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**An Assessment of Protracted Criminal Litigation within the Context of the  
Administration of Criminal Justice Act (ACJA), 2015) in Nigeria.**

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Abstract

This project examined the challenges and prospects of the administration of the Criminal Justice System within the context of the ACJA (2015). The work aimed at not just underscoring the issues around protracted criminal litigation in Nigeria, but unearthed the factors responsible with the intention of suggesting probable solutions to them. The study used a mixed-method approach comprising the doctrinal methodology as well as a quantitative descriptive data analysis of opinions elicited from respondents using the purposive sampling technique (this includes Criminal Justice System stakeholders such as the Police, Prisons, Judiciary, Legal Practitioners, and Guardians of Awaiting Trial victims). Findings from the study show that the enactment of the Administration of Criminal Justice Act (ACJA) in 2015 was a significant step toward addressing the challenge of protracted criminal litigation in Nigeria. This is because the ACJA introduced several reforms aimed at expediting criminal trials and ensuring a more efficient and fair justice system. One of the key provisions of the ACJA is the limitation of adjournments to prevent unnecessary delays in court proceedings. It also introduced the concept of continuous trial, which requires courts to hear criminal cases on a day-to-day basis until they are concluded, except in exceptional circumstances. The study also found that the ACJA introduced alternative dispute resolution mechanisms such as plea bargaining, restorative justice, and the use of technology to streamline the criminal justice process. These mechanisms provide avenues for resolving cases more quickly and reducing the backlog of cases in the courts. While the ACJA has made significant strides in addressing protracted criminal litigation, the study discovered that some challenges still exist. Implementation of the Act has been uneven across different jurisdictions, and there is a need for adequate training and capacity building for justice sector actors to fully utilize the provisions of the Act. Furthermore, the dearth of infrastructures, such as inadequate courtrooms and case management systems, continues to hamper the efficient administration of justice. Amongst others, the work recommends that it is essential for draftsmen to reassess the Act and address the identified shortcomings. Conducting a comprehensive review and harmonization of the ACJA with other relevant laws is necessary to rectify inconsistencies and promote a cohesive and efficient criminal justice system.

Keywords: Justice, Criminal Litigation, Criminal Procedure, ACJA, Awaiting Trial

## INTRODUCTION

### *Study Background*

Before enacting the Administration of Criminal Justice Act (ACJA) in 2015, criminal administration in Nigeria hinged on two distinct procedures; the Criminal Procedure Act in the South and the Criminal Procedure in the North, and the Administration of Justice Commission Act. Hence the prosecution and management of criminal offences in Nigeria were not codified as the southern and northern regions have different procedures for prosecuting criminal cases. Thus, the Administration of Criminal Justice Act (ACJA) was not only revolutionary, but its essence is also to ensure a unified, efficient, speedy process of criminal administration in Nigeria's judicial process.

The Administration of Criminal Justice Act (ACJA), 2015, seeks to ameliorate the Institutional challenges of criminal administration procedures in Nigeria. ACJA is centered on improving the institutional networks that would observe and enforce the principle of human dignity. It seeks to eliminate inhumane practices in criminal prosecution in the Nigerian justice system. The proper implementation of ACJA would reduce the obnoxious practices of arbitrary arrests and human rights abuse. The Act introduced a justice system in the interest of a just and fair trial and protects the rights of the suspect/accused, defendant, and victim of crime (ACJA, 2015).

Accordingly, Section [1] of the ACJA explicitly explains the focus of the Act hence: "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" (ACJA, 2015).

Thus, the Administration of Criminal Justice (ACJA) was not only revolutionary, but its essence is also to ensure a unified, efficient, and speedy process of criminal administration of justice in Nigeria and the judicial process. Section [7] states, "A person shall not be arrested in place of a suspect". This provision outlaws the despicable practices of Nigerian law enforcement agencies. The above provision seeks to promote human rights and dignity, within criminal prosecution procedures. Furthermore, section [396] sub-section (4&5) states that "Where the 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 (ACJA, 2015). "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" (ACJA, 2015). The above sections provide that prosecution and adjournment of criminals shall be executed promptly and quickly. The question of whether speedy compliance with the legal instruments governing criminal administration in Nigeria is significant occupies the nub of this research project.

### *Statement of the Problem*

Despite the noble intent and provisions of the Administration of Criminal Justice Act (ACJA, 2015), the institutional process of Criminal prosecution in Nigeria remains systematically disorganized. The challenges the ACT aims to redress remain the Criminal Justice System (CJS) norms. The constitution and law prohibit arbitrary arrest and detention which is a significant factor in the proliferation of awaiting-trial inmates. In some cases, Nigerian law enforcement agencies arrest and detain suspects, despite not having enough evidence to prosecute the case and plea for the court to reprimand suspects. The growing recognition influenced the provision of the section, which mandated that the chief justice of each state or any magistrate assigned by the chief judge, shall conduct monthly inspections and audit of police stations and other places of detention including Correctional Facilities, and may also inspect records of arrests.

Consequently, the Nigerian correctional service is filled with inmates who are victims of the felonious criminal justice system. On the 9th of April 2020 the head of the Nigerian correctional service, Mr. Ja'afaru Ahmed, said that a total number of 51,983 inmates are awaiting trial out of the prison's total population of 73, 726 inmates. Therefore, about 70 per cent of the total population in Nigerian prisons is awaiting trial (Prison Insider, 2020). The project will query the institutional impediments and hindrances against the compliance of the Administration of Criminal Justice Act, 2015. It will be quite particular with the searchlight beamed on the protracted cases of victims awaiting trial in the country This is the ultimate preoccupation of this research project.

### ***Research Questions***

This study will provide answers to the following research questions:

- I. What is the extent of implementation of the Administration of Criminal Justice Act in Nigeria?
- ii. What are the factors that have led to protracted cases of criminal litigations in Nigeria?
- iii. What are the possible policy/legal solutions to the cases of protracted criminal litigations under the Act?

### ***Aim and Objectives***

This research aims to appraise protracted criminal litigations within the context of the Administration of Criminal Justice Act (2015). The work desires to achieve the following specific objectives:

- i. Appraise the extent of the implementation of the Administration of Criminal Justice Act in Nigeria;
- ii. Examine the factors that have led to protracted cases of criminal litigations in Nigeria;
- iii. Suggest possible policy/legal solutions to the cases of protracted criminal litigations under the Act.

### ***Literature Review***

Several empirical studies on the Nigerian Criminal Justice System have been reviewed for ease of clarification, and contribution to the body of knowledge. Within the intent of underscoring the existing gap, they are presented thus. In a study by Ukwai and Okpa (2017) entitled "Critical Assessment of Nigeria Criminal Justice System and the Perennial Problem of Awaiting Trial in Port Harcourt Maximum Prison, Rivers State", it was affirmed that the essence of incarceration is for correctional purposes, however, the ineffectiveness of the Nigeria Criminal Justice System (NCJS) has denied most suspects the privilege of enjoying these correctional privileges. This study critically appraised the Nigerian criminal justice system and the problem of awaiting trial in Port Harcourt Maximum Prison, Rivers State.

Findings from the study indicated that rigidity of the penal law, holding charges, and delay in the disposal of cases by the agencies of NCJS has contributed to the problem of awaiting trial in Port Harcourt Maximum Prison, Rivers State, Nigeria. The study suggested that there should be more professional commitment, on the part of stakeholders, to check the rise in awaiting trial problems in Port Harcourt Maximum Prison.

Additionally, an article by Olubiyi and Okoeguale (2016) accentuated the fact that given the journey thus far in the Criminal Justice System (CJS) in Nigeria which culminated in the enactment of the Administration of Criminal Justice Act (ACJA), 2015, it has become imperative to take stock of the gains as well as highlight the shortcomings of the Act. The paper which had sought to espouse the

innovations in the Act and point out the challenges the new provisions would pose for the system examined the innovative provisions of the ACJA as well as those that seek to cure the mischiefs that had bedevilled the Nigerian Criminal Justice system for over a century under the Criminal Procedure Act and the Criminal Procedure Code. The research found that despite the prospects of the ACJA, certain provisions undermine its lofty aim of promoting efficient management of criminal justice and affording justice to all.

There are also challenges in the implementation of the Act. It, therefore, suggests solutions to these challenges. The paper concludes on the note that despite these setbacks, the ACJA is important to improving the Nigerian criminal justice system therefore all States of the Federation should enact it in their jurisdiction for the benefit of all citizens.

Olonisakin, Ogunleye, and Adebayo (2016) also argued that in the wake of seemingly normalized criminality and its unabated wave in Nigeria and the need for concerted efforts to understand its pervasiveness, there is a seeming connection between the Nigeria criminal justice system (CJS) and criminal behaviour control. In their paper, the effectiveness of the CJS was analyzed as an instrument of social justice and criminal behaviour control. From the point of view of some social-psychological theories and concepts, the paper submitted that the lack of credibility on the part of the communicators, the Nigeria CJS (i.e. the police, lawyers, judges, and the prisons), in their administration of justice and the laws have been responsible for an avalanche of social injustice, lack of discipline and lawlessness in Nigeria and Nigerians.

They also opined that the Nigeria CJS, who constitutes the supposed custodians of the laws, is largely indicted, therefore responsible for the ineffectiveness of the system in criminal behaviour control. The paper concludes that once the image of the Nigeria CJS is rebuilt, through positive behavioural change, for its actors to be accepted as legitimate and credible instruments in ensuring compliance with the law, it then becomes easy to control criminal behaviours among Nigerians as Nigeria CJS actors are significant models for social influence and behavioural change.

Given all of the above scholarly submissions, there is an obvious gap in the analysis of the role of key stakeholders in ensuring that injustice is not occasioned through the continued delay in the administration of criminal justice in the country. The gap opens a vista for the conversation to be continued via this research as an institutional mechanism for eschewing the pillage of criminal cases and pretrial detainees would be prescribed through the auditing and documentation of evidence surrounding the litigation process in criminal cases in the country.

## **METHODOLOGY**

The project adopts a mixed method which includes the doctrinal approach and qualitative-descriptive analysis of the issues around the subject matter. Beyond desk review of the themes as expressed in the research questions, data will be collected from legal and paralegal stakeholders in the Administration of Criminal Justice Act. Specifically, the Police, Judiciary, Prison Officers, Legal Practitioners, and Guardians of Awaiting Trial Victims will be purposively sampled. The instruments for data collection will include interviews and the distribution of questionnaires on the factors that have led to the protractions of criminal litigations in Nigeria within the context of the Administration of Criminal Justice Act (2015). The two research instruments will be designed using the themes in the research questions to adequately measure the variables contained therein. Findings from the work will be

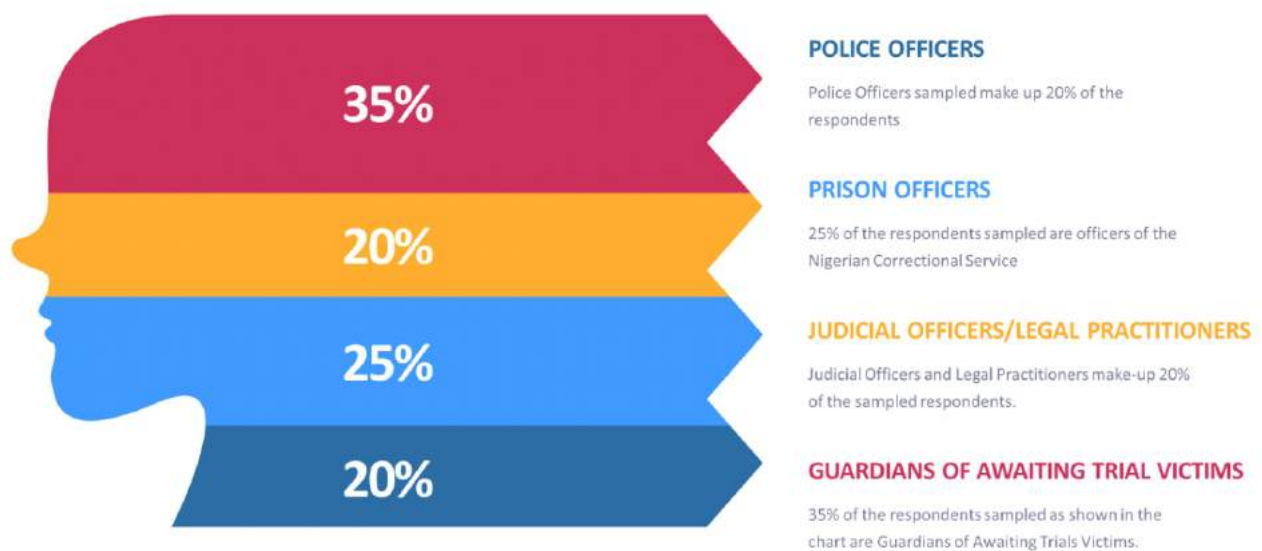
presented descriptively using charts and figures. They are presented in themes which resonates with the research questions presented. The findings from the field are triangulated with extant regulations and laws on the Administration of Criminal Justice Act.

## DATA PRESENTATION, ANALYSIS, AND DISCUSSIONS OF FINDINGS

### *Demography of Respondents*

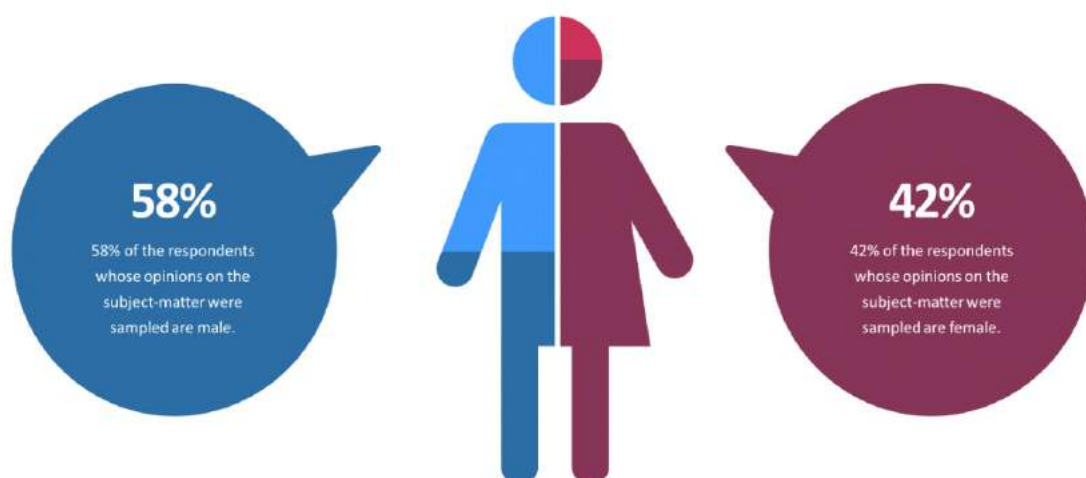
### DEMOGRAPHIC INFOGRAPHIC

Make a big impact with our professional slides and charts



### GENDER OF RESPONDENTS

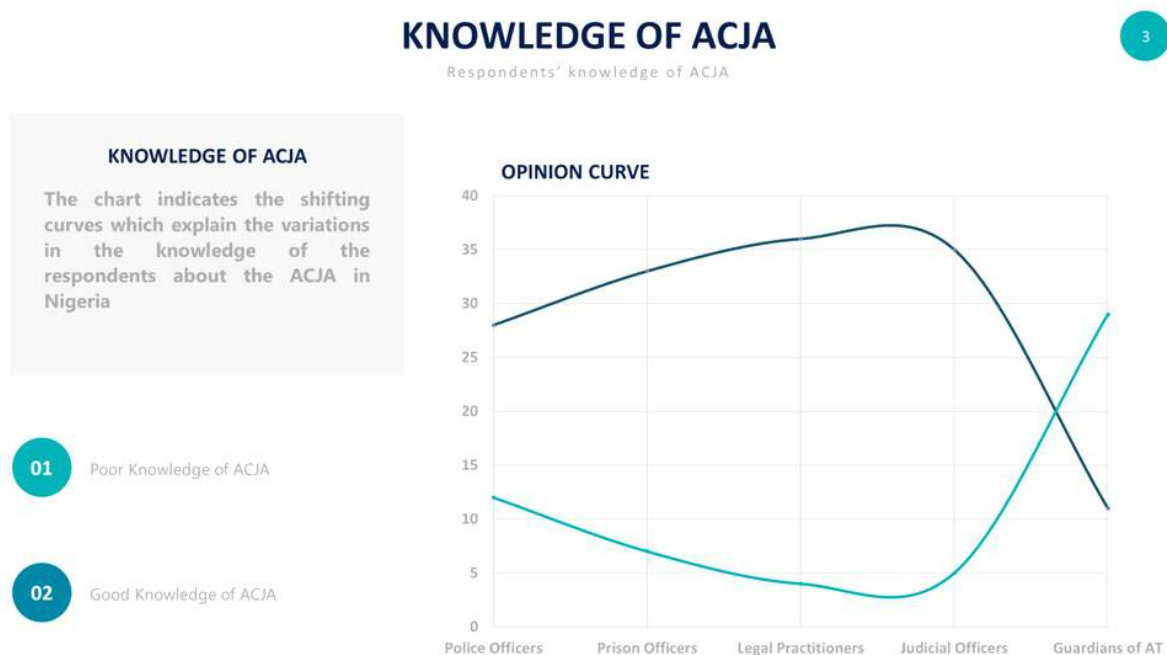
Chart indicating the gender of respondents



### *Legal Framework for the Administration of Criminal Justice Act (ACJA) in Nigeria*

In the past, Nigeria's criminal procedure was governed by two separate laws: The Criminal Procedure Act for the South and the Criminal Procedure Code for the North, including the Federal Capital Territory Abuja. The universal goal of the criminal justice system is to uphold law, peace, and order in society. It recognizes that human behaviour is constantly evolving and, therefore, the criminal justice system must be adaptable and proactive to effectively address the unique behaviours of its citizens. Over time, societal changes, technological challenges, and the lack of reform rendered certain provisions in both the Criminal Procedure Act and the Criminal Procedure Code inadequate in meeting the evolving needs of Nigeria's criminal justice system. Consequently, trials experienced significant delays, courts became congested, and numerous offenders were able to evade justice. As a result, public trust in the criminal justice system was severely diminished.

To address these issues and align with the changing landscape of anti-social behaviours and crimes, and meet the measure of the global required best practices, the Administration of Criminal Justice Act/Law was enacted. This legislation aims to bridge the gap, regulate and effectively manage criminal activities in the country. By implementing the Administration of Criminal Justice Act/Law, the objective is to enhance the efficiency, fairness, and effectiveness of Nigeria's criminal justice system.



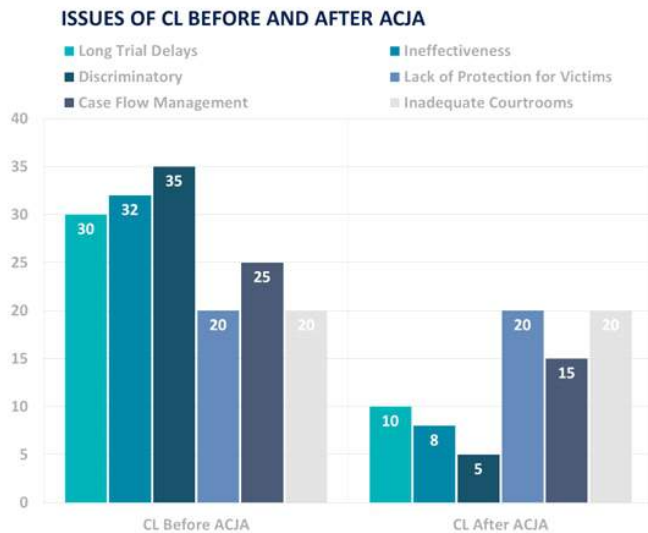
### The Overview of the Criminal Procedure Laws Before and After ACJA

Before the enactment of the Administration of Criminal Justice Act (ACJA) in 2015, the criminal procedure laws in Nigeria were governed by several different statutes, including the Criminal Procedure Act (CPA), the Criminal Procedure Code (CPC), and the Administration of Justice Commission Act. These statutes were enacted at different times and in different parts of the country, and they often contained conflicting provisions. This made it difficult to ensure that criminal cases were handled consistently and fairly.

# CRIMINAL LITIGATIONS BEFORE & AFTER ACJA

RESPONDENTS' KNOWLEDGE OF CL BEFORE AND AFTER ACJA

4



- 01 After the passage of the ACJA, respondents hold the opinion that Long Trial Delays have reduced significantly
- 02 There is also reduction in cases of discrimination especially against women after ACJA
- 03 The third bar shows that there is efficient management of cases after the ACJA.
- 04 Despite the passage of the ACJA, there is still ineffective CL in Nigeria
- 05 The ACJA now has minimal reduction in protection of AT victims
- 06 There is still inadequate Courtrooms despite the ACJA

## Implications of the Old Laws on Criminal Litigation

The old criminal procedure laws, except the ACJL of Lagos, had several negative implications for justice delivery in Nigeria. These included:

1. **Long trial delays:** The old laws did not contain any provisions for speedy trials, and this led to long delays in the resolution of criminal cases. This was a major problem for defendants, who often spent years in pretrial detention awaiting trial. There are cases where the courts appeared to deprecate or chide protracted litigations. Some of these cases, as noted by Shima & Aboho, lasted for five, seven, or even up to fourteen years. In *Atejiwoye v. Ayeni*, for instance, the case lasted for fourteen (14) years. This length of delay sadly has pernicious consequences on the body of evidence, the parties, and the court's memory, amongst other things.
2. **Ineffective pretrial detention system:** The old laws did not provide adequate safeguards for defendants who were detained pretrial. This led to several abuses, including overcrowding, poor conditions, and lack of access to legal representation.
3. **Discrimination against women:** The old laws contained several provisions that discriminated against women, including the requirement that women obtain the consent of their husbands before they could travel abroad.
4. **Lack of protection for victims of crime:** The old laws did not provide adequate protection for victims of crime. This made it difficult for victims to access justice and to receive compensation for their injuries.

Recent Laws on Criminal Litigation in Nigeria that have been inspired by ACJA

### a. **The Nigeria Police Force (Establishment) Act, 2020:**

The Nigeria Police Force (Establishment) Act, 2020, enacted on September 17, 2020, replaced the Police Act of 2004 and introduced significant improvements and novel provisions. The overarching

aim of the new Act is to establish an effective police service based on principles of accountability, transparency, protection of human rights, and collaboration with other security agencies. This part of the study examines the key enhancements and novel provisions brought about by the Nigeria Police Force (Establishment) Act 2020.

*b. The Nigeria Correctional Service Act, 2019*

The Nigeria Correctional Service Act 2019, enacted on August 14, 2019, brought about significant changes to the management and administration of correctional facilities in Nigeria. Formerly known as the Nigeria Prisons Service, the Nigeria Correctional Service is a government institution responsible for supporting the criminal justice system and ensuring public security through the reformation, rehabilitation, and reintegration of individuals who have violated criminal laws. The Act was passed to facilitate comprehensive reforms within the correctional system.

The objective of the service now is Rehabilitation, Reformation, and Reintegration, and accordingly, the service is structured to meet up with these realities. These laudable objectives, as encapsulated in Section 2 of the Act, direct and guides the Correctional Service to inter alia:

- (a) Ensure compliance with international human rights standards and good correctional practices;
- (b) Provide an enabling platform for the implementation of non-custodial measures;
- (c) Enhance the focus on corrections and promotion of reformation, rehabilitation, and reintegration of offenders and,
- (d) Establish institutional, systematic, and sustainable mechanisms to address the high number of persons awaiting trial.

**Overview of the ACJA, 2015**

The Administration of Criminal Justice Act 2015 (ACJA) is currently one of the most prominent and influential laws in Nigeria. Its widespread applicability and revolutionary nature make it highly relevant and valuable for both legal professionals and non-lawyers.

Enacted in May 2015, the ACJA is a comprehensive law consisting of 495 sections divided into 49 parts. It primarily focuses on the administration of criminal justice and related matters within the Federal Capital Territory and other Federal Courts in Nigeria. The introduction of this law establishes a unique and unified framework applicable to all federal courts and offenses governed by Federal Legislation. It replaces the former Criminal Procedure Act applied in the South, the Criminal Procedure (Northern states) Code applied in the North, and the Administration of Justice Commission Act.

By merging key provisions from these two primary criminal justice legislations in Nigeria, namely the CPA and CPC, the ACJA preserves existing criminal procedures while simultaneously introducing new measures to enhance the efficiency of the justice system and address the observed gaps that have accumulated over several decades.

The ACJA has been hailed as a long-awaited revolution in the criminal justice arena. The preceding criminal justice system had lost its ability to respond swiftly to societal needs, effectively combat the increasing waves of crime, expedite the process of bringing criminals to justice, and adequately protect crime victims.



Section 1 of the ACJA explicitly articulates the Act's purpose thus:

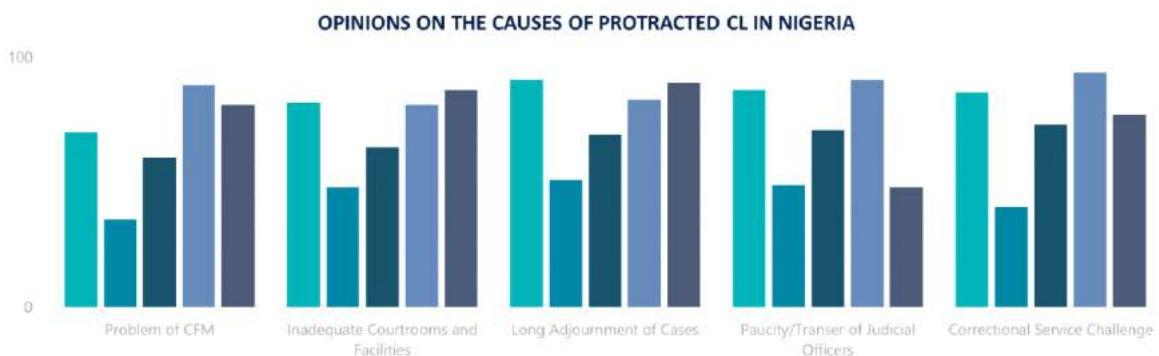
...to ensure that the administration of criminal justice in Nigeria promotes efficient management of criminal justice institutions, an expeditious dispensation of justice, protection of society from crime, and safeguarding the rights and interests of suspects, defendants, and victims.

One notable characteristic of the ACJA is its paradigm shift from a punitive approach to criminal justice to one that emphasizes restorative justice. This new approach places significant emphasis on addressing the needs of society, prioritizing the rights of victims and vulnerable individuals, and upholding human dignity as a core principle. Throughout the Act, there is a clear focus on human dignity, evident from the adoption of the term "defendant" instead of "accused," provisions for humane treatment during arrest, numerous measures to facilitate speedy trials, alternatives to conventional sentencing such as suspended sentencing, community service, parole, compensation to victims of crime, and more.

Succinctly, the Administration of Criminal Justice Act 2015 marks a significant and transformative milestone in Nigeria's criminal justice system. Its comprehensive provisions aim to establish an efficient and responsive system that promptly addresses societal needs, tackles rising crime rates, ensures the swift prosecution of criminals, and protects the rights of suspects, defendants, and victims.

## CAUSES OF PROTRACTED CRIMINAL LITIGATIONS IN NIGERIA 5

RESPONSES ON CAUSES OF PROTRACTED CL IN NIGERIA



### Police Officers

Police Officers agree more than others that Long Adjournment of Cases is the bane of Protracted CL in Nigeria

### Prisons Officer

Prison Officers agree less that the challenge with CL in Nigeria is Case Flow Management

### Judicial Officers

Judicial Officers are even with the Police Officers in their perceptions of Long Adjournment of Cases as the main cause of CL in Nigeria

### Legal Practitioners

Legal Practitioners hold the highest opinion that Nigerian Correctional Service Centers and Infrastructures are poor and badly mismanaged and hence a problem

### Guardians of AT

Guardians of Awaiting Trial Victims just like Police Officers, have pointed out that Long Adjournment of Cases is the ultimate bane of Protracted CL in Nigeria

### *Causes of Protracted Criminal Litigations in Nigeria*

## 1. The Problem of Case Flow Management

The primary objective of Case flow Management is to ensure a fair and prompt resolution for every case presented before the court. The court's processes must be transparent, efficient, comprehensible, and accessible to all. Case flow management processes play a crucial role in achieving these objectives while also improving the working environment for court personnel and serving the interests of the public (Alabi, 2004).

Each judge bears the responsibility of effectively managing the cases assigned to them to prevent congestion within their court. However, in some jurisdictions, rapid influxes of new cases can lead to unavoidable congestion. Nevertheless, even under such circumstances, it becomes evident whether a judge is diligent or lax in their work (Agbonika, 2014). A judge with low output may allow pending cases to accumulate despite not necessarily being overwhelmed with an excessive caseload. Some judges may be slow in their written work, engage in unnecessary arguments with counsel during hearings, or struggle to maintain prolonged focus. These factors, among others, hinder the expeditious processing of criminal trials.

## 2. Inadequate Courtrooms and Infrastructure facilities;

The delay in court proceedings caused by inadequate courtrooms and infrastructure facilities, as well as poor working conditions, is a significant challenge in the justice system. These issues contribute to the adjournment of trials and the prolonged resolution of cases. Several factors according to Agbonika (2014) contribute to this problem:

- i. **Non-arrival of accused persons:** Trials are often delayed because accused persons, who are remanded in prison custody, either arrive late or do not appear in court on the scheduled dates. This is primarily due to the lack of readily available vehicles to transport the accused to court. The unavailability of transportation leads to delays and disruptions in court proceedings.
- ii. **Inadequate infrastructural facilities:** Many courts, especially at the Magistrate level, lack sufficient infrastructure to effectively carry out their functions. For example, the absence of well-equipped library facilities hampers the prompt discharge of judicial findings. This results in long adjournments during trials when there is a need to write well-considered rulings. The lack of necessary infrastructure contributes to delays in case proceedings.
- iii. **Insufficient courtrooms:** Some states suffer from a shortage of courtrooms, forcing multiple judicial officers to share the available facilities. As a result, individual magistrates may only be able to sit for a few hours each day instead of the expected six hours. This leads to unnecessary adjournments of criminal cases, which could have been resolved within a shorter period if adequate courtrooms were available. Sharing courtrooms among multiple judges negatively affects the quick dispensation of justice.
- iv. **Lack of staff quarters:** Judicial officers, including judges and magistrates, often face delays and inconvenience due to the failure to promptly allocate them official staff quarters. Some of these officers choose not to reside in rural areas, where their duty posts are located, resulting in time wasted on commuting between their residences and the courts. Traveling long distances daily significantly hampers the efficient use of human resources.
- v. **Shortage of judicial personnel:** Some states experience a shortage of judicial personnel, including magistrates. As a result, these magistrates have to sit in multiple courts throughout the day, leading to frequent adjournments of cases listed before them. The scarcity of judicial personnel exacerbates delays in court proceedings and affects the timely resolution of cases.

### **3. Long Adjournment of Cases**

Protracted criminal litigation in Nigeria is also caused by the long adjournment of cases by our courts. There are cases that have been adjourned for months and years. In the case of *Ndu v. The State*, the proceedings were plagued with numerous adjournments, often requested by the defense counsel. These adjournments were sought for various reasons, including non-payment of fees, ill health, attempts to secure witnesses, and the need to travel outside the jurisdiction. Many of these reasons were deemed frivolous. The accused subsequently appealed, claiming that they were not granted a fair hearing. In his judgment, Honourable Justice Obaseki expressed his dissatisfaction with the lackadaisical attitude displayed by the defense counsel. He remarked that the defense counsel had shown a reluctance to proceed with the defense since the prosecutor closed their case. The frequent applications for adjournment were described as both sickening and unbecoming for a counsel tasked with defending an individual accused of murder.

### **4. Paucity and Transfer of Other Judicial Officers**

The Nigerian Police Force operates under a federal structure, allowing officers to be transferred anywhere in the country at any time. This frequently leads to a shortage of officers in rural and semi-urban areas and disrupts ongoing investigations and court cases. When officers are transferred, it often causes delays in trials as new officers need to familiarize themselves with the cases or transferring officers face difficulties in attending court proceedings. These delays undermine the administration of justice and erode public trust. To address this issue, better systems for managing transfers, improved coordination between stations, and adequate officer numbers in remote areas are needed. Training and professionalism should be emphasized to mitigate the impact of transfers (Akanbi, 1996).

### **5. The problem from the Correctional Service**

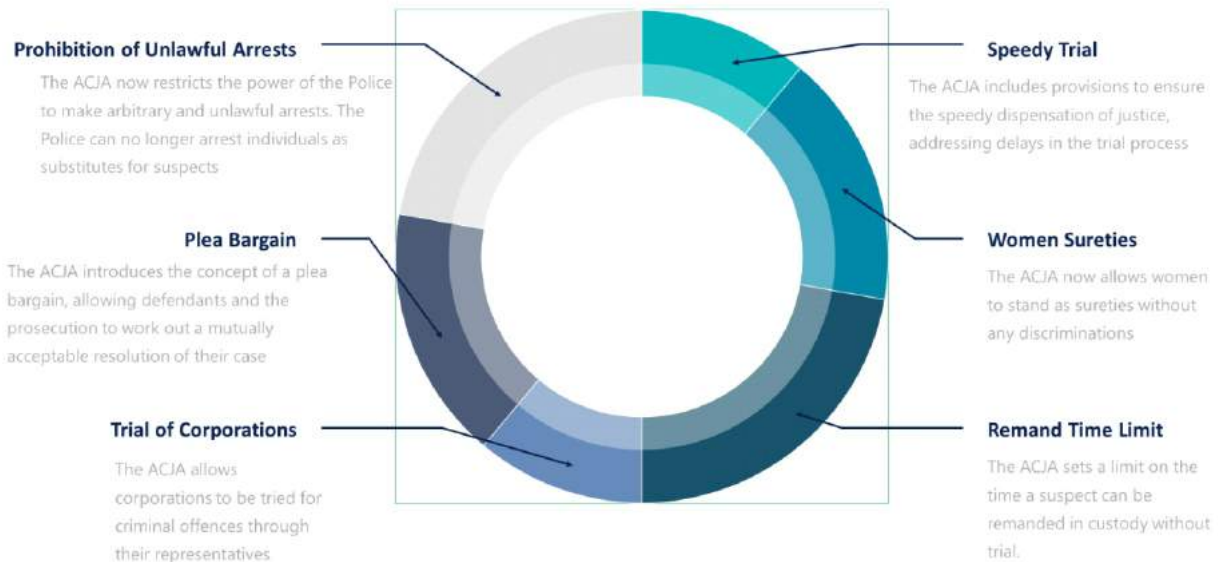
The issue of delay in the administration of criminal justice is further compounded by the actions of prison authorities, particularly pretrial detention. In some cases, individuals accused of crimes are held in prison while awaiting their trial. Due to the prevalence of deviancy and criminality in society, the number of pretrial detainees has significantly increased.

It is concerning that a substantial number of suspects, particularly those involved in armed robbery and culpable homicide cases, remain in prison custody awaiting their trial. The common justification for their continued detention is that investigations into their cases are still ongoing. However, what is particularly troubling is that some of these accused persons have been in prison for more than five years without their trial taking place.

This situation raises serious concerns about the rights of the accused, as prolonged pretrial detention can infringe upon the principle of "innocent until proven guilty." It also highlights a systemic issue within the criminal justice system, where delays in completing investigations and conducting trials contribute to the prolonged incarceration of individuals who have not yet been convicted. There is the issue of prison congestion.

# THE ROLE OF ACJA IN ADDRESSING PROTRACTED CL IN NIGERIA 6

RESPONDENTS' VIEW ON THE ROLE OF ACJA IN ADDRESSING CL IN NIGERIA



## The Role of ACJA in Addressing Protracted Criminal Litigation in Nigeria

These are some provisions of the Administration of Criminal Justice Act (ACJA) in Nigeria that have brought significant changes to the criminal justice system:

### 1. Prohibition of Unlawful Arrests:

The ACJA restricts the power of the police to make arbitrary arrests. Previously, the police could arrest individuals without a warrant if they had no apparent means of sustenance or could not give a satisfactory account of themselves. This provision was often abused, leading to indiscriminate arrests. However, under the ACJA, the police can no longer arrest individuals as substitutes for suspects. The Act also ensures that suspects are notified of the cause of their arrest and are treated with dignity. The Act has also outlawed the arrest of persons for civil wrongs. A provision that was not available in the old criminal procedure laws.

### 2. Plea Bargain:

The ACJA introduces the concept of plea bargaining, which allows defendants and the prosecution to work out a mutually acceptable resolution of the case. This may involve the defendant pleading guilty to a lesser offense in exchange for a lighter sentence. Plea bargaining helps expedite the legal process, saving time and resources that would otherwise be spent on a trial.

### 3. Trial of Corporations:

Previously, corporations were shielded from criminal liability because criminal charges required proof of both mens rea (criminal intent) and actus reus (criminal Act), which were difficult to attribute to corporate entities. However, the ACJA allows corporations to be tried for criminal offenses through their representatives. This provision holds corporations accountable for their actions and treats them as adult defendants.

#### 4. **Suspended Sentence and Community Service:**

In line with its reformatory and restorative approach, the ACJA allows courts to suspend a convict's sentence, particularly for simple offenses that do not involve the use of weapons or exceed a three-year imprisonment term. The court may impose conditions for the suspension or sentence the convict to community service. These measures aim to reduce prison congestion, rehabilitate offenders through productive work, and prevent them from mixing with hardened criminals.

#### 5. **Speedy Trial:**

The ACJA includes provisions to ensure the speedy dispensation of justice, addressing delays in the trial process:

a. **Stay of Proceedings:** Applications for a stay of proceedings in criminal matters are no longer permitted. This prevents delays caused by interlocutory applications to stay proceedings pending appeals on preliminary matters.

b. **Day-to-Day Trial:** Upon arraignment, the trial proceeds from day to day until its conclusion. If the day-to-day trial is not feasible, the Act allows only five adjournments for each party, with intervals between adjournments not exceeding two weeks. If the trial is still not concluded, the interval for adjournments is reduced to seven days each.

c. **Assignment of Information and Notice of Trial:** The Chief Judge is required to assign filed information to courts within fifteen days. The assigned judge must issue a notice of trial within ten working days.

d. **Objection to Validity of Charge:** Any objections raised by the defendant regarding the validity of the charge or information are considered alongside the substantive issues and ruled upon at the time of delivering the judgment.

#### 6. **Women Sureties:**

The ACJA ensures that women cannot be denied the right to stand surety for a bail applicant solely based on their gender. This provision has been widely praised.

#### 7. **Electronic Recording of Confessional Statements:**

To address issues surrounding denial or alleged coercion in confessional statements, the ACJA allows for the use of electronic recording methods, such as video compact discs, to capture confessions. This aims to make the process more reliable and reduce the need for lengthy trial-within-trial proceedings.

#### 8. **Prosecution of Offences: An Exclusive Job of Lawyers:**

Section 106 of the ACJA stipulates that the prosecution of cases is exclusively reserved for lawyers, removing the authority of police personnel who are not lawyers to prosecute. This provision aims to prevent mismanagement of cases in court due to inadequate prosecution.

#### 9. **Remand Time Limit:**

The ACJA sets a limit on the time a suspect can be remanded in Custody without trial. Initially, a suspect can be remanded for a maximum of 14 days, renewable for another 14 days upon showing "good cause." If legal advice is not issued by that point, the court will inquire into the matter and consider the release of the suspect.

#### 10. **Compensation to Victims of Crime:**

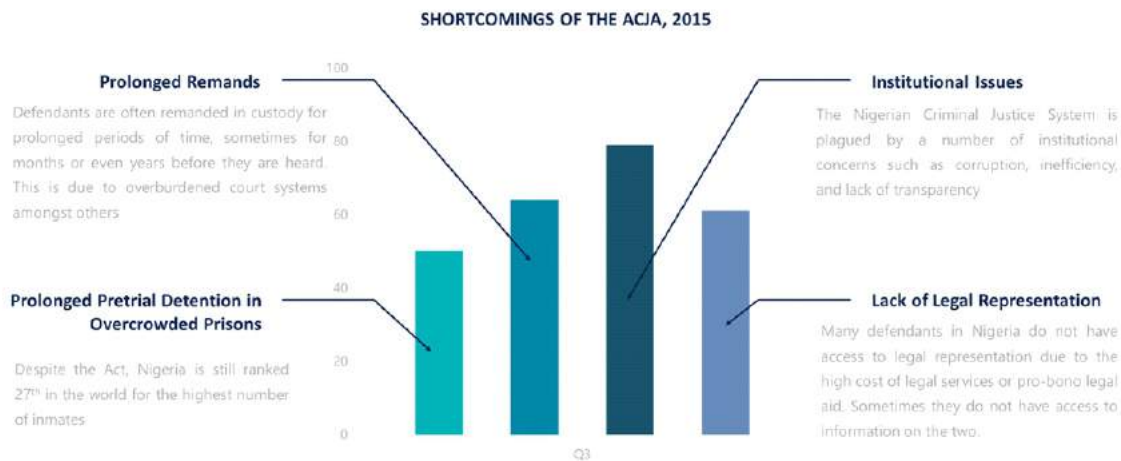
The ACJA empowers the court to award compensation to victims of crime when the defendant is found guilty. This provision allows for the court to order the convict to pay compensation to the injured party, a purchaser affected by the offense, or for medical expenses incurred by a victim.

Conclusively, the ACJA is seen as a progressive and timely law that aims to address shortcomings in Nigeria's criminal justice system. However, successful implementation remains a challenge, as is often the case with laws in Nigeria. The hope is that the ACJA will be effectively implemented to achieve the desired goals of improving the justice system in the country.

## SHORTFALLS OF THE ACJA, 2015

RESPONDENTS' POSITIONS ON THE PITFALLS OF ACJA (2015) IN ADDRESSING CL IN NIGERIA

7



### Shortfalls of ACJA in Addressing Protracted Criminal Litigation in Nigeria

#### 1. *The Continuation of the Culture of Prolonged Pretrial Detention and Overcrowded Prisons*

Despite the Act, Nigeria is still ranked 27th in the world for the highest number of inmates. There were 74,059 inmates as of January 31, 2023, as reported by World Prison Report (Marcus, 2023). That is to say, about 51,939 inmates accounting for 69.4% of the Nigerian Prison Population, are awaiting trial. According to the Open Justice Society Initiative, about 70 percent of detainees are in pretrial Custody, and one-fifth of them have been held for over a year. Studies show that it is not uncommon for those accused of capital offenses to spend over ten years in pretrial detention (Open Justice Society Initiative, 2023). NULAI corroborated this when they noted recently that about 75% of the inmates in Custody are pretrial detainees.

Dr. Nasiru Mukhtar, ED of NULAI, noted at a workshop organized in Nassarawa State on Pretrial Detention in Nigeria on May 12, 2023, when he explained that:

What I mean by 75% is that for every 100 people in the correctional center, 75% of them are pretrial detainees. This means that their cases have not been decided, nor have they been convicted. Only 25 percent fall under those convicted (Amos, 2023:3).

#### 2. *Prolonged Remands:*

Defendants are often remanded in Custody for prolonged periods, sometimes for months or even years before their cases are heard. This is due to several factors, including the overburdened court system, the lack of adequate detention facilities, and the high cost of bail. Prolonged remands can

have several negative consequences for defendants, including the loss of their jobs, the disruption of their families, and the risk of physical and psychological harm (Justina, 2019).

3. ***Institutional Issues:***

The Nigerian criminal justice system is plagued by several institutional issues, including corruption, inefficiency, and a lack of transparency. These issues make it difficult to implement the ACJA effectively and to ensure that defendants are treated fairly (Justina, 2019).

4. ***Lack of Legal Representation:***

Many defendants in Nigeria do not have access to legal representation. This is due to the high cost of legal services and the lack of legal aid. Defendants who do not have legal representation are at a significant disadvantage in the criminal justice system. They may not be able to understand their rights, they may not be able to present a strong defense, and they may be more likely to be convicted. The issue of lack of legal representation continues even with the schemes adopted by ACJA.

5. ***Poor Implementation Level:***

The ACJA has been implemented inconsistently across Nigeria. This is due to several factors, including the lack of training for judges, prosecutors, and other criminal justice officials, the lack of resources, and the political will to implement the ACJA effectively.

The problems associated with the implementation of the ACJA have some negative consequences for defendants, the criminal justice system, and society as a whole. These problems need to be addressed to ensure that the ACJA is implemented effectively and that defendants are treated fairly. Imagine having states in Nigeria who have not domesticated ACJA not to talk of implementation.

### **Summary of Findings**

Arising from the position of extant literature and the discovery made from desk research on the subject, this study observed the following:

1. The Nigerian criminal justice system is plagued by a high occurrence of protracted criminal litigations, resulting in significant delays and inefficiencies. These delays can be attributed to a range of factors, including administrative challenges, limited resources, and procedural complexities. Consequently, there is a backlog of cases in the courts, leading to prolonged waiting periods for justice and a denial of justice for both the accused and the victims involved.
2. Despite the provisions of the ACJA, its effective implementation has faced a plethora of obstacles and challenges. Limited awareness and understanding of the Act among legal practitioners, law enforcement agencies, and judicial officers have hindered its full realization and effectiveness. The Inconsistent application of the Act's provisions across different jurisdictions raises concerns regarding the uniformity and effectiveness of the Act in achieving its intended goals. The variations in interpretation and implementation of the Act's provisions can lead to disparities in how criminal cases are handled and resolved in different regions, undermining the fairness and integrity of the criminal justice system as a whole.
3. The ACJA in its hurried enactment by the legislature, has led to certain gaps and inconsistencies within the Act. One such example is the clash between sections of the ACJA and other existing laws. For instance, Section 106 of the ACJA conflicts with Section 23 of the Police Act regarding who can institute criminal proceedings in the case of a police officer. The ACJA does not make provisions for police officers to institute criminal proceedings, while the Police Act does. This discrepancy creates confusion and ambiguity in the application of the law, potentially leading to inconsistent practices and interpretations across different jurisdictions.

**Conclusion**

The study assessed protracted criminal litigations in Nigeria within the context of the Administration of Criminal Justice Act (ACJA). It brought to revelation several challenges and areas that call for improvements. The ACJA, with its progressive provisions and emphasis on restorative justice and human dignity, presents a framework that can address these challenges. However, the effective implementation of the Act remains a critical factor in achieving its intended objective. It is crucial to address the inconsistent application of the ACJA's provisions across different jurisdictions. Harmonization of the Act with other relevant laws should be undertaken to ensure uniformity and clarity in its implementation. This will promote fairness and integrity in the criminal justice system, regardless of the region or jurisdiction. Addressing the challenges of prolonged criminal litigations in Nigeria requires a comprehensive and multi-faceted approach. By focusing on capacity building, coordination, harmonization, and monitoring, the criminal justice system can be transformed to ensure timely and fair dispensation of justice, uphold human dignity, and restore public confidence in the administration of justice in Nigeria.

**HOW CAN THE ACJA BE MADE BETTER?**

RESPONDENTS' VIEWS ON HOW TO BETTER THE ACJA

8



**Recommendations**

Arising from the foregoing, the study makes the following recommendations:

1. The protracted nature of criminal cases has rendered the legal process an arduous task. To expedite the resolution of cases, this study recommends the active implementation of case management strategies by both judges and legal practitioners within the criminal justice system. This can be achieved by establishing a reliable system for tracking and monitoring the progress of cases at every stage of the process. Moreover, a system for prioritizing cases based on their severity and urgency should be developed. Such an approach ensures that cases involving serious offenses or vulnerable victims are given higher priority, while minor or non-violent offenses are handled expeditiously. Furthermore, better coordination and collaboration among stakeholders involved in the criminal justice system should be fostered. Regular communication and sharing of information



between prosecutors, defense attorneys, law enforcement agencies, and other relevant parties should be encouraged to streamline case progression. These measures would not only expedite the resolution of cases but would also enhance the efficiency and effectiveness of the criminal justice system. By adopting a proactive approach, the criminal justice system can overcome the challenges posed by lengthy and protracted criminal cases and ensure that justice is served swiftly and effectively.

2. To address the difficulties encountered in the effective implementation of the ACJA and ensure its consistency in application across jurisdictions, the study suggests the implementation of a comprehensive awareness program for legal practitioners, law agencies, and judicial officers on the requirements and provisions of the ACJA concerning existing laws. This will enhance their understanding of which sections or portions of the ACJA to apply effectively. Additionally, encouraging collaborations among legal practitioners across jurisdictions can help identify efficient practices that can be replicated in other jurisdictions, resulting in improved implementation of the ACJA overall.



1. Indeed, while the ACJA introduces daring innovations aimed at expediting the dispensation of justice, it is essential for draftsmen to reassess the Act and address the identified shortcomings. Conducting a comprehensive review and harmonization of the ACJA with other relevant laws is necessary to rectify inconsistencies and promote a cohesive and efficient criminal justice system. By undertaking this review, conflicting provisions can be identified and resolved, ensuring that the ACJA aligns with existing legislation and maintains clarity and consistency. This harmonization process will contribute to enhancing the effectiveness of the Nigerian legal system, resulting in a more streamlined approach to criminal proceedings. Ultimately, the objective should be to create a robust and comprehensive legal framework that upholds the principles of justice, fairness, and efficiency. Through continuous evaluation and improvement of the ACJA, Nigeria can enhance its criminal justice system and ensure that it meets the evolving needs and challenges of society.

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ii. Alhaji Basiru Kassim v. All Progressive Congress & ORS (2018) Legalpedia (CA) 11115	-	-	-	-	-	-	-	27
iii. Atejioye v. Ayeni	-	-	-	-	-	-	-	41
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v. Board of Customs & Excise v Hassan. (1978) 2 LRN 56	-	-	-	-	-	-	-	24
vi. Fawhinmi v. IGP.	-	-	-	-	-	-	-	34
vii. Federal Republic of Nigeria vs. Oshahon ((2006) 1 All N.L.R. 374)	-	-	-	-	-	-	-	31
viii. FRN v Osahon (2006) 5 NWLR (Pt. 973)	-	-	-	-	-	-	-	64
ix. Goodman v. Evans (1954) 1 All E.R 593	-	-	-	-	-	-	-	28
x. Madukolu v. Nkemdilim (1962) 2 All NRL P. 581	-	-	-	-	-	-	-	27
xi. Ndu v. The State ((1990) 7 NWLR PT.164)	-	-	-	-	-	-	-	59
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xiii. Onyekwere v. State (1973) LLJR-SC	-	-	-	-	-	-	-	34
xiv. Simidele v COP((1966) NMLR 116)	-	-	-	-	-	-	-	24
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