

## Achieving Quick, Fair and Effective Administration of Criminal Justice in Ondo State Under OSACJL 2015: The Role of The Police

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**Abstract.** To succeed, a system of criminal justice administration largely depends on how effective agencies created by law to administer criminal justice are in executing their statutory duties. The administration of criminal justice in Nigeria grapples with several challenges; such as: delays in administering criminal justice, human rights deficits, dearth of data of arrested accused persons and convicted suspects; horrible plight of awaiting trial detainees and challenges of case management, among others. Since Nigeria is a Federal state and agencies administering criminal justice are mostly unified-and not decentralized – particularly; in the context of this paper, the Nigeria Police Force –the problem of delay in dispensation of criminal justice is a national problem.

This paper X-rays the provisions of the new Administration of Criminal Justice Law of Ondo State, 2015, analyzing how the provisions of the Law could assist the police in the state in achieving quick, fair and effective administration of criminal justice. It also looked into how the police in Ondo State can work towards the success of new law.

**Keywords:** Administration of criminal justice, system of criminal justice administration, Law of Administration of criminal justice, Nigeria Police Force.

### 1. Introduction

Criminal procedure in Nigeria has been regulated by two sets of principal legislation; namely: the Criminal Procedure Act for courts in the south of Nigeria as well as the Federal High Court; and the Criminal Procedure Code for non-Federal Courts in the northern states of Nigeria. These principal legislations were relics of the colonial experience of Nigeria under the British rule; and these legislation had existed for over six decades without any efforts to reform the nation's criminal justice system. As stated earlier, the administration of criminal justice in Nigeria had been bedeviled by numerous challenges, the most significant of which were delays in criminal justice delivery, human rights deficit-for instance, torture of suspects at police stations-; lack of robust engagement with the plight of victims of crime, dearth of data on arrested and convicted persons, lack of early engagement between investigations and prosecutions, challenges of case mismanagement, preponderance of custodial sentences and dearth of capacity on the part of some of the critical stakeholders, among others.

It was with the view to tackle these challenges that impede prompt and efficient administration of criminal justice in Nigeria that on the 13<sup>th</sup> of May, 2015 a new legislation: the Administration of Criminal Justice Act, 2015 was enacted. The Act which provides for a single uniform Federal Act also repealed the erstwhile Criminal Procedure Act(Cap 4: LFN, 2004), the Criminal Procedure Code (Northern states); (CAP

42:LFN, 2004). The overriding object of the 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 suspects, the defendants and the victims” (Section 1: ACJA, 2015). A noticeable feature of the Act is the introduction of innovative provisions aimed at facilitating speedy and efficient administration of criminal justice in Nigeria.

In tandem with the Federal character of the Nigerian political system, other states of the Federation followed suits by domesticating into their Laws similar statutes patterned on ACJA, 2015, one of such states of the federation is Ondo State which is the focus of this paper. The state is a state in Nigeria created on 3 February 1976 from the former Western Region. It originally included what is now Ekiti State, which was carved out in 1996. The population is approximately 3,460, 877 as estimated by the 2006 National census and it covers an area of about 6,000 square metres. It has 18 Local Government Areas. Some of the crimes that had been recorded in the state, even until recently, included armed robbery, kidnapping, murder, rape, arson theft and forgery, to mention a few. Two crimes often associated with the state, among other crimes, are drug crimes-particularly dealing in marijuana (cannabis), and incessant attacks on the civilian population by the militants who operate from their base in the coastal areas of the state (This Day Newspaper: 16<sup>th</sup> November, 2016).

The Ondo State Administration of Criminal Justice Law (OSACJL, 2015) was enacted on 25<sup>th</sup> August 2016 and it contains provisions that are similar to the Federal Statute: Administration of Criminal Justice Act, 2015 (ACJA, 2015).

## **2. The Nigeria Police and The Administration of Criminal Justice in Ondo State.**

As stated above, the focus of this paper with regard to achieving quick, fair and effective administration of criminal justice shall be

restricted to Ondo State. The agency for the dispensation of criminal justice in that context shall be the Nigeria Police Force. Although, in Nigeria, the Police Force is not the only agency of administration of criminal justice, but they are the most exposed to the public and the most involved in the system of criminal justice delivery.

At this juncture, this paper shall examine how the Nigeria Police become relevant to quick, fair and effective administration of criminal justice and also look into the roles the police could play to ensure the three objectives in criminal justice delivery, with particular focus on Ondo State of Nigeria.

### **2.1 Structure and the Functions of the Police as regards Criminal Justice Delivery**

The Constitution of the Federal Republic of Nigeria, 1999 provides for a police force for Nigeria; which shall be known as the Nigeria Police Force. It also states that no other police force shall be established for the federation or any of its parts (Section 214 (1): CFRN 1999). Accordingly, the Nigeria Police is a single unified body created to serve the whole federation. By virtue of constitutional provisions, the Nigeria Police, for administrative purpose is placed under an Inspector General of Police who shall be appointed by the President upon the advice of the Nigeria Police Council, from among serving members of the Nigeria Police Force (Section 215 (1)(a): CFRN, 1999). Besides, in each state of the federation, the police contingents stationed in that state shall be under the control of a Commissioner of Police, to be appointed by the Police Service Commission; and the Commissioner of police in each state shall be subject to the authority of the Inspector-General of Police (Sections 215 (1) and 215(2): CFRN, 1999).

The functions of the police in Nigeria are constitutionally and statutorily spelt out. The 1999 Constitution states that the police shall have such powers and duties as may be conferred upon them by law (Section 214 (2) (b): CFRN, 1999). Also, the Police Act, taking its cue from the above constitutional provisions

states the duties of the police in Nigeria and these include:-

- Prevention and detection of crime
- Apprehension of suspects
- Preservation of law and order
- Protection of life and property; and
- Enforcement of all laws and regulations with which they are directly charged (Section 4: Police Act, Capp LFN, 2004).

The involvement of the Nigeria Police in the administration of criminal justice starts from the point of detection which may graduate to arrest search, detection of suspect(s); interrogation of suspects and investigation of crimes; and prosecution of offenders (where the police act as prosecution witnesses). It is necessary to state here that with the enactment of Ondo State Administration of Criminal Justice Law, 2015 (OSACJL, 2015), the police in Ondo State no longer serve as criminal prosecutors, as the power of criminal prosecution vested in the police vide section 23 of the Police Act has been abrogated by the new Law.

### **3. An Overview of the Role of the Police in achieving Quick, Fair and Effective Administration of Criminal Justice in Ondo State**

As stated earlier, the police in Ondo State exercise the powers of arrest, detection and investigation. The exercise of these powers presents opportunities for undue delay of the process of administration of criminal justice. Besides, in the course of exercising these powers, the police ended up violating the constitutional rights of the suspected offenders. The new Law in Ondo State introduces new provisions which impose, on the police, responsibilities to achieve the overall objective of an efficient, fair and prompt administration of criminal justice in the state.

Some of the innovative provisions that could ensure quick, fair and effective criminal justice delivery under the purview of the OSACJL, 2015, and the roles of the police in respect thereof, are examined hereunder:-

#### **3.1 Arrest**

Although, by law, the police have the power to arrest offenders, sometimes arrests are made on allegations that are purely civil in nature and on frivolous grounds. The new law in Ondo State prohibits such indiscriminate arrests. Besides, the new law provides that except where the person arrested is in actual cause of the commission of the crime, or is pursued immediately after he committed the crime or escape from lawful custody, the police making an arrest shall inform the person arrested of why he was arrested (Section 3(1); OSACJL 2015). Again, the law prohibits the police from arresting anyone (relations, friends, close associates etc) in lieu of the suspect, with a view to compel the suspect to give himself up, even when the person arrested has no connection whatsoever with the crime alleged (Section 4: OSACJL, 2015). Furthermore, the law prohibits the arrest of a suspect merely on a civil wrong or breach of contract (Section 6(3): OSACJL, 2015).

Moreover, detailed provisions were made in the new Law to protect the constitutional rights of arrested offenders from violation by the police. As an instance, a policeman arresting a suspect is under a duty to inform an arrested suspect of his right to remain silent, or to avoid answering any questions or making any statement until after engaging the services of a legal practitioner or any other person of his choice. In a further attempt to achieve quick, fair and effective administration of justice in Ondo State, the Law provides that any suspect arrested shall be brought to the court for his arraignment and trial within the time prescribed by the constitution of the Federal Republic of Nigeria (Section 6(4): OSACJL, 2015; Section 36: CFRN, 1999)

#### **3.2 Recording of Arrest and Confessional Statement**

The new Law in Ondo State makes provision for compulsory record of personal data for accused person (Section 11(1): OSACJL, 2015). It further provides that the process of recording arrest shall be concluded within a reasonable time, not exceeding 48 hours (Section 11(2): OSACJL 2015). Again, the statement of a suspect who volunteers a confessional statement shall be recorded in writing or may be

electronically recorded in a retrievable VCD or such other audio-visual means. The statement of the suspect shall be in writing of the suspect or his nominee and in the presence of the legal practitioner of his choice (Section 10(3): OSACJL, 2015)

### **3.3 Remand Proceedings**

After arrest by the police, there is usually the need to keep the suspect in custody. The simplest way to do this is by taking the suspect to a magistrate who would in turn remand the suspect in custody as the suspect could not possibly be kept in police custody without the order of a court of law. Police investigation often take time, apart from this, it is possible for the investigations to be interfered with or the likelihood of the suspect committing further or same offences. Whilst the process of investigation continues, or is concluded, the legal advice of the Director of Public Prosecution DPP) will be sought. This practice has not only foisted unfairness on the arrested offenders, it has also impeded the prompt and efficient administration of criminal justice in Ondo State

However, under the new Law, a suspect arrested for an offence for which the magistrate has no jurisdiction to try shall be brought before a magistrate for remand. Where, after examining the application for remand, the magistrate is satisfied there exist a credible and strong cause for remand, he would remand the suspect in prison custody pending the receipt of DPP's legal advice and arraignment before a court of competent jurisdiction (Section 269: OSACJL, 2015).

### **3.4 Bail**

The new Law makes elaborate provisions on rights of an arrested person to bail. For the purpose of this paper, sections 24, 25 and 26 of the new Law shall be relevant. The Law provides that a suspect taken into police custody without a warrant, for a non-capital offence shall be released on bail within 24 hours after he was taken into custody; if it is impracticable to bring the suspect before a court having competent jurisdiction to try the offence, (Section 24:

OSACJL, 2015). The law again provides that in a case of non-capital offence, where a suspect arrested and taken into police custody is not released on bail, his legal practitioner can apply on his behalf to a magistrate having jurisdiction to try the offence. The magistrate shall in turn inquire into the circumstances that led to the arrest, and where it deems fit, release the suspect on bail (Section 25:OSACJL, 2015).

Furthermore, in non-capital offences, a suspect arrested and detained in a police custody can be released on bail by the police officer in charge of the police station, after the officer, upon inquiry, has found no sufficient evidence to believe that the suspect has committed the offence (section 26: OSACJL, 2015).

These provisions are clearly laudable in the sense that they accord recognition to the need for a fair and humane treatment of arrested suspects. Available facts demonstrate that before the enactment of the new Law, suspects arrested by the police were often subjected to prolonged and unwarranted detention in police custody, a situation which the erstwhile laws (CPA and CPC) made no provisions to mitigate. As a result, the process of criminal justice delivery was not only tainted with unfairness to the suspects and gross abuse by the police, but the whole system of administration of criminal justice was bogged down with frequent and needless delays.

More significantly, the new Law further compels officers in charge of police stations or officers in charge of any agency authorized to make arrests to provide to the nearest magistrate monthly reports of the cases of all persons arrested without warrant whether such persons have been released on bail or not (Section 27(1): OSACJL, 2015). Section 28(4) of the Law also makes it a case of punishable misconduct for any police officer in charge of a police station who fails to comply with these relevant provisions of the Law.

### **3.5 Creation of a Police Central Criminal Registry and Duty to Record Every Arrest**

Section 11(5) of the new Law in Ondo State provides that there shall be established at State

Command of the Police a Central Criminal Records Registry. The Registry shall keep documented and personal data of every arrested person, and the data shall include the following:

- The alleged offence
- The data and circumstances of the arrest
- The physical address of the person arrested and
- For the purpose of identification.
- The physical measurement of the suspect
- The photograph of the suspect
- The full finger print impression of the suspect
- Such other means of identification, including but not limited to DNA samples (Section 11(1): OSACJL, 2015)

Section 11(2) provides that the process of documenting these data shall take no longer than 48 hours.

The introduction of these innovative provisions would certainly guarantee effectiveness, certainty, speed, and efficiency in the criminal justice delivery in Ondo State. Evidence suggest that the use of these innovations in developed countries like U.S.A., U.K and Canada, among others, where the innovations were transplanted to Nigeria, has ensured speed, fairness, certainty and effectiveness in the administration of criminal justice.

### **3.6 Prompt, Consistent and Organised Presentation of Prosecution Witnesses**

Although, by virtue of the new Law, the police are no longer competent to prosecute offenders in courts; yet, they are crucial to the smooth running, efficiency and fairness of the business of criminal prosecution in the state.

As stated earlier, the police are involved with the system of criminal justice delivery right from the point of detection, arrest, search, detention of suspects, interrogation of suspects, and investigation of criminal cases dovetailing into the prosecution of the offenders. Accordingly; the police are privy to substantial facts and by virtue of their position, are usually in possession of credible evidence that could assist the court in

arriving at fair and substantially just decisions with regard to criminal prosecutions.

Besides, the police, more often than not, in criminal prosecutions, are the prime or principal prosecution witness. It is also their duty to assemble other prosecution witnesses to appear in criminal proceedings before the court. Accordingly, the police could either make or mar the fairness, credibility, integrity, effectiveness and efficiency of criminal trials; where there are inadequacies on the part of the police, such as presentation of weak and incoherent witnesses insufficient evidence, poor case management, delay or failure to bring witnesses to court, needless absence of the police from court, rivalry with sister agencies on how to handle their duties in criminal prosecution and non-cooperation with prosecuting counsel, among others; there could be hitches in criminal trials and not only the courts would be rendered helpless; even the society would be exposed to risks of hardened and dangerous criminals allowed to escape justice.

Without any doubt, more than any other agency involved in the administrative of criminal justice, the police occupies a pivotal position. The police in Ondo State are expected to work for the success of the new Law and achievement of its laudable objectives. Recently, in Ondo State, the crimes of kidnapping and economic sabotage by militants in the coastal areas of the state have assumed alarming proportions. Some of these offenders have at times, being allowed to escape justice owing to shoddy investigation by the police. Furthermore, the unlawful acts of extorting money from suspects before they are released on bail in non-capital offences, prolonged detention of suspects without arraignment before the court, arrests tainted with frivolities and intention to exact revenge, and abuse of human rights of suspects in detention are still rife in Ondo State despite the enactment of the new Law.

It is expected that the civil society, the public and other stakeholders would be proactive enough to stem the trend by taking firm position against these abuses.

#### **4. Conclusion**

The paper, has discussed the pivotal role the police in Ondo State of Nigeria could play in achieving quick, fair and effective administration of criminal justice under the new Ondo State Administration of Criminal Justice Law, 2015. The Law has strengthened the ideals of fairness, speed, efficiency and effectiveness of criminal justice delivery by making provisions that could deter abuse and arbitrariness in the course of administering criminal justice. However, it is essential to point it out that the ideals are only realizable if there is vigilance on the part of the public. Again, there is the need for the state government to show utmost sincerity in the enforcement of the Law. More importantly; the police should be educated and properly enlightened on the crucial role they are expected to place to assure the success of the Law.

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