.

Sections dealing with trials generally are contained in Parts 19, covering section 230-284. The provisions deal with broad issues such as those relating to the non-appearance of counsel of either side; non-appearance of the defendant; taking the plea of the defendant; change of legal practitioner; compelling witnesses; discharging a defendant with 'no case to answer'; prohibition of stay of proceedings; remand proceedings; delivery of judgement and sentencing.

Capital sentence is provided for generally in Part 22 (section 301- 311). The sections under this Part highlight the prior formalities as well as procedures connected to the infliction of the death penalty as the punishment for capital sentence. The ACJL Law provides that the Governor may grant pardon or reprieve to a convict sentenced to death.[25] Other forms of punishment for offences such as imprisonment and payment of fines are provided under Parts 23 and 24 comprising of sections 312 to 330.

The ACJL provides the trial of juvenile offenders and provides for non-custodial measures as an alternative to their imprisonment under Part 25 of the ACJL. Such non-custodial measures include release on the condition of payment of compensation for loss or injury and of costs; probation; community service; confinement in rehabilitation and correctional centres as well as parole.

The Law in sections 357-360 provide specially for Corporations as defendants in criminal proceedings. These provisions are followed by sections relating to service and execution of court processes in other states. The

[24] ACJL, ss 208-209.
[25] ACJL, s 310

concluding Part of the Law, comprising of sections 370-372 with repeal of the previous ACJL, interpretation, citation and commencement of the ACJL 2011.

11.3. Compliance of the Lagos State ACJL with International Best Practice

International best practices in criminal justice administration allude to the guidelines, rules, cooperative and other accountability mechanisms which guide the international community with respect to criminal matters. These best practices demand national efforts to be in compliance with international standards to ensure and facilitate not just greater investigation and prosecution capacity at the national level,[26] but realistic reforms which will facilitate the speedy dispensation of justice. The Lagos State Administration of Criminal Justice Law (ACJL) 2007 (as amended) contains various provisions which are in line with international instruments and best practices as adopted worldwide. For example, the International Covenant on Civil and Political Rights (ICCPR) provides that the 'sentence of death shall not…be carried out on pregnant women.'[27] The 1969 American Convention on Human Rights also provides that 'capital punishment shall not be…applied to pregnant women.'[28] Japan's Code of Criminal Procedure 1948 (as amended in 2006) also states that 'if a woman condemned to death is pregnant, the execution shall be stayed by order of the Ministry of Justice.' In Burundi however, its 1981 Penal Code states that 'if a woman who has been sentenced to death is found to be pregnant, she must not be subjected to the punishment until after the birth.'

[26] UNODC *Cross-Cutting Issues – International Cooperation: Criminal Justice Assessment Toolkit* (United Nations: New York, 2006)1<https://www.unodc.org/pdf/criminal_justice/INTERNATIONAL_COOP.pdf>accessed 2 May 2020.
[27] ICCPR 1966, Art 6(5).
[28] Article 4(5).

The Lagos State ACJL adheres to these international best practice and protection of the human rights of offenders by providing a more lenient approach. It provides that in the case of a pregnant woman who has been found guilty of a capital offence, the sentence of death shall not be meted out on her but shall be substituted with sentence to imprisonment for life.[29]

With regard to the procedure for trial of a suspect/defendant who is of unsound mind, the Kenyan Criminal Procedure Code 2010 (as amended in 2012) provides that the court shall inquire into the unsoundness of such a person and postpone further proceedings in the case where it is found that such person is incapable of making his own defence.[30] The Lagos State ACJL contains similar provisions in its sections 217 (1) & (2).

Community service has become an integral part of criminal justice reforms globally. Article 10 (3) of the ICCPR states that the 'essential principle of the treatment of prisoners shall be their reformation and social rehabilitation.' This means that the core function of any prison system is the social reintegration of offenders.[31] As such, most jurisdictions now incorporate modalities for establishment of community service centres in their criminal procedure legislation and reforms. For example, under the Ugandan Community Service Act, a person convicted of a minor offence may, rather than being sentenced to prison, make a community service order.[32] These provisions relating to non-custodial sentencing are contained in a separate legislation rather than being provided for within the Ugandan Penal Code (amendment) Act 2007. Similarly, the Lagos State ACJL provides that a person convicted of an offence triable summarily may be ordered by the Court to render community service in lieu of a sentence or fine.[33]

[29] Lagos State ACJL, s 302(2).
[30] Section 162(1) & (2).
[31] Iowane Naivalurua 'Community Social Reintegration: The Fiji Approach.' 37.
[32] Ugandan Community Service Order Act, s3.
[33] Lagos State ACJL, s347 (1).

With regard to detention time limits, the Rwandan Criminal Procedure Law 2019 provides for provisional detention order against a suspect as valid for a 30 day period and subject to renewal for a further 30 days, provided justification for such renewal is made in relation to the previous 30 day detention order.[34] The Lagos State ACJL contains similar provisions regarding remand of a suspect not exceeding a 30-day period at the expiration of which the Magistrate shall order the release of such person except good cause is shown why there should be a further remand for a period not exceeding one month.[35]

International instruments and the procedure in the highlighted jurisdictions buttress the well-thought out provisions of the Lagos State ACJL which are in line with best practices in the international community.

11.4. Comparative Analysis between ACJA 2015 and ACJL Lagos.

The adoption and subsequent implementation of the Lagos ACJL since 2007 provided a framework legislation for the drafting and subsequent enactment that the Administration of Criminal Justice Administration Act (2015) at the federal level. The Administration of Criminal Justice Act 2015 replicates almost word for word, the provisions of the Lagos ACJL, including the innovative provisions such as the provision abolishing arrest in lieu, allowing women sureties and provision of professional bonds persons; plea bargaining;[36] stay of proceedings.[37] There remain however, slight differences between the two pieces of legislation as shown in the table below.

[34] 'Article 79, Law No. 027/2019 of 19/09/2019 relating to the Criminal Procedure, Rwanda'<https://gazettes.africa/archive/rw/2019/rw-government-gazette-dated-2019-11-08-no-Special.pdf> accessed 2 May 2020.
[35]Lagos State ACJL, s264 (6).
[36] ACJA, s270 and ACJL Lagos, s282.
[37] ACJA, s306 and ACJL Lagos, s273.

	CONCEPT	ACJA	ACJL	COMPLEMENTARY PROVISIONS	ANALYSIS
A.	Preliminary Matters				
1.	Objectives/purpose	S. 1	-		The ACJA clearly states the objectives of the Act in section one. While there is no express provision for same in the ACJL, the provisions of the ACJL imply that the law sets out to achieve the same objectives- speedy dispensation of justice, efficient management of criminal justice institutions, protection of the society from crime as well as the

					protection of the human rights of all affected by crime, including the suspect and victim. This depicts a deliberate shift from a punitive to a restorative justice system.
B.	Arrest, Bail and Preventive Justice				
2.	Right to be informed of reason(s) for the arrest and accruable rights	S. 6, 14	S. 3	*a). s. 35(2), (3) and (6) CFRN* *b). ss. 26, 27 Evidence Act* *c). s. 36 CFRN*	The provisions of the ACJL with regard to arrest are quite expansive, emphasising the power of any policeman to arrest. Both laws impose an obligation on the person making the arrest to inform the person arrested of reason(s) for the arrest; and

					the right to legal representation by a lawyer of his or her own choice or one from the Legal Aid Council of Nigeria (LACON). The ACJL also adds the Office of the Public Defender in Lagos state
3.	Recording arrest	ss. 15	s. 10(4)		Both laws require all arrests to be recorded. While the ACJA goes ahead to list what details must be entered in the inventory of arrest, the ACJL leaves that to the discretion of the arresting authority.
4.	Arrest in Lieu	s. 7	s. 4		Both laws have abolished the

						practice of arrest in lieu; thereby affirming the principle of non-culpability under which a person should not be punished for an offence he or she did not commit.
5.	Interrogation, Statement taking and confessional statement	Voluntary confessional statement	ss. 15 (4):	s. 9(3)	s. 36 ss. 20, 28 & 29 EA, 2011	While the ACJA provides that the suspect's statement may be recorded- electronically or in writing, the ACJL makes video recording of confessional statement mandatory. Notably, the Appellate court in Charles v

						FRN,[38] in interpreting s. 15(4) the ACJA stated that using recording devices is obligatory not permissive. Confessions made orally are admissible under both legislation.
		Statement taking	s. 17(1)-(5)	-		In taking a suspect's statement under both statutes, the right of the suspect to *remain silent* is impliedly re-echoed but limited however to the period before a legal practitioner or another person is present. The

[38] (2018) LPELR-43922(CA).

						ACJA provides that such statement should be in writing. The ACJL is however silent on how statements other than confessional statements should be made.
6.	Bail pending investigation		ss. 30, 31	s. 17(1)		Under both statutes, bail before charge is proffered and accepted and administrative bail can be granted. However, the ACJL explicitly states that bail will not be granted where the offence is a capital offence. Here bail is granted upon entering a

					recognisance- with or without sureties for a reasonable sum of money to appear before the court or police station on a designated date and time.
C.	Bail and Recognisance generally				
7.	Bail/recognisances	ss. 158-1631	s. 115-148		Under both laws, bail can be granted for all offences. However, for offences that carry the death penalty under ACJA, bail can only be granted at the discretion of the judge in "exceptional circumstances". The ACJL leaves the decision of the point above to

					the discretion of the judge.
D.	Powers of the Attorney General				
8.	Lay prosecutors	s. 106	s. 253	S. 23 Police Act	Unlike the ACJA, the ACJL of Lagos state allows for police prosecutors in criminal proceedings at the Magistrate courts. The ACJL states that only legal practitioners can commence proceedings in the High court. This includes legal practitioners in the Police but excludes other lay prosecutors in the police. However, since it is silent on the position in the

					Magistrate court, the powers of the police under the Police Act, s. 23 and the decision of the SC in FRN v Osahon[39] are not abrogated.
E.	Detention Time Limits				
9.	Remand times/ protocols	ss. 293, 295& 296	ss. 264	a). ss. 35 & 36 CFRN b). s. 27 TPA, 2013	Where it is necessary to remand, both laws provide protocols regarding the proceedings for doing so, albeit with variations. For example, while the ACJA allows for a remand period of 56 days-14 days each time, the ACJL allows a remand period of 60 days-30

[39](2006) 5 NWLR (PT. 973) 361.

					days at first instance and a further 30 days where probable cause is shown.
F.	Trials				
10.	Day to day trials	S. 396	-		In furtherance of the aspirations of ACJA to ensure speedy dispensation of justice and uphold the constitutional right of suspects to speedy trial, the federal Act provides for day to day trials. The Lagos ACJL did not make any express provision for day to day trial like the ACJA.
11.	Trial in absentia	S. 352	235, 235.		One of the tactics usually

					employed by lawyers, particularly defence lawyers, to delay trial is the absence of their clients. Often, they seek adjournments using excuses such as client's absence due to "ill health" etc. The ACJA made provisions to dispense with the presence of a defendant in some criminal cases. The Lagos law has no such provision and seems to make the appearance of the defendant compulsory.

12.	Ascertainment and payment of witness expenses.	S. 254	S. 194		Payment of such expenses under ACJA is from revenue appropriated by the judiciary while under ACJL Lagos, it is paid from the general revenue of the state allocated by the Accountant General of the State
13.	Case management & Disclosure protocols	ss. 300 376(4) & 379		s. 36 CFRN	There is a deliberate effort towards achieving speedy trials, using case management tool. The ACJA provides that the evidence to be used against the defendant must be made available to

					him to prepare his defence and to encourage pretrial options where issues not in contention are agreed upon and discarded before trial for purpose of disposing of the trial as quickly as possible. The Lagos ACJL did not make any express provision for disclosure by any party
14.	Elevation or transfer of judges, trial *de novo;* and transfer of cases	s. 396(7); s. 98	-		The provisions of section 396(7) was introduced to reduce incidents of part-heard criminal cases starting afresh because the judges handling such

					cases are appointed to higher courts. This innovative provision is not available in the Lagos law. The absence may be founded on the fact that once a Judge is elevated he becomes a federal judge that the state may have no control over. Notably, The Apex court in the recent decision of *Ude Jones Udeogu v FGN & 20 ors*,[40] dealt a severe blow to ACJA, section 396(7). Relying on several sections of the

[40] SC622c/2019, delivered on May 8, 2020.

					constitution including sections 253 and 290(1),the Supreme Court held that the President of the Court of Appeal is not empowered to share the statutory function with the Chief Judge of the Federal High Court to duly constitute the court"
15.	Sentences, and consequential orders	ss. 311, 401, 416	S. 301		Both laws recognise sentencing as an integral part of criminal justice administration; the ACJA sets out parameters to guide judges and magistrates as regards the procedure for

					sentencing, and the objectives of sentencing, to include among others, consideration of mitigating and aggravating factors. These include the nature and gravity of the offence, age of the offender, and whether he or she is a person of unsound mind, whether it is a pregnant woman, rehabilitation, deterrence, education of the public, retribution and restitution. The ACJL of Lagos state does not make these provisions clearly. It

					would seem that these considerations evident the ACJA are left to the discretion of the court
G.	Non-Custodial Sentence				
16.	Non-custodial alternatives	ss. 314, 321, 327, 453-459, 460-463, 467 & 468	Part 25 ss. 340-346 ss. 347,		Non-custodial measures, which include, *inter alia,* probation, parole, suspended sentence, conditional release, community service and confinement in a rehabilitation centre especially in the case of children are provided for in the ACJA. The Lagos state law provides for community

					service and probation for Juvenile offenders but not for adult offenders.

Table XI: Comparison between ACJA 2015 and Lagos State ACJL

11.5. Practical Challenges to the *implementation of the ACJL* Provisions

In view of the comparative analysis highlighted above and the general overview of the Lagos State ACJL, the following are the perceived challenges which may hamper the effective implementation of the Law:

a. Lack of electronic recording devices in taking confessions, particularly spread out to all court divisions in Lagos State. In view of the fact that the police continues to record confessional statements in writing, this lacuna has led to various instances of suspects challenging the veracity of confessional statements made by them. Challenges of this nature potentially affect the quick dispensation of the trial

b. The Lagos ACJL still accommodates the use of lay prosecutors in the Magistrate courts. Lay prosecutors continue to be a clog in the wheel of the State's criminal justice administration system due to their difficulty in many cases, in handling vital issues of law raised for determination by legal practitioners appearing for defendants in criminal trials. Their inefficiency contributes to delay in the dispensation of cases. Lagos State is currently exploring the option of amending the Lagos ACJL to abolish entirely, the option of using lay prosecutors by the police in Magistrate Courts.

c. Probation Orders for adult offenders are not provided for under the Lagos State ACJL unlike other State ACJLs. However, such orders under the Lagos State ACJL are available to juvenile offenders. This is a huge gap in the Law as probation would have been better suited to adult offenders rather than imprisonment and as such, reduce the population of convicts in Lagos prisons.
d. Although the Lagos ACJL provides for non-custodial sentencing, there still has been no significant reduction in the prison population in Lagos . This is because some of the non-custodial alternatives such as fines may be excessive and misapplied. A clear case of the excessive nature of this form of non-custodial sentencing is the Lagos State Street Trading and Illegal Market Prohibition Law 2003, which prohibits street trading and illegal markets,. The law prescribes a fine of N90,000 or six months imprisonment for a first offender

11.6. Recommendations

a. Immediate capacity building in the State, particularly for the Lagos State Police Command to facilitate arrests and other incidental provisions relating to the police under the Lagos State ACJL;
b. Amendment of probation orders to include adult offenders and thus decongest prisons;
c. Establishment of community service centres in each local government area of Lagos State and extension of community service orders to adult offenders;
d. Maintain a physical and online register of defence lawyers within Lagos State which should be made available to arrested persons should they require the immediate services of a lawyer, if the arrested person does not have one;

e. Establishment and commencement of the use by Lagos State of social media as well as electronic and print media to generate public awareness of the innovative provisions under the ACJL which are meant to ensure justice for all;
f. Lagos State Government must reach out to academic institutions, civil society organisations and other international bodies to facilitate training of justice sector collaborators in the State – particularly the police and prosecuting officers - on the practical implementation of the ACJL in comparison with the laws of other states in Nigeria and the ACJA;
g. Filling of the identified gaps in the Lagos State ACJL (shown the above table) in order to enhance transparency in the justice sector in the State and facilitate the speedy dispensation of justice.

11.7. Conclusion

The Lagos State ACJL is regarded as a trailblazing legislation as it was adopted 8 years before the enactment of the ACJA 2015. This initiative by the Lagos State Government has been further enhanced by its amendment in 2011 and the launching of two new practice directions for the ACJL and the Restorative Justice System in May 2019. Nevertheless, it requires a determined legislative effort to address the gaps identified in this analysis. As such, it is imperative that the Lagos State ACJL be immediately amended to bring it, in conformity not just with the ACJA 2015, but also where appropriate, with other State ACJLs in Nigeria. This can be achieved with the cooperation and input of justice sector collaborators in the State.

12. A Comparative Analysis of the Administration of Criminal Justice Act (ACJA) 2015 and the Administration of Criminal Justice Law (ACJL) 2014 of Ekiti State.

12.1. Overview of the ACJA 2015 and the ACJL 2014 of Ekiti State

The ACJA 2015 and ACJL 2014 of Ekiti State were enacted to provide for the administration of criminal justice and related matters. The enactments came as desired reforms to eliminate lapses such as excess use of interlocutory applications and fraught delays in trial of cases, which led to protracted nature of many criminal cases in court, congestion of prisons, abuses of powers by prosecution and defence practitioners etc. and lack of witness protection etc.

12.1.1. The ACJA 2015

The ACJA 2015 repealed the Criminal Procedure Act (CPA), the Criminal Procedure Code (CPC) and the Administration of Criminal Justice Act Cap. A3 Laws of the Federation of Nigeria (LFN) 2004 and made provisions that will enhance efficiency in the administration of the criminal justice system. The ACJA provisions aim to promote efficient management of criminal justice institutions, speedy dispensation of justice, protection of the society from crimes and protection of the rights and interest of the suspect, the defendant and victims in Nigeria.[1] The National Assembly of the Federal Republic of Nigeria enacted ACJA to commence on May 26, 2015 and applicable to the courts in the Federal Capital Territory (FCT) and other Federal courts in Nigeria. Thus, the ACJA is a unique and unified law with respect to offences contained in federal legislation and applies in all federal courts except court martial.

* Associate Professor F. Nlerum.

[1] *Charles v FRN* [2018] 13 NWLR (Pt. 1635) 50.

The ACJA is divided into 48 parts and 495 sections as follows:[2]

i. Part 1 begins with the preliminary which defines the purpose and application of the Act in sections 1 – 2
ii. Part 2 provides for arrest, bail and preventive justice in sections 3 – 34
iii. Part 3 deals with warrant in sections 35 – 49
iv. Part 4 provides for prevention of offences and security for good behaviour in sections 50 – 64
v. Part 5 provides for proceeding in all cases subsequent to order to furnish security in sections 65 – 71
vi. Part 6 provides for preventing public nuisance in sections 72 – 79
vii. Part 7 provides for attachment where a person disobeys summons or warrant in sections 80 – 85
viii. Part 8 deals with provisions relating to criminal trials and inquiries in general in sections 86 – 92
ix. Part 9 deals with place of trial and inquiry in sections 93 – 103
x. Parts 10 and 11 provides for powers of and criminal proceedings by the Attorney-General in sections 104 – 108
xi. Parts 12, 13 and 14 deals with the institution of proceedings, first information report and enforcing appearance of suspect in sections 109 – 115
i. Parts 15, 16 and 17 provides for issue, form and service of summons, miscellaneous provisions regarding process and saving validity of process in sections 116 – 142
ii. Parts 18, 19 and 20 provides for search warrants, bail and recognisances and property and persons in sections 143 – 192

[2] Adedeji Adekunle, 'An Overview of the Administration of Criminal Justice Act 2015' <http://nji.gov.ng/images/Workshop_Papers/2016/Induction_Course/sll.pdf> accessed 6 May 2020; Yemi Akinseye-George, 'An Overview of the Administration of Criminal Justice Act 2015'<http://nji.gov.ng/images/Workshop_Papers/2016/Refresher_Magistrates/so2.pdf> accessed 6 May 2020.

iii. Parts 21 and 22 provides for charge, charge alteration and amendment in sections 193 -222

iv. Parts 23 and 24 provides for conviction and previous acquittals / conviction in sections 223 – 240

v. Parts 25, 26 and 27 provides for compelling witnesses attendance, witnesses expenses and examination etc. in sections 241 – 269

vi. Part 28 deals with plea bargain and plea generally in sections 270 – 277

vii. Parts 29 and 30 provides for persons of unsound mind and detention time limits in sections 278 – 299

viii. Part 31 provides for presentation of case by the parties in sections 300 – 318

ix. Parts 32, 33 and 34 provides for costs, compensation, damages and restitution, custody, disposal, restoration of property and seizure, forfeiture, confiscation and destruction of instrument of crime in sections 319 – 346

x. Parts 35, 36 and 37 provides for summary procedure in perjury, trials and summary trials and trials by way of information in sections 347 – 400

xi. Parts 38, 39 and 40 relate to provisions on sentence generally including sentence of death in sections 401 – 437

xii. Part 41 deals with detention in a safe place or custody other than prison or mental asylum in section 438

xiii. Parts 42, 43, 44 and 45 deal with deportation, child offenders, probation and non-custodial alternatives and parole in sections 439 – 468

xiv. Part 46 provides for the establishment of the Administration of Criminal Justice Monitoring Committee and their functions etc. in sections 469 – 476

xv. Part 47 provides for trial of corporation in sections 477 – 484

xvi. Part 48 deals with appeals from Magistrate courts to the High courts, fees and miscellaneous provisions including interpretation in sections 485 – 494.

Section 495 is the citation while there are 4 schedules to the Act containing several forms for criminal justice administration.

12.1.2. The ACJL 2014 of Ekiti State

The ACJL is law on criminal justice administration in the High courts and Magistrate courts of Ekiti State. The Ekiti State House of Assembly enacted it to commence in 2014. The ACJL provisions are divided into 3 chapters and 41 parts subdivided into sections including schedules. Chapter 1 covers parts 1- 4, chapter 2, parts 5 – 32 and chapter 3, parts 33 – 41. The breakdown of the chapters, parts and schedules are:

i. Chapter 1 – Parts 1 – 4 deal with arrest, bail and preventive justice in sections 1 – 30, escape and re-arrest in sections 31 – 33, prevention of offences in sections 34 – 51 and preventive action by the Police in sections 52 – 54

ii. Chapter 2 – Parts 5 – 32 deal with provisions relating generally to all criminal trials and inquiries in sections 55 – 57, place of trial in sections 58 – 68, powers of the Attorney-General and control of criminal proceeding by the State in sections 69 – 74, plea bargain in section 75, proceedings relating to institution of criminal proceedings, enforcing appearance, summons and forms for issuing and service of summons in sections 76 – 97, miscellaneous provisions regarding processes and irregularities in sections 98 – 103, issue and execution of search warrant, detention and disposal of articles seized in sections 104 - 114, bail and recognisances in sections 115 – 139, bringing of persons in custody before the court and forms in respect of summons, warrants and recognisances in sections 140 – 141, ownership of property and property rights in sections 142 – 145, charges, joinder of offences and withdrawal of charges in sections 146 – 172, previous acquittals or convictions and witnesses in sections 173 – 199,

publicity and view including determination of age in sections 200 – 207, presence of parties and conduct of trials including recording of plea and trials generally in sections 208 – 216 and 230 – 263, persons of unsound mind in sections 217 – 229, remand and addresses in sections 264 – 271, proceedings where constitutional questions are referred to higher court, conclusion of trial and warrant of commitment in sections 272 – 284, costs, compensation, damage, restitution, forfeiture, seizure and disposition of property in sections 285 – 298, summary procedure in perjury, general provisions, sentences including imprisonment and fines in sections 299 – 300

iii. Chapter 3 in Parts 33 – 41 deals with provisions relating to sentence procedure, deportation, juvenile offenders, probation and community service in sections 301 – 349, coroners inquisition in sections 350 – 356, provision relating to corporations in sections 357 – 360, service and execution of court processes throughout Nigeria in sections 361 – 369, repeal, interpretation and citation in sections 370 – 372 including Schedules 1 – 5 and accompanying forms for charges, statement of offence, warrant of arrest, sentence and remand etc.

12.2. Compliance of the ACJA 2015 and the ACJL 2014 of Ekiti State with International Best Practices

Justice is a concept of what is lawful, fair and equal. It can be classified as distributive or remedial and must be manifestly and undoubtedly done.[3] Justice is recognised world over as an innate human rights order. Many laws, conventions and constitutions of the world in promoting justice as an innate human rights order provide that all persons are free and shall have a right to

[3] *UCHBM v Morakinyo* [2014] 16 NWLR (Pt. 1434) 589.

fair hearing, fair trial and speedy disposition of their cases before all judicial, quasi-judicial or administrative bodies.[4] This helps to prevent oppression of the citizen and delays in the administration of justice because holding criminal proceedings indefinitely breeds delayed justice, which may result in denied justice.[5]

Laws on administration of criminal justice are instruments of social engineering to meet the demands of an egalitarian society by eliminating all forms of delays and inhuman treatment. However, these laws are applied within certain due process because the rights accorded the suspect or defendant to speedy dispensation of justice etc. is shield not weapon and are thus secured within securing the right of public justice.[6] Accordingly, the application of laws on administration of criminal justice thrives within orderly and expeditious dispensation of fair trial and, efficient management of criminal justice institutions and not merely based on speed but also, to protect human interests, human dignity, personal liberty and the society from crime.

The 1999 Constitution of the Federal Republic of Nigeria (CFRN) in sections 6, 34 - 36 recognises justice as an innate human rights order. It establishes the courts to try cases based on fair hearing and fair trial[7] within a reasonable time using an independent and impartial adjudicator. Such trial must also respect human dignity and personal liberty within due process. The ACJA 2015 / ACJL 2014 of Ekiti State dwells on criminal justice and aligns to the 1999 Constitution[8] by providing administration of criminal justice institutions which promote

[4] Universal Declaration of Human Rights, Art 10, Sixth Amendment to the United States Constitution, the European Convention on Human Rights, Art 6, etc.

[5] *Danladi v Dangiri* [2015] 2 NWLR (Pt.1442) 124; *Barbedos Ventures Ltd v FBN Plc.* [2016] 11 NWLR (Pt. 1523) 301.

[6] The rights granted under sections 34 – 38 of the 1999 Constitution are not absolute – *Health Practitioner & 2 Ors v Medical and health Workers & Ors* [2008] 1 SC (Pt. 111) 1.

[7] *Botn v State* [2018] 3 NWLR (Pt. 1607) 140.

[8] The 1999 Constitution is the supreme law of the land. What is stated in it is sacrosanct and immutable and nothing can be done but to strictly comply with it – *Coca-Cola (Nig.) Ltd v Akinsanya* [2017] 17 NWLR (Pt. 1593) 74 and *Nganjiwa v FRN* [2018] 4 NWLR (Pt. 1609) 301.

speedy dispensation of justice, protection of the society from crimes and protection of the rights and interest of the suspect, the defendant and victims.[9] These are manifest in provisions which:

a. Prohibit delay by refusal of application for stay of proceedings in criminal matters – ACJA section 306 and ACJL section 273[10]

b. Prohibit prosecution of cases by non-lawyers. Therefore, Police men who are non-lawyers have lost the right to prosecute cases[11]

c. Promote day – to day trial until conclusion of trial and where impracticable, a party is entitled to only 5 adjournments and the interval between adjournments shall be within two weeks etc. - ACJA section 396[12]

d. Provide quick assignment of cases and issuance of notice of trial within ten working days of the assignment. Also, objection to charges are to be considered along with the substantive issues and an accompanying ruling at the time of the judgement

e. Clarify the status of women sureties to increase the persons who can undertake this duty to speed trial of cases

[9] In *Metuh v FRN* [2018] 3 NWLR (Pt. 1605) 1, the ACJA is to ensure that both the prosecutor and the defence are given adequate time and facilities and equal opportunities to present, prosecute and defend the charge or subject matter of the criminal proceedings bearing in mind the provisions of section 36 (b) and (d) of the 1999 Constitution.

[10] ACJA section 306 and ACJL section 273 provide that an application for stay of proceedings in respect of a criminal matter before the court shall not be entertained until judgment is delivered. Interlocutory applications in criminal trials are still entertained but the court cannot grant a stay of proceedings to entertain such an application because all applications shall be considered and judgment delivered once. High Court of the Federal Capital Territory (FCT) Practice Directions, Order 11; *Olisah Metuh v FRN* [2017] 11 NWLR (Pt.1575) 157.

[11] This will reduce the delay and lack of diligent prosecution by Police Officers. Thus, section 106 ACJA suspends section 23 of Police Act and over rules the decision in *FRN v Osahon* (2006) 5 NWLR (pt. 973).

[12] Section 396 (3) - Upon arraignment, the trial of the defendant shall proceed from day-to-day until the conclusion of the trial. Where this is impracticable, no party shall be entitled to more than five adjournments from arraignment to final judgment…

f. Introduce electronic recording of confessional statements[13] - ACJA section 17 / ACJL section 9 (3)

g. Ensures that the elevation of a judge does not bring an end to the case to start *de novo* - ACJA section 396 (7)[14]

h. Elaborate provisions on arrest protecting the constitutional rights of citizens. For example, persons arrested should know the cause for arrest and their rights etc. – ACJA sections 6 and 8 / ACJL section 3 (1), (2) and (3) and section 4

i. Reduce remand time to 14 days or 30 days at first instance etc. to decongest prisons as some suspects are remanded at will and indefinitely – ACJA sections 14, 293 – 299 / ACJL sections 9, 44 and 246 (6)

j. Provide compensation for victims of crime in deserving cases in addition to sentencing the guilty defendant also – ACJA sections 319 – 328 / ACJL sections 285 – 287

k. Ensure that the Police can no longer arrest persons in lieu of suspects nor arrest any person over civil wrongs and contracts - ACJA section 7 / ACJL section 4

l. Provide for plea bargain to allow the defendant and the prosecution work out a mutually acceptable disposition of the case with the consent of the victim before the presentation of the evidence of the defendant to save the time and resources that may be absorbed with trial – ACJA section 270 / ACJL sections 75 and 76

[13] This prevents the delay occasioned by denial of written statement by defendant or allegation that statement was made under duress which leads to suspension of trial and conduct of trial within trial.

[14] A judge of the High Court who has been elevated to the Court of Appeal shall have the dispensation to continue to sit as a High Court Judge only for the purpose of concluding any part heard criminal matter pending before him at the time of his elevation.

m. Promote execution of search warrant anytime of any day and search of person is based on same sex – ACJA sections 9, 12, 143 – 157 / ACJL section 5 (2)

n. Provide remedy for a suspect detained in custody – CFRN 1999 section 35 (4) / ACJA section 32 / ACJL section 18

o. Treat corporations as adult defendant who can be tried for criminal matters through its representative.[15] This promotes speedy trial and reinforces the decision in *Salomon v Salomon* that Corporations are legal personalities / entities that can sue and be sued – ACJA sections 477 – 484 / ACJL sections 357 – 360

p. Promote reformative and restorative justice to reduce prison congestion, rehabilitate prisoners by promoting productive work, community service and distancing of simple offenders from hardened criminals – ACJL sections 342 – 348 and 294 – 297 respectively

The provisions of the ACJA 2015 and the ACJL 2014 of Ekiti State on criminal justice administration covers established institutions, personnel, arrest, investigation and trial, custodial matters and sentencing guidelines. The provisions seem to display a shift from the primary objective of the criminal justice of command / control punitive justice to restorative justice. Implementation of the provisions is expected to respond to the needs of the

[15] In times past, the twin requirement of *mens rea* and *actus reus* placed a clog in proving charges against a corporation for a crime - *Olaiya v State* [2018] 10 NWLR (Pt. 1626) 1; *LASTMA v Esezobo* [2017] 5 NWLR (Pt. 1559) 350 and *Interdrill (Nig) Ltd v UBA Plc* [2017] 13 NWLR (Pt. 1581) 52 Now corporations are criminally liable as natural persons – *Abacha v AG Federation* [2014] 18 NWLR (Pt. 1438) 21 and *FRN v Awe Odessa, All States Bank Plc. and Ors* FHC/ICD/143/04.

society, the victim, suspect,[16] vulnerable persons and human dignity[17] and thus, is seen as the long awaited revolution in the criminal justice system.[18]

12.3. Comparative Analysis of ACJA 2015 and ACJL 2014 of Ekiti State

The comparative analysis ascertains the extent of implementation or adaptation of the ACJA 2015 in ACJL 2014 of Ekiti State. It focuses on some salient provisions and definitions[19] such as those relating to notification of arrest and right to counsel, arrest in lieu, recording of arrest and recording of confessional statement of suspect, the central criminal record register, stay of proceedings, plea bargain, prosecution of offences, witness expenses, remand orders, humane treatment of arrested person, part heard criminal matters and suspect etc. References will also be made to complimentary provisions in other laws. The comparison is represented as follows:

S/N	CONCEPT	ACJA 2015	ACJL 2014 of Ekiti State	COMPLIMENTARY PROVISIONS	ANALYSIS
a.	Notification of Arrest and Right to Counsel	Section 6 (1) A person arrested shall be informed of the reason for his arrest and has the right to remain silent and entitled to legal representation etc…	Section 3 Similar provision	CFRN 1999 Nigeria section 36 (6) (a) Police Act 2018[20] section 33	Both provisions are similar. A person arrested must be informed of the reason for arrest except where he is apprehended in the course of committing the offence – *Ankwa v The*

[16] *Awelle v People of Lagos State* (2016) LPELR -41395 (CA.)
[17] This is evidenced in the choice of usage of the word "suspect" or "defendant" rather than "accused" and the provisions relating to treatment of an arrested person including provisions for speedy trial, suspended sentencing to community service, parole and compensation etc.
[18] Views of the author.
[19] ACJA 2015 definition section is section 494 and ACJL 2014 of Ekiti State definition section is section 371.
[20] Repealed the Police Act Cap P19 LFN 2004.

					State.[21] He is also entitled to an interpreter where he does not understand the language of the court – *Gwonto v The State*.[22] He is also entitled to a legal practitioner of his choice[23] however; the ACJA provides free legal representation by the Legal Aid Council of Nigeria where applicable while the ACJL provides free legal representation from the Office of the Public Defender, Legal Aid Council or any such agency. The ACJL creates more options for legal representation for a suspect
b.	Arrest in Lieu	Section 7 Arrest of a person in place of a suspect is prohibited	Section 4 No person shall be arrested in lieu of any other person	Nigeria Police Act 2018 section 34 No person shall be arrested in place of a suspect	ACJA and Police Act provisions are same but ACJL provision appears less restrictive in the choice of any other person

[21] (1969) LPELR – 25460 (SC).
[22] [1983] 3 SC 1.
[23] *Ariori v Elemo* [1983] SCNLR 1; *Mohammed v The State* (2013) LPELR – 19822 (SC); *Adigwe v FRN* (2015) LPELR – 24694 (SC).

c.	Recording of Arrest	Sections 15 and 29 The Police Officer or other Officer in charge shall record the alleged offence …within 48 hours The Inspector General of Police and head of every agency authorised by law to make arrests shall remit quarterly to the Attorney General of the Federation a record of all arrests and likewise the Commissioner of Police in the State to the Attorney General of the State	Sections 10 (3) and 20 The Commissioner of Police has same duties as well as officers in charge of police stations who shall report to the nearest Magistrate and the Magistrate shall report to the Attorney General of the State	CFRN 1999 section 36 (7) When a person is tried for any criminal offence, the court or tribunal shall keep record of proceedings. Nigeria Police Act 2018 section 43 provides for recording of arrests while section 26 provides for annual reports. Section 51 also provides for quarterly report to the Attorney General of the Federation by the Inspector General of Police	The report under ACJA is a quarterly report while under ACJL, the report by the Commissioner of Police is within one week of the arrest while the report from police stations shall be within three days. The State reports is expected to be less and requires collation and compilation at the Federal level therefore the provisions are good
d.	Central Criminal Records Registry	Section 16 There shall be established a Central Criminal Records Registry (CCRR) at the Nigerian Police Force while at every police command, there shall be kept a Criminal Records Registry to transmit all such records to the CCRR	ACJL makes no provision for a central record registry	Nigeria Police Act 2018 in section 27 provides for accountability of records while section 44 provides for Central Criminal Records Registry at the Nigeria Police Force	The CCRR is a welcome provision for proper documentation. Probably, the Criminal Records Register at each police command will take care of the state records. It is hoped that Ekiti State will provide for such central record at the State level to

					complement the provisions of the ACJA
e.	Recording of Confessional Statement of Suspect	Section 17 mandates that the making of a voluntary confessional statement shall be in writing and may be recorded electronically on a retrievable video compact disc or such other audio-visual means. Notwithstanding, an oral confession of a suspect shall be admissible	Section 9 (3) A voluntary confessional statement shall be recorded in a video, which may be produced at the trial. In the absence of such, the statement shall be in writing in the presence of a legal practitioner of his choice. Non-compliance with this provision shall not preclude the admissibility in evidence of any confession otherwise admissible under the relevant provisions of the Evidence Act	Nigeria Police Act 2018 in section 45 provides for recording of statement of suspect. It does not provide for electronic recording Evidence Act 2011 sections 28, 29, 47 and 48 makes provisions relating to confessional statement	In ACJA and ACJL provisions, video recording is mandatory but its use in trial is voluntary. Video recording is good to showcase voluntariness therefore, it is likely to be used when voluntariness of the suspects statement is in question
f.	Prosecution of Offences	Section 106 Persons allowed to prosecute offences are the Attorney General, law officers in his Ministry / Department, legal	Sections 76 (11) and 271 Section 76 (11) defines prosecutor as law officer within the section. Reading it	The Legal Practitioners Act Cap. L 11 LFN 2004[24] section 2 titled "Entitlement to Practice" provides that a person shall be entitled to	From the provisions, the days of lay prosecutors are over. Therefore, only police men who are legal practitioners may prosecute criminal cases

[24] Repealed the Legal Practitioners Act 1962 as amended in Act No. 46 of 1988.

		practitioners authorised by him or under any Act of the National Assembly to prosecute offences	along sections 70 and 271, only a law officer or a police man who is a legal practitioner may prosecute criminal cases in Ekiti State	practice as a Barrister and Solicitor if and only if, his name is on the Roll…. Nigeria Police Act 2018 section 4 provides the primary functions of the Police force which does not clearly indicate power to prosecute offences	reversing the decision in *FRN v Osahon*
g.	Witness Expenses	Sections 251, 252 and 254 Witness expenses for the prosecution and defence shall be paid by the Registry out of the relevant vote as appropriated by the Judiciary	Section 191 Witness expenses shall be paid out of general revenue by the Accountant General of the State		ACJA provisions are definite. The definition of general revenue in ACJL may create discretions and insecurity of payment in the State
h.	Time and Protocols for Remand Orders	Section 296 Remand order shall be for a period not exceeding 14 days in the first instance. Extension exists for a further 14 days and at the expiration, there is likelihood for a final extension period not exceeding 14 days before the suspect is arraigned for trial	Section 264 (6) An order of remand shall not exceed thirty (30) days in the first instance and at the expiration of which the Magistrate shall order the release of the person remanded or issue further remand order for a period not	CFRN 1999 sections 35 (1) and 36(5)	Remand order is defined in *Lufadeju &Anor v Johnson*[25] A suspect can only be remanded based on a probable or good cause because no person shall be deprived of his personal liberty except as permitted by law The ACJL time is too long and

[25] (2007) LPELR – 1795 (SC).

			exceeding one month. At the expiration of one month, there is likelihood of further extension if the Magistrate is satisfied that there is good cause and that all necessary steps have been taken to arraign the person before an appropriate court or tribunal		may delivery of delay justice
i.	Stay of Proceedings and Objections	Sections 306 and 396 (2) An application for stay of proceedings in respect of a criminal matter before the court shall not be entertained. Objections shall only be considered along the substantive issues and a ruling thereon made at the time of delivery of the judgement	Section 273 An application for stay of proceedings in respect of any criminal matter brought before the court shall not be entertained until judgement is delivered		Similar provisions with emphasis that all applications shall be considered along with the judgement. This is good to eliminate all unnecessary attempts by clients and counsel to cause delay
j.	Day –to-Day Trial and *De Novo* Cases	Section 396 (3) and (7) Upon arraignment, the trial of the defendant shall	Section 231 Cases shall be mentioned for hearing in the court at		Day –to-day trial is good for efficient administration of criminal justice. It helps

		proceed on Day –to-Day basis and the elevation of a Judge does not return the matter handled by him *de novo*	the date and at the place specified in the summons or warrant		to eliminate manoeuvrings and mischiefs that engender delay in trials.[26] Both provisions provide for time fixing and place for hearing of cases however, ACJA provisions are more specific and should be adopted by ACJL Ekiti State
k.	Humane Treatment of Arrested Person	Section 8 A suspect shall be accorded humane treatment having regard to his right to dignity of his person and not to be subjected to any form of torture, cruel, inhuman or degrading treatment	Section 1 (2) A person arrested shall not be handcuffed or otherwise bound or be subjected to unnecessary restraint except by order of court etc.	CFRN 1999 section 34 (1) (a) Nigeria Police Act 2018 provide in sections 32 and 35 for humane treatment of an arrested person and also prohibits unnecessary restraints Evidence Act 2011 in section 29 (5) provides that torture, inhuman or degrading treatment or violence is oppression which is prohibited	These provisions help in ensuring that the police do not manhandle a person arrested. It also aligns to the fundamental human rights guaranteed by CFRN 1999 in section 34 (1) (a) Every person is entitled to respect for the dignity of his person and no person shall be subjected to torture or to inhuman or degrading treatment
l.	Monitoring Committee	Section 469 Establishes the ACJ Monitoring Committee as added	Section 348 Establishes the Rehabilitation and	Nigeria Police Act 2018 in section 91 provides for the establishment of	Additional institutional mechanism for efficient implementation

[26] The Indian Case of *Chaudhary v State* (Delhi Administration) (1984) I SCC 722.

		institutional mechanism for efficient implementation of the Act	Correctional Centre of Ekiti State	Police Community Forums to enhance the work of the Police Force	of administration of criminal justice is welcome. Ekiti State Rehabilitation and Correctional Centre may establish such monitoring committee as a Department within the Centre
m.	Who is a Child Offender?	Defines young person as a person who has attained the age of 14 and has not attained the age of 17 years	Child offender is an offender who has not attained the age of 18 years	Nigerian Correctional Service Act 2019[27] provides for young offenders in section 35. It defines juvenile offenders in section 46 as young offenders below the age of 18	ACJL provision is same as the Nigerian Correctional Service Act. ACJA may align with it
n.	Currency	Coins, notes and other legal tender	Not defined	Central bank of Nigeria (CBN) Act 2007 does not define currency. It provides in section 15 that the currency of Nigeria is Naira which shall be divided into one hundred kobo	The ACJL should define this because of the provision of plea bargain and fines
o.	Open Court	Room or place in which a court sits to hear and determine a matter within its jurisdiction and to which room	Room or place in which a court sits to hear and determine a matter within	CFRN 1999 Section 36 (3) Court is a public place	The qualification by ACJA is commendable because there would be instances

[27] Repealed Prisons Act Cap P29 LFN 2004.

		or place the public may have access so far as the room or space can conveniently contain them	its jurisdiction and to which room or place the public may have access		where the court room may not accommodate everyone

p.	Legal Guardian	Relates also to a young person	Does not provide legal guardian for a young person		ACJL should provide for this in cases where a person does not have parents
q.	Part-heard Criminal Matter	Trial in which the prosecution has closed its case	Not defined		ACJL may provide for this so that at any point, the status of pending cases are defined
r.	Plea Bargain	Process in criminal proceedings whereby the defendant and the prosecution work out a mutually acceptable disposition of the case including the plea of the defendant	Provides for it in section 70 but does not define it		Definition should be provided in ACJL Plea bargain is subject to judicial approval. It promotes restorative justice and impacts on sentencing guidelines. It helps in quick resolution of criminal corrupt cases and has aided in prosecuting high profile corruption cases in the country[28] for example, former Governors

[28] M T Ladan, 'The Role of the Administration of Criminal Justice Act 2015 in the Trial of Corruption Cases in Nigeria' <https://papers.ssrn.com/so13/papers.cfm? Abstract_id=2814635> accessed 7 May 2020; *FRN v Lucky Igbinedion* [2014] All FWLR (Pt. 734) 101; *FRN v Igbinedion* (2014) LPELR - 22766; *FRN v Cecilia Ibru* FHC/L1297C/2009; *FRN v Tafa Balogun* [2005] 4 NWLR (Pt. 324) 190; *FRN v Nwude* (2015) LPELR -25858 (CA). Abdulkarim A Kana, 'The State of Plea Bargain in Corruption Trials in Nigeria' <http://ljilss.thelawyerschronicle.com/wp_content/uploads/2016/11/3_THE_STATE_OF_PLEA_BARGAIN_2.pdf> accessed 5 May 2020.

					Diepreye Alamiesieigha and Lucky Igbinedion, former IGP, Tafa Balogun and Mrs. Cecilia Ibru of Oceanic Bank Plc. The provisions on plea bargain envisage a mutual agreement by all stakeholders – victim, prosecutor, defendant, defence counsel and the court and have thus provided standards to ensure the reasonableness of a plea bargain process[29]
s.	Police	The Nigerian Police established by the Constitution	Not defined	CFRN 1999 section 214 establishes the Nigeria Police Force Nigeria Police Act 2018 Section 118. Police means the police force Criminal Code Act Cap 77 LFN 2004 in section 1 defines police officer as	ACJL should define it

[29] I Danjuma, 'The Extent of the Voluntariness in Plea Bargaining for Economic and Financial Crimes in Nigeria' 23 (3) *ILUMJ* 485 <file:///C:/Users/Acer/Downloads/ILUMCOVERPANDJOURNALARTICLE.Pdf> accessed 7 May 2020.

				any member of the police force	
t.	Reasonable time	Defined in relation to section 35 (5) of the 1999 Constitution of the Federal Republic of Nigeria	Not defined	CFRN 1999 Sections 35 (5) and 36 (4)	ACJL should define this to ensure speedy trial because what amounts to a reasonable time is subjective and may delay justice
u.	Summary Trial	Trial by Magistrate or High Court commenced by filing Information	Trial by Magistrate or High Court commenced by filing a Charge		These definitions incorporate both information and charge and may be confusing. Definitions should be aligned
v.	Suspect	Person who been arrested on the suspicion of committing any offence and who is yet to be formally charged	Not defined yet the law states both suspect and defendant	CFRN 1999 section 36 (5)	ACJA uses suspect. This is welcome and aligns with the presumption of innocence provided in section 36 (5) of the 1999 CFRN

Table XII: Comparison between ACJA 2015 and Ekiti State ACJL

12.4. Practical Challenges with the Implementation of the ACJA / ACJL Provisions

a. Non-custodial measures are good for restorative justice. Lagos State is already implementing Community Service in sentencing traffic offenders and Covid-19 Regulation offenders[30] however; the ACJA and ACJL enactments have not presented all the processes[31] to enforce the non-custodial measures including the agencies and facilities that will implement them

[30] Funke Akindele and her Husband who held birthday party celebration violating the social distancing provision.

[31] With the establishment of a Monitoring Committee, the author queries the practical ability of the Committee to cover the entire country and asks if the Committee will establish State

b. ACJA sections 293 – 295 and ACJL section 264 (6) appears to give statutory flavour to holding charge wherein a suspect may be in custody for over 50 days. This appears contrary to section 35 (5) of the 1999 Constitution

c. Compensation and the related offence should be defined because there are worries about the nature of compensation that can reinstate an injury such as a lost life or limb? Also, questions are whether the government will be vicariously liable to ensure compensation and what happens where the convict cannot afford the compensation?

d. The practise of plea bargain appears contrary to the fight against corruption in the country.[32] It is also discriminatory especially against the poor for example, imagine a scenario where a person who steals in millions get off the jail hook by having the option to surrender some amount while a person who steals a farm produce has no option of fine. Is plea bargain therefore protecting white-collar criminals from serving jail terms and protecting their crime proceeds and, is this justice?

e. The introduction of electronic recording of confessional statement[33] on a retrievable video compact disc (CD) or such other audio-visual means in the presence of certain category of persons in section 17 ACJA and section

sub-counterparts with trained manpower? Will the Committee also collaborate with all stakeholders in the administration of criminal justice? Does the Ekiti State Rehabilitation and Correctional Centre have adequate manpower to monitor the efficient implementation of the law? Ifeoluwa Etomilade Oduola, 'The Non-Custodial Sanctions Regime under the Administration of Criminal Justice Act 2015' in Adedeji Adekunle, Emeka Nwabuzor and Susan Oyakhire (eds) *Issues in Criminal Justice Administration in Nigeria* (NIALS: Abuja, 2016) 166.

[32] A concept that permits a person who is guilty of stealing to return some amount and get off the hook is morally wrong and may encourage people to imbibe the act of stealing especially those who believe that the end justifies the means. O Yewande et al, 'Restructuring our Criminal Justice System, Plea Bargaining, A Solution?' <http://www.lawyard.ng/restructing_our_criminal_justice_plea_bargaining_a_solution_by_ojo_yewande_abolade_11_b_hons_b1_and_adefuye_adewale_isreal_11_b_hons_b1/> accessed 6 May 2020; Theresa Ablao, 'Plea bargaining, Purposes, Strategies and Constraints' <file:///C:/Users/Acer/Downloads/081514_plea_bargain_presentation%20(1).pdf> accessed 7 May 2020.

[33] *Kolade v State* [2017] 8 NWLR (Pt. 1566) 60. Confessional statement is the best form of evidence – *Simon v State* [2017] 8 NWLR (Pt. 1566) 119.

9 (3) ACJL Ekiti State is welcome and mandatory – *Akaeze Charles v FRN.*[34] However, does the tendering of the recorded statement when there is an objection to voluntariness presume that such recorded video *is ipso facto* or *Res Ipsa Loquitor*[35] as regards proof of voluntariness? Also, tendered confessional statements must meet certain criteria and is only necessary when there is objection to voluntariness. Query is...what is the safety measure to ensure that there is no tampering and will all police stations be equipped with necessary recording and storage equipment / gadgets?

f. The obtaining of a remand order via *ex parte* application may create the challenge of the court not having the opportunity to know the complete picture of the condition of the person sought to be remanded and this might be prejudicial to the dispensation of substantial justice

g. Ekiti State has no provision as ACJA in relation to the establishment of the Administration of Criminal Justice Monitoring Committee. The Committee is a welcome development therefore, the State Rehabilitation and Correctional Centre may establish a committee or a department focused on monitoring the efficient implementation of the Law

12.5. Recommendations

From the analysis, ACJA provisions in relation to provisions on recording of arrests, central criminal records registry, prosecution of offences, witness expenses, time and protocols for remand, day-to-day trials and definitions are more definite and clear.[36] There is need to align the provisions of the ACJL to that of ACJA in the areas of:

[34] [2018] LPELR 43922 (CA).
[35] *SPDCN v Anaro* [2015] 12 NWLR (Pt. 1472) 122.
[36] There are also instances as indicated in the analysis where the provisions of the ACJL 2014 of Ekiti State are more preferred.

a. Provision of a Criminal Records Registry for a central documentation of all criminal records in the State
b. Specific mention of day –to day trial in ACJL 2014 of Ekiti State just like the provision for service of summons in section 81[37]
c. The establishment of a Monitoring Committee or a Department within the State Rehabilitation and Correctional Centre for monitoring the efficient implementation of the law
d. Who may prosecute offences? ACJL should clearly state who can prosecute offences
e. The time and protocol for remand should be reduced. ACJL's thirty (30) days and one month extension compared to ACJA's 14 days appears too long and may delay justice

Aligning ACJL 2014 of Ekiti State to ACJA 2015 will create uniformity, which is desired for effective implementation of the legislation on administration of criminal justice. Judges, Prosecutors, Defence Lawyers and members of the Legal Profession should also be trained on the provisions to help equip Nigerians on the advantages of the legislation, which aim to showcase efficient criminal justice administration institutions that will deliver speedy dispensation of justice to uphold the rights of suspects, victims and the society.

12.6. Conclusion

The provisions of the ACJA 2015 and ACJL 2014 of Ekiti State are elaborate to promote speedy dispensation of justice, which recognises the rights of suspects, victims and the interest of the public. Achieving this collective goal

[37] Service of summons shall be any day from Monday to Saturday between the hours of 8am to 6pm and summons served on a Sunday or public holiday shall not be invalid but shall take effect from the next working day. This is similar to the Nigeria Police Act 2018 which provides in section 60 for issuance of a warrant of arrest on any day including a Sunday or public holiday.

rests on implementation which must align to international best practice. It is expected that implementation of the enactments will promote a timely but fair resolution of criminal cases which will be expedient, reliable and affordable and as implementation grows, issues of practicability will be dealt with accordingly to also, grow our legal jurisprudence.

13. A Comparative Analysis of the Administration of Criminal Justice Act, 2015 and Administration of Criminal Justice Law of Ondo State

13.1. Introduction

The administration of justice pertains to the personnel, activity and structure of the justice system – courts and police – in the detection, investigation, apprehension, interviewing and trial of persons suspected of a crime. As such, in the achievement of justice, most jurisdictions adopt holistic legislation which deal with these activities and essentially, reform of their criminal justice system. Nigeria joined the rest of the world in enacting an innovate, umbrella legislation for the administration of justice called the Administration of Criminal Justice Act (ACJA) 2015.

13.1.1. Overview of the ACJA

The Administration of Criminal Justice Act (2015) was enacted in May 2015. The Act is divided into forty-nine (49) parts, with four hundred and ninety-five (495) sections. Although the law repeals the Criminal Procedure Act (CPA) and Criminal Procedure Code (CPC), it preserves the existing criminal procedures as contained in those laws while introducing new provisions which enhance the effectiveness of the criminal justice system and speedy dispensation of justice in Nigeria.

ACJA is characterised by some distinguishing features which serve as a great departure from the old practices. One of such remarkable features is the paradigm shift from the punitive, retributive and deterrent nature of the Nigerian legal and criminal justice system to a more humane, corrective, reformatory and restorative system. Some of the features are as reflected in its Section 1(3) which utilises humane language to address a suspect e.g. using the word 'defendant' in place of 'accused'; humane treatment during arrest

and speedy trial (s. 8 (1); suspended sentencing (s. 460 (1); community services (s. 460 (2); parole (s. 468); Compensations to victims of crimes (ss. 314 & 319), etc. These are a few of the human features of the ACJA.

Other areas worth noting are the innovative provisions of the Act which include the protection of the constitutional rights of an arrested person, establishment of an Administration of Criminal Justice Monitoring Committee, a Police Central Criminal Record Registry, quarterly report by the Inspector-General of Police to the Attorney-General of the Federation, among other innovations.

13.1.2. Overview of the ACJL, Ondo State

In keeping with the ACJA as a Federal Enactment, the Ondo State Government enacted the Administration of Criminal Justice Law (ACJL) of Ondo State on 30th December 2015 and was gazetted in 2016. The ACJL of Ondo State is made up of 44 parts with 433 sections. This is in similar form with the ACJA which has 49 parts and 459 sections.. The purpose of the Law is to make provisions for speedy and efficient administration of criminal justice in all courts and by all agencies in Ondo State of Nigeria. . The ACJL repeals the former Criminal Procedure Law, Cap 38, Volume II, Laws of Ondo State 2006.Section 1 (5) provides that all offences under the Criminal Code or any other enactment creating an offence shall be investigated, inquired into and otherwise deal with according to the provisions of the ACJL. The exception to this provision is when there are specific provisions in such enactments in relation to the manner or place of inquiry or trial. Here again, the ACJL takes semblance of the ACJA.

The innovative provisions of the ACJL, Ondo State in practice include video or audio-visual recording of confessional statements; allowing women to stand as sureties for arrested persons, a practice which was not allowed by the

erstwhile Criminal Procedure Law; male police officer can no longer search a female person; and arrests are not made in civil cases.[1]

13.2. **Compliance with International Best Practices**

Criminal justice systems worldwide, evolve out of, and are constantly reformed through a conflict of some kind,[2] or prevailing circumstance warranting such evolution and reforms. African governments subscribe to the normative standards of criminal justice articulated by the United Nations, African Union and other regional organisations. These are enshrined in their constitutions. However, often times, some of these standards are not met for several reasons; such as, authoritarian systems of government, ineffective procedures, under-equipped, unaccountable, inaccessible and irresponsive law enforcement and justice institutions; and a general climate of helplessness among the population in relation to criminal justice officials. This sense of powerlessness arises partly because of powerlessness and poverty,[3]a gap artificially created between the political leaders and their citizens; between the affluent and the poor.

Nigeria, for example, through the enactment of its ACJA, has established a formal criminal justice administration system which aligns with the changing nature of society and international norms established by other States. Whilst Nigeria's ACJA seeks to promote efficient management of criminal justice institutions, speedy dispensation of justice and protecting the society from

[1]Runsewe Solomon, 'Transforming Nigeria's Criminal Justice System' <https://www.thehopenewspaper.com/towards-transforming-nigerias-criminal-justicesystem/> accessed 5 April 2020.

[2] Annie Barbara Chikwanha, 'Closing the Gap between theory and practice of criminal justice in Africa' in *Theory and Practice of Criminal Justice in Africa* (African Human Security Initiative: Monograph 161: June 2009)114, <https://www.files.ethz.ch/isn/104299/MONO161FULL.pdf> accessed 9 April 2020.

[3]Chikwanha, ibid at 111-112.

crime, etc, the United Kingdom's Criminal Justice Procedure Rules (CJPR) 2015 (as amended) contains similar provisions to our ACJA. The overriding objective of the UK CJPR include dealing with a criminal case justly. This includes acquitting the innocent and convicting the guilty; dealing with the prosecution and defence fairly; dealing with the case efficiently and expeditiously. In South Africa, unlike Nigeria and the United Kingdom, its key legislation on criminal justice reform is the Criminal Procedure Act 51 of 1977 (as amended), which is backed by the following legislation: the Constitution, Act 108 of 1996; National Prosecuting Authority Act 1998; Prevention of Organised Crime Act 1998, Witness Protection Act 1998 and the Special Investigating Units and Special Tribunals Act 1996.[4] The Criminal Procedure Act makes provisions for procedures and related matters in criminal proceedings. Although this legislation, though differs in purpose and overall scope in comparison with that of Nigeria and the United Kingdom, its criminal justice system appears to be properly delineated with six main parts and roles assigned to the following and backed by attendant legislation: police service; prosecution service; presiding officer/judiciary; department of justice; the prison system; and probation officers.[5] This means that unlike Nigeria and the United Kingdom which have each one umbrella legislation for the administration of criminal justice, that of South Africa is fragmented with key roles for specific justice collaborators in separate criminal justice legislation.

Whilst this criminal justice legislation in these three jurisdictions may differ, their aim is in line with international best practices which is to ensure effective, speedy administration of justice for all and protection of the rights of suspect. As such, in Nigeria, States are obliged to implement the ACJA at State level

[4]South African Government 'Legislation and Policies' <https://www.gov.za/about-government/legislation-and-policies> accessed 11 April 2020.
[5]NPA, 'Understanding the Criminal Justice System' <https://www.npa.gov.za/sites/default/files/resources/justice_system/NPA_eng.pdf> accessed 11 April 2020.

and adapt same to prevailing circumstances and on case-by-case basis in these States. It can therefore be said that the Ondo State ACJL is in compliance with international best practices as it mirrors the provisions of the ACJA which emulates provisions set out in other commonwealth jurisdictions.

13.3. Comparative Analysis of ACJA and ACJL

The following observations from the Ondo State ACJL can be gleaned from the comparative analysis:

a. The ACJL fails to provide definitions of terms throughout the Law such as 'misdemeanour'; 'police' but provides other definitions which run through the legislation;
b. With regards to recording of confessional statements of the accused, the ACJL extends its provisions to include the production of such video-recording of the confession and copies thereof at the trial, and further endorsed by a legal practitioner chosen by the arrested person;

CONCEPT	ACJA	ACJL	COMPLEMENTARY PROVISIONS	ANALYSIS
Preliminary	Titled: PART 1 - 'Preliminary a. The citation of the Act is contained in the last section (s. 495), including	Titled- PART 1: Preliminary, <u>Arrest, Bail and Preventive Justice</u> a. Citation and Repeals are contained in the preliminary part	These provisions are similar to what obtains in other sectoral legislations in Nigeria.	The ACJA provides a definition of the word 'complaint' but the ACJL only provides a definition for the word

	repeals (s. 493) b. Interpretation section is contained within the last part of the Act (section 494).	of the Act (sections 1(3) & (4). b. Interpretation section is contained within this part.		'complaint' an complainant. Unlike the ACJA, the ACJL, Ondo State fails to define a 'misdemeanour' 'police' Superintendent of Police. However, it provides a definition of a 'juvenile offender' which is not defined under the ACJA.
Arrest: Recording of Arrests/Confessional Statements	Title – Arrest, <u>Bail and Preventive Justice</u> The ACJA allows the recording of a confessional statement in writing and via electronic recording on	Part 2 titled 'Arrest <u>Generally'</u> The ACJL allows such video recording too under s. 10 (3). However, the ACJL extends the provision to state that <u>such</u>	Other provisions pertaining to confessions in both legislation are similar. Such similar provisions are in alignment with the	The Ondo State ACJL to extension of the provision of video recording of a confessional statement alludes to

	a retrievable video compact disc or other audio visual means (s. 15 (4) The ACJA also allows the admissibility of an oral confession in evidence (s.15 (4).	recording and copies thereof shall be produced at the trial, and that such video recording or written confessional statemen must be endorsed by a legal practitioner chosen by the arrested person. **The ACJL does not provide for admissibility of an oral confession in evidence.**	provisions of the Evidence Act, s. 27.	State's brilliant consideratio n of the use of modern technology applied worldwide in taking of confessional statements.
Arrest	Title – Arrest, Bail and Preventive Justice Under this part, the ACJA uses the word	Part 2 titled 'Arrest Generally' The ACJL Ondo State uses the words 'person' rather than suspect.	Both legislation contain similar provisions relating to arrest.	. The ACJL Ondo State clearly prohibits the 'arbitrary arrest' of a person on allegations which

	'suspect' throughout The ACJA specifically provides in s. 33 (3) that an application for bail under this section may be made orally or in writing.	The ACJL contains similar provisions to the ACJA regarding the remedy of suspect detained in custody. However, the ACJL qualifies this provision further by requiring that bail applications must be signed by a legal practitioner (s. 25 (1).		border on civil breach of contract. Such arrest, if made, shall be based on a reasonable suspicion that the person arrested committed or is about to commit a criminal activity punishable as an offence under any Law (section 6 (3). The ACJA does not refer to such arbitrary arrest but prohibits the arrest of a person merely on a civil wrong or

				breach of contract. (section 8 (3) The ACJL under this part, assigns a heading titled 'Bail on Arrest without Warrant' Under this Part, there is no stipulation for a bail application to be oral or written like the ACJA. Considering that this legislation is applicable to various courts in Ondo State, it is a failure on the part of the drafters to include this provision.

Warrants	Contains similar provisions to the ACJL	Contains similar provisions to the ACJA		The ACJA clearly states that a warrant of arrest issued by a Federal High Court sitting anywhere in Nigeria may be executed in any part of Nigeria. This is a good innovation as it will help in clearing up technical issues of jurisdictions and issues of arrest without warrant.
Prevention of Offences	Part 4 – Prevention of Offences and Security for Good Behaviour	Part 4 – Prevention of Offences	Similar provisions in both legislation	
Preventive Action of the Police	**No provision in the ACJA**	Part 5 titled: Preventive Action of the Police	This unique provision of the ACJL, particularly	This provision is a unique one but appears to

		This part of the Law requires every police office to prevent offences and injury to public property by interposition (s 62 (1) On receiving information pertaining to the commission of an offence, notification is to be made to a superior officer (s. 63) A police officer has power to arrest in such an instance without orders from a Magistrate and without a warrant if it appears to him that the intent or actual commission of the offence cannot be	section 64 uses the phrase 'notwithstanding the provisions of this or any other written law relating to arrest…' This means that the preventive powers of the police under this Law supersede any other Law pertaining to arrest of persons within	grant wide discretionary powers to the police to facilitate the prevention of an offence or injury to public property. The margins for error in this provision are manifold, as section 64 will give room for a police officer in Ondo State to arbitrarily utilise his powers of arrest, in disregard to any other legislation existing at the State and Federal Level.

		prevented (s. 64)		
Place of Trial or Inquiry	Part 9 titled – Place of Trial <u>or Inquiry</u> The ACJA sets out rial of offences by a court based on various scenarios pertaining to the offence (s. 93(1). S. 99 of the ACJA provides for instances where a court before which a person is charged with committing an offence is brought may decide that the offence ought to be conveniently tried or	Part 9 titled - Place of Trial The ACJL, Ondo State provides various scenarios which will determine the exact place of trial or investigation of offences in a court in Ondo State (s. 86 (1). These scenarios are broader than the provisions contained in the ACJA S. 89 (2) of the ACJL does not make this stipulation but provides for instances in this regard where a defendants' case may be remitted to another Magistrate with	These provisions are similar to the provisions of the Criminal Code Act and the EFCC Act.	The ACJL provisions consider scenarios where there is uncertainty regarding which of several divisions or districts of courts in the State the offence was committed. The failure of the ACJL, Ondo State to include a timeline for remittance of the case to a court of concurrent jurisdiction will

	inquired into by another court within a reasonable period **not exceeding 7 days.** This includes a transfer of the case and all processes related therefrom to the court in question.	concurrent jurisdiction. The ACJL does not provide a timeline for doing so like the ACJA does. See s. 89 (3)		contribute to delays in cases which defeats the spirit and intent of the ACJL.
Institution of Proceedings	Part 12 titled – Institution of Proceedings The ACJA mandates the Comptroller-General of Prisons to make returns every 90 days to the CJ of the FHC and other designated persons regarding persons awaiting trial	Part 11 – titled 'Proceedings in General – Institutions of Proceedings' The ACJL mandates the Comptroller-General of Nigerian Prisons Service of Ondo State to carry out same exercise. However, the ACJL does not provide for the inclusion of the		it is not clear why the drafters of the ACJL thought it necessary to exclude the passport photos of a person held in custody, name of the prosecuting agency and other relevant information from the list of items to

	held in custody in Nigerian prisons for a period beyond 180 days from date of arraignment (s 111(1) The ACJA also mandates the Comptroller-General to make returns in a prescribed form which should contain a list of items pertaining to each suspect (s. 111(2)	passport photo of the person in custody, name of the prosecuting agency and other relevant information as part of the returns to be made by the Comptroller General (s 100 (2)		accompany the returns in a prescribed form under the section. The essence of this provision is to enable the AGF and other interested parties to ensure that the person in custody/suspect are identified as such on appearance before the court. This is a huge gap within the ACJL.
First Information Report	Part 13 – titled First Information Report This part clearly outlines the procedure for receiving	There is no such provision in the ACJL		The ACJL should be further reviewed to include the First Information Report as it is germane to

	complaints and First Information Report before a police officer in charge of a police station (s. 112 (1) – (11)			determining whether a cases should be pursued further and in what direction.
Bringing of Person in Custody before Court	No such provision in the ACJA	Section 173 (1) & (2) provides that a person for whose appearance or arrest a court is empowered to issue a summons or warrant is confined in any prison, the court may issue an order to the office in charge of such prison requiring him to cause such prisoner to be brought before him from custody at a time to be named in the		The lack of such a provision in the ACJA is a lacuna which must be recaptured on further review of the ACJA.

		order before the court. Such officer shall, on receiving such order, facilitate the safe custody of such prisoner during his absence from the provision in accordance with the above provision.		
Charge	Similar provisions relating to charges	Similar provisions relating to charges, save for a unique provisions under s. 186 which is not contained under the ACJA. S. 186 (1) provides that when a person is accused or more offences than one committed within a		This provision of an accused person being charged with or tried for three offences in one trial is an innovative provision under the ACJL, Ondo State, and which is not provided for under the

		12month period from the first to the last of such offences whether in respect of same person or thing or not may be charged with and tried at one trial for any number of them not exceeding three		ACJA. This is a lacuna under the parent law. It appears that the purpose of this provision is to give effect to the intent of the Law which is to facilitate speedy trials and conclusion of cases within record time.
Previous Acquittals or Conviction	Part 24 – ACJA The ACJA does not provide any definition of terms used within this section but makes provision for general definitions in the interpretation section of the Act. The provision relating to re-trial	Part 19 – ACJL The ACJL defines the word 'offence' in s. 212 to mean 'an offence against the Law of any State of Nigeria'		This provision of the ACJL, Ondo State which gives room for re-trial of such offence where a court of first trial was incompeten t, signifies the intent of the government

	of a previously acquitted or convicted person by reason of incompetence of the court of first trial is not contained in the ACJA.	Section 216 gives room for a person acquitted or convicted of any offence to be subsequently charged with and tried for the same or any other offence constituted by the same acts or omissions **if the court by which he/she was first tired was not competent to try the offence for which he/she was first charged.**		of Ondo State to ensure justice for accused persons/suspects in the State.
Witnesses – Manner of Making Oath or Affirmation	Similar provisions to the ACJL	Similar provisions relating to the ACJA The point of departure is contained in sections 225 and 226.		The ACJA and ACJL make provisions pertaining to the manner of taking oath or affirmation in ss 249 ACJA

		Section 225 (2) provides that no person of the Moslem faith shall be required to take an oath in any court unless he has been given an opportunity to complete the ablutions prescribed by the Moslem faith for persons taking oath on the Holy Qu'ran and the oath is taken upon a copy of the Holy Qu'ran. S. 226 empowers the court to compel any person present at the hearing of a case, who is competent and compellable, to give evidence if the justice of peace so requires		and s 225 ACJL. However, it is innovative that the ACJL considers extending this provision further to encompass the manner in which Oath may be taken by Moslems, as in practice, the manner of Oath taking is more familiar to Christians. This provision is a good one as it plugs the possibility of a criminal going scot-free

Examination of Witnesses	Part 27 titled – Examination of Witnesses S. 267 (1) – the complainant and defendant shall be entitled to conduct their cases by a legal practitioner or in person. This section contains an exception: …**except in a trial for a capital offence or an offence punishable with life imprisonment.** 267 (4) not in ACJL	Part 23 – Presence of Defendant at Trial s. 244 – The Complainant and defendant shall be entitled to conduct their respective cases in person or by a legal practitioner. This section contains a **proviso:** '**provided that the court shall inform the complainant and defendant of disadvantages of not being represented.**		The Ondo State ACJL does not consider or provide an exception for legal representation in cases concerning capital offences like the ACJA does. This is a loophole that must be closed. The ACJA sets out clearly in s 267 (4) that the court shall ensure a defendant is represented by a counsel in capital offences provided that he defendant

				who refuses to be represented by counsel is informed of the risks of defending himself in person and be deemed t have elected to defend himself in persons. This shall not be a ground to void the trial. There is no similar provision relating to capital offences under the ACJL. This appears to be an anomaly under this Law as the drafters should have considered

				the insertion of provisions relating to counsel for both parties in a capital offence.
Plea Bargain	Part 28 titled Plea Bargain and Plea Generally S. 270 of the ACJA – the Prosecutor may receive, consider and offer a plea bargain to a defendant charged with an offence.	Part 24 titled Plea Bargain and Plea Generally s. 247 empowers the AG of Ondo State to receive and consider a plea bargain from any person charged with an offence. S. 247 (4) specifically sets the non-applicability of this section to the following persons: i. persons charged with capital offences involving the use of violence;		The plea bargain provisions under the ACJA are broader than that contained under the ACJL. Whilst both parts of each legislation contain similar provisions, the ACJA has been able to provide a systematic approach towards plea bargain, including the

		ii. persons who had been convicted or sentenced within the last 10 years to any offence involving grievous violence or sexual assault		prosecutor's consideration of specific relevant factors before determining if its it in public interest to do so (section (section 270 (5). Such a consideration of relevant factors is not provided for under the ACJL.
Remand Order Protocol	Part 30 titled <u>Detention Time Limits</u> An application for remand is made *ex parte* (section 293 (2) In view of this application, the court may grant bail to the suspect	Part 26 titled '<u>Remand and other Interlocutory Proceedings'</u> An application for remand is made *on notice* (se. 269 (2) The ACJL makes no provisions relating to grant of bail in		It is interesting to note the variations in the time limits for remand order in the ACJA and the ACJL. It is not clear why the Ondo State

	brought before it, taking into consideration the provisions of the ACJA relating to bail (s. 295) Time protocol for remand is for an **initial 14 days**, and a **further 14days** on consideration of an application for extension (s. 296 (1) & (2). The court shall issue a hearing notice on the IGP and AGF, Commissioner of Police of State or FCT or AGF or other relevant authority if the remand order	remand proceedings. Time protocol for remand is for a period **not exceeding 100 days** in the first instance, and on application in writing to show good cause for further remand, **remand for a further 30 days** may be made (s. 271 (1) & (2). The court shall issue a hearing notice on the Commissioner of Police and Director of Public Prosecutions if the remand order expires without		ACJL proposes a 100-day period in comparison to the 14 day period envisaged by the ACJA. Nevertheless, it can be argued that the 100 day period envisaged by the ACJL is too lengthy and further promotes a delay in arraignment or trial of an arrested person, an anomaly which the ACJA and in turn the ACJL tries to remedy. It is suggested that this

	expires without commencing trial of the suspect to inquire as to the position of the case and ask such persons to show cause why the suspect in remand should not be unconditionally released (s. 296(4) Where good cause is shown by such persons, remand may be extended for a final period **not exceeding 14 days** for arraignment for trial (s. 296 (6).	commencing trial of the suspect to inquire as to the position of the case and ask such persons to show cause why the suspect in remand should not be unconditionally released. (s. 271 (4) good cause is shown by such persons, remand may be extended for a final period **not exceeding 30 days** for arraignment for trial(s. 271(5).		provision be amended to reduce the number of remand days in the first instance, and to ensure that it is in accordance with international best practices..
Presentation of Case by	**Part 31 titled 'Presentation of Case by**	**Part 27 titled 'Presentation of Cases by**	All other provisions contained	

Prosecution and Defence	**Prosecution and Defence'** The ACJA prohibits an application of stay of proceedings with respect of a criminal matter (s. 306) The ACJA provides an interesting perspective where a question as to the interpretation of the 1999 Constitution arises during the course of a trial and is referred to the Court of Appeal. In such an instance, the Federal High Court has 3 options: adjourn the trial till the question has	**Prosecution and Defence'** **The ACJL has no provisions relating to this issue.** **The ACJL has no provisions in this regard.**	within this part are similar in both legislations.	

	been considered and decided; conclude the trial and postpone the verdict till a decision is reached; or conclude the trial and pass sentence but suspend execution of same till the question has been decided. While this is in consideration, the court may commit the defendant or convict him to provision or grant him bail (s. 305)			
Non-Custodial Alternatives	**Part 44 titled 'Probation and Non-Custodial Alternatives'**	**Part 41 titled '<u>Suspended Sentence, Community Service and Community Service Centres</u>'**	Both legislation contain other similar provisions relating to	The provision under the ACJA is commendable and a

	A convicted defendant may be sentenced and ordered to serve such sentence at a Rehabilitation and Correctional Centre established by the Federal Government in lieu or imprisonment (s. 467 (1) In making such an order, the court shall consider the age of the convict, the fact that the convict is a first offender, or any other relevant circumstance necessitating such an order of confinement	**No such provision in the ACJL**	alternative sentencing and community service.	welcome innovation.

	at the Centre (s. 467 (2). In the case of a child, a court may order the remand of such a child standing criminal trial at the Centre (s. 467(3).			
Parole	**Part 45 titled 'Parole'** A prisoner released on parole under s. 468 (1) is mandated to undergo a rehabilitation programme in a government facility or any other appropriate facility to enable him be properly integrated into society (s. 468 (2). As such, the Comptroller-	**Part 42 titled 'Parole'** **S. 419** contains similar provisions to the ACJA concerning release of a prisoner before completion of sentence. **However, there is no such provision regarding rehabilitation of such a released prisoner under the ACJL.**	Both legislations contain similar provisions regarding release of a prisoner on parole.	The provision of rehabilitation programme under the ACJA is a welcome innovation which should have been also integrated into the ACJL The Administration of Criminal Justice in Nigeria

	General of Prisons is required to make adequate arrangement, including budgetary provision, for the stated facility in subsection (2) above. See s. 468(3).	**There is no provision in the ACJA in this regard.**		encompasses reform in all aspects of the justice sector, and as such, the development of a government rehabilitation facility in Ondo State and other States of the Federation will greatly provide some moral and psychological balance to the released prisoner and eventually, lead to such prisoner making meaningful contributions to society on his/her integration.

Table XIII: Comparison between ACJA 2015 and Ondo State ACJL

c. The failure of the ACJL to provide for bail application to be oral or written as it is silent on that compared to the ACJA. This is a lacuna which should be addressed through further amendments to the Law;
d. S. 64 of the ACJL grants wide discretionary powers to the Police regarding how to act when he/she suspects a person of committing a crime or having information relating to its commission. These wide powers should be curtailed in practice
e. There is no provision for First Information Report in the ACJL compared to the ACJA which has such provisions;
f. With regards to previous acquittals or convictions, the ACJL in its s 216 gives room for re-trial of an arrested person where the court of first instance was not competent to try the offence for which he/she was first charged. This provision which is meant to facilitate justice for accused persons is not provided for in the ACJA.
g. Unlike the ACJA, the ACJL does not provide an exception for legal representation in cases concerning capital offences under s, 244. This is a loophole in the Law which must be addressed;
h. The remand-order protocol time limit set out under the ACJL as 100 days is too long compared to the 14-day remand time-limit under the ACJA and in other jurisdictions. This must be amended to bring it in line with international best practices.

13.4. Practical Challenges with the Implementation of the ACJA/ACJL Provisions

The Ondo State ACJL was enacted to ensure that the *system* of the administration of criminal justice in Nigeria promotes the speedy dispensation of justice, protection of the society from crime and protection of the rights and interests of the defendant and the victim. From the above, the Law has

made adequate and innovative provisions for the progressive realization of these objectives. Nevertheless, in the practical implementation of this Law, the following perceived issues may be inimical to this legislation and are set out below.

i. Despite the provision pertaining to the recording of confessional statements on video set out under the ACJLs. 10 (3), police officers in the State have continued to record confessional statements in writing. This is mostly due to lack of familiarity and awareness of the provisions of the ACJA and ACJL, and a lack of audio-visual or other recording equipment for the use of the Police in the State.
ii. The provision under Part 2 of the ACJL for taking of confessional statements of arrested persons in the presence of a legal practitioner or other civil society personnel is not being applied in practice in Ondo State as statements are being taken in the absence of the stated persons set out under section 12(1).
iii. Lack of familiarity of key provisions of the ACJL relating to arrests, bail procedures, etc by justice sector collaborators such as the police, defence counsel, and prosecutors and judges.
iv. Remand order protocol, particularly the 100- day remand time frame for accused persons, promotes rather than prevents delayed trial of offenders which the ACJL and the ACJA seek to remedy.

13.5. Recommendations

In view of the above analysis and challenges, the following recommendations are proffered:

a. Immediate capacity building in the State, particularly the Ondo State Police Command;

b. Maintain a physical and online register of defence lawyers within Ondo State which should be made available to arrested persons should they require the immediate services of a lawyer, if the arrested person does not have one;
c. Establishment and commencement of Ondo States' use of social media, electronic and print media to generate public awareness of the innovative provisions under the ACJL which is meant to ensure justice for all;
d. Ondo State Government must reach out to academic institutions, civil society organisations and other international bodies to facilitate training of justice collaborators in the State – particularly the police and prosecuting officers - on the practical implementation of the ACJL in comparison with other States in Nigeria and the ACJA;
e. Amendment of the identified gaps in the ACJL from the above table in order to enhance transparency in the justice sector in the State and facilitate the speedy dispensation of justice.
f. The Ondo State Government must show transparency and sincerity in the enforcement of the ACJL to ensure decongestion of the prison system and efficient administration of justice in the State.

13.6. Conclusion

The ACJA 2015 was established to cure the lacunas in existing criminal procedure laws in Nigeria. Whilst this legislation has received various accolades over the past five years since its enactment for facilitating long-needed reforms in the criminal justice sector, the implementation of this legislation in States within Nigeria leaves much to be desired. Although Ondo State has taken a commendable step in adopting its ACJL, the gaps noted in the Act and implementation of recommendations noted above, if

implemented, will serve to strengthen the application of the Law and promote synergy among justice collaborators in the State.

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