“UNDERSTANDING THE NEW ADMINISTRATION OF CRIMINAL JUSTICE ACT 2015”.

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INTRODUCTION

The Administration of Criminal Justice Act 2015 was enacted by the 7th Senate in its last days and assented to by the President in May, 2015.

With its enactment a new universal procedural regime for criminal matters was inaugurated to replace the dual regime of the Criminal Procedures Act and the Criminal Procedure Code, Laws of the Federation of Nigeria 2004, adopted and applicable in the southern and northern States of Nigeria respectively.

The Administration of Criminal Justice Act 2015, merges the main provisions of the two principal legislations, the Criminal Procedure Act (1st enacted in 1945) and the Criminal Procedure Code (1st enacted in 1960) into one principal Federal Act.

Substantially, the Administration of Criminal Justice Act 2015 preserves the existing criminal procedure system but it introduces elaborate, innovative and revolutionary provisions aimed at promoting fairness, transparency, accountability and integrity of our Criminal Justice processes and enhances the efficiency and credibility of the criminal Justice administration system in the country.
However, it is noteworthy that prior to the enactment of the Administration of Criminal Justice Act 2015, which repealed the Criminal Procedure Act (CPA) and Criminal Procedure Code, (CPC) some States in southern Nigeria had abolished the CPA (adopted as Criminal Procedure Law) and had enacted new legislations affording a broader coverage for criminal justice administration, far beyond the procedure and practice applicable in criminal trials in their jurisdiction.

The State of Lagos blazed the trail in South-western Nigeria with the enactment of the Lagos State Administration of Criminal Justice Law in 2007 and later re-enacted in 2011 and lately followed by Ekiti State with her Administration of Criminal Justice Law 2014.

It is remarkable that the new Administration of Criminal Justice Act 2015 features several innovative and revolutionary provisions, first introduced into the criminal Justice system by the above-mentioned laws, but with some modifications and variations as deemed necessary in the light of real challenges and practical difficulties faced in the operation and implementation of these provisions, within their jurisdiction of application.

Therefore, several provisions in the Ekiti State Administration of Criminal Justice Law 2014, features by the Administration of Criminal Justice Act 2015 (ACJA) have been refined, and fine-tuned to address the challenges encountered in their implementation and fill in the gaps observed over time.

However, it is believed that a comparison of some of the similar features of the Ekiti ACJL 2014 and the ACJA 2015 and the effects of the implementation of the provisions of the former on criminal justice administration in the State will greatly assist in the understanding and appreciation of the similar provisions in the new Administration of Criminal Justice Act. 2015 (ACJA)
This presentation will therefore focus on five salient provisions of the Administration of Criminal Justice Act 2015 which have been previously enacted and are currently in force in Ekiti State under the Ekiti State Administration of Criminal Justice Law 2014 (ACJL).

1. **RECORDING OF EXTRA JUDICIAL STATEMENT OF SUSPECTS**

Statements volunteered by persons suspected to have committed a crime are very important and vital pieces of evidence. Such statements, whether oral or written, confessional or otherwise, form part of the prosecution’s case and have far-reaching implications for suspects alleged to have made them, when the case proceeds to trial.

Hitherto, the legal regime governing the admissibility of extra-judicial statement of suspects has been the Evidence Act. See section.

However, **section 15(4) of the ACJA 2015** not only reinforces the admissibility of oral and written confession, but introduce the desirability of the electronic recording of such confessions, which may adduced in evidence during the trial.

**Section 17 of the ACJA 2015** also enshrines provisions on the desirability of the recording of a suspect’s extra-Judicial statement (confessional or non-confessional) in the presence of a legal practitioner of the suspect’s choice or a Legal Aid Counsel, an officer of a Civil Society Organization or a Justice of the Peace.

It is therefore submitted that these provisions of the ACJA 2015 neither mandates the electronic recording of extra-judicial statements, or their recording in the presence of a legal practitioner.
The use of the word ‘May’ in sections 15(4) and 17(2) of the ACJA 2015 is instructive that the prescription therein are not obligatory, or mandatory but discretionary.

It is remarkable that these provisions are similar to the provisions of section 9(3) of the Ekiti State Administration of Criminal Law 2014, which imposes an obligation on police investigators to ensure that the making and taking of a confessional statement of a suspect is recorded on video and in lieu of such recording, such statement shall be in the presence of a legal practitioner of the suspect’s choice.

However, the Provision of the ACJL 2014 in the above regard is qualified by a proviso that non-compliance with the prescriptions of the sub section, will not d preclude the admissibility of the confessional Statement, so long as it.

The provision to the section stated thus:

“Provision that non compliance with any requirement of subsections (3) above shall not precede the admissibility in evidence of any confession provision administrate under the relevant provisions of the evidence act”.

It is demandable that many private legal practitioner have denounced this provision. Claiming that it has watered during a salient stateting provision armed at ensuring that induced and involuntary confessions, obtained by the police are expired for what they are and are not allowed to be adduced in evidence.

However, the practical realities of the constraint of personal and lopsided fund by the police in the course of investigations made the selectman recording of extra judicial statement and the witnesses thereof by suspects counsel desirable but not mandatory.
The Criminal Justice Administration Law of Ekiti State 2014 came into force on 26th February, 2014. Since then almost 200 casefile moving hundred of suspect have been forwarded to the DPP for legal advice and prosecution for felonies and hence some offences such as murder, armed robbery, rape and kidnapping and .................

It has been absented that note in a site one of their cases time the police investigation indicated that any electronic recording of the suspects statement or same being taken in the presence of the legal practitioner.

It is provided that the provision is the lowing grace for the prosecution in man of there cases the s........... prosecution of which would has been impossible without the possibility pf such statement being admitted in evidence.

2. ABOUTION OF LAY PROSECUTION

There is no gainsaying the fact that prosecution are very vital functionaries in the criminal Justice delivery system.

The prosecution, present and conduct the case against the defenders before the trial court.

Constitutionally the prosecute proved of the federation and the state vests in the Attorney General of the federation and Attorney general of the State respectively who execute the proved personally and or through the legal officers under them.

However the prosecutorial proves and authorizes of other agency e.g Police MDA EFCC, ICPC veiled in them by enabling statues are also recognised in law but subject to the overriding proves of the Attorney General to talisman or discontinue such cases.
Under the repealed criminal procedure Act, and criminal procedure code the procedure of police to prosecutor criminal cases were tacitly accommodated.

However this accommodation was not without its resumption as then were limitations to what such prosecutor them allowed to do before the limit of they were not legal practitioners. See section ..................CPA.

It has been armed that the abusural rate of failure of in the prosecutor of many cases especially in the magistrate court traceable to the incapacity of lay prosecutor to respond to the vital issues of law raised for determination by legal practitioners appearing for defendants in criminal trial apart from slowing down the adjudication processes unnecessarily.

It is therefore understandance why the provisions of the new Administration of criminal Justice Act 2015 curtails the statutorily vested right of the police officers and other public officer who are not legal practitioners, to prosecute in any court as enunciable by supreme court in Federal Republic of Nigeria V Olabon (2006) 5 NWLR (PT 973) 361.

Section 106 of the ACJA provides 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, a legal practitioner authorized by the AGF to prosecute or a legal practitioner authorized by a statement to prosecute.

By the above provision, any police officer public official who in not a quilted legal practitioner cannot prosecute in and Federal High Court,
The High Court and the magistrate courts of the Federal Capital Territory (FCT).

However the feasibility of the adoption of this provision by the states will remain a puzzle to be unraveled in the future in the light of the practical challenges posed few legal practitioner available in police commands and ministries of Justice across the nation.

For instance, Ekiti State has Eight Judicial divisions of the high court and twenty four Magisterial District. The bulk of criminal while the high court is the chief domain of public prosecutions case in the magistrate court are mainly instituted and prosecutes by police prosecution. Assigned to this court to the commissioner of police who are more in number them public prosecutions.

It is remarkable that out of about 3 police men. Assigned to prosecute cases in the magistrate court currently, only three (3) of them are legal practitioners who are overhunted with the ever.

Increasing caseload of complex criminal cases pending before the Magistrate Court assigned to their to prosecute.

It is in the circumstance therefore that the Administration of criminal Justice law of Ekiti State has retained provisions recognizes and accommodating lay prosecution in the magistrate court only but suspect to the monitoring and superbly by the office of the Attorney General of the State. See section 78(2) & section 253 of the ACJJ.

It is honed that with the abosiber of any prosecution an Federal Court by the ACJA, the Federal Government and other prosecuting agencies will be quick to recruit quilted legal practitioner to fill the gap created by the abolition of lay prosecution.
This is imperative to forestall delay in the first of cases before the court occasioned by non availability of prosecution.

3. **REMAND PROCEEDING**

The Administration of criminal Justice Act enshrines elaborate provisions to regulate the remand of persons suspected to has committed senior crime pending their arraignment before the court vested with juries detach to try them.

Section 291 -296 of the Administration of criminal Justice Act 2015 provides that upon an application ex-parte by the police in the prescribed form a magistrate may order the remand of a suspect the magistrate has led in prison jurisdiction pending the advice of the AGF or his ....................

However a series of specter time totally 56 days are established by the by the Act at the expiration of which the failure of the police or the AGF” office to aissaiu a remanded suspect before a court for trial will automatically result in the lactation of the remand order and the discharge of the suspect.

It is absented that the provisions of the ACJA and Ekiti ACJL are similar although more elaborate, are former and move restrictive.

For instance, the provisions of section 296(3) of the ACJA grant right to a suspect who is not arraigned for trial after the expiration of 28 days of his remand to being an hail application before the magistrate court or the high court depending or the nature of the crime he is suspected for has committed.

This liherly or privilege is not afforded by the ACJL and it appendes that a suspect who is not arranged for trial after the expiration of 60
days of his remand can only apply to the magistrate court for a vacation of the order of remand or to the high court for judicial review of the remand order by the lower court (Cufadeya V Johnson)

The major advantage of the restructure time provisions governing the detention of suspects, pending legal advice and arraignment is that it prevents fort drasging on the pre-trial processes of the .......... by assisted law officers, promotes prompt arraignment of suspects before the trial court and facilitate systemic decongestion of the prisons.

However, it due appear that the discharge of a suspect at the expiration of the time process is without prejudice to the power of the police to nearest and arraign since a suspect at any time after the discharge although no further application for remand mat be brought.

A major constraint however to complying with the stipulated time processes especially in cases of remand pending legal advice is the delay in forwarding the casefile of police invest, above to the DPP after the application for remand has been granled.

Since the coming into force of the Ekiti ACJL then have been several instance where the time protocol of 30 days in the first instance had expired before the police forwarded the casefile of the suspect for legal advice.

There are also instance where after the .......... of legal advice inducting the suspects and reducibly for the release of the original casefile to .......... The along of information and prove of evidence and arraignment of the suspect the original casefile is not released until after the expiration of the second time processes of 30 days.
It is posited that unless the police act prompt in forwarding the casefile of investigation to the AGF legal advice and acting on the legal advice issued, the intendment of these landence provision may very will remain unrealized.

4. **LEGAL ADVICE**

The Administration of criminal Justice Act enshrines provisions legalizing the issuance of legal advisories and directions the office of the Attorney General of the Federation to the police and other prosecuting agencies in respect of criminal cases investigated by them.

It is noteworthy that while the CPA and CPC regime lasted, the pracle of requesting for legal advice by the police and issuance of same by the Attorney General although a time-tested and well-recognised administration practice, never recurred the force of resignation.

It is also noteworthy that absence of specific legislative provisions prescribing a time frame for the issuance of legal advice and the import of the legal advice has occasioned decays in commencement of trial or unduly long incarcerator and detention of suspect who eventually are found to be innocent and recommended for release section 376(1) of the ACJA imposed an obligation on the police to forward the casefile of investigations in respect of an offence the magistrate has no jurisdiction to try to the AGF to issue a legal advice within 14 days of the receipt of the casefile indicating whether or not there is a prima facie case against the defendant for which he can be prosecuted. Copies of such legal advice must be served on the police, the court and the suspect involved.
It appeal the time limit of 14 days for the issuance of legal advice is armed at foretasting the unsavory practice of prolonged delays in the forwarding of casefile of police investigations and issuance of legal advice with the resilient effect of court and prison congestion.

These provisions of the ACJA are similar to the provisions of section 74 of the Ekiti ACJL 2014. Although more elaborate and with slight variations.

However although there is not time protocol prescribed in the ACJL 2004 for the issuance of legal advise, there is in force an administrate policy directive of issuance of legal advice within 30 days of the receipt of a casefile of police investigation. The implementation of the police has therefore helped the officers of the Attorney General and laying is to the provisions of section 264 (6) (b) to prevent sitnatioun under which remanded suspect may be discharged for failure to issue the legal advice within 30 days.

The prescription of time limits for the issuance of legal advice has greatly helped in the decongestion of the prison and facilitated expenditures trial of suspect recommended for trial.

5. **PLEA BARGAIN**

Plea bargain is one of the took imposed in several criminal Justice system the world over.

It helps the state to manage casesvd of the processes and jares the resource of the state. It retire to a sibration where a defendant pleads guilt to a charge or a serve extra for a lighter sentence. Although plea ha –again is an old feature of several criminal Justice systems for and more advised than our it is a fairly new concept in our charge and
one of the new provisions in produced by the Administrastion of the criminal Justice Act.

Section 270 of the ACJA enshrined elaborate provisions replations the plea bargain process.

It is noteworthy that the provisions of Ekiti ACJL 2014 and ACJA 2015 on plea bargain are similar in many respects. However the co-latle contain move elaborate provisions armed at checkmating abuses of the process by operators.

Since the coming into force of the ACJL Ekiti in February, 2014 several applications for a plea bargain in respect of certain offences has been rescued, considered and accepted by the Attorney General.

This has resulted in the disposal of about ten cause with the defendants pleading guilty to listen offences than the recommend charge that would have been preleased against them in the high court.

Recently the Attorney General of the state had to make an offer of plea bargain to abort 20 suspect currently in remain in the Ado Ekiti prisons,

The offer was occasioned by the application of the prison authorities for am nesting for these suspect who stayed have in the prison refused to escape with their mates during the jail break incident of 30th November, 2015 during which 326 prison inmates were escaped following a armed attack on the prisons.

Although eash case is to be treated on the merits, there are indications that several of the affected inmates may likely Opt he plead guilty to tester offences rather than remain incinerated pending the commencement of their trial or while of lasted.
The current move by the Attorney general is part of effort to implement the plea bargain provisions of the ACJL and also. Armed reducing the over bloated awaiting trial inmate population of the prison which is for higher than the convicted inmates.

It is remarkable that although about 326 inmates escaped during the Hail break incident of 30th November, 2014, as at the last court on 27th July, 2015, the number of awaiting trial inmates had again stealing increased to 270, in a prison with instated capacity for 212 intimates.

It is believed that the implementation of the plea bargain provisions in the ACJL and ACJA will greatly facilitate in created disproval of criminal cases with a resultant effect of systemic decongestion of the prison and a reduction of caseload of prosecution and trial judge and magistrate.

**CONCLUSION**

It is indubitable that the ACJA seeks to introduce new legal regime armed at transferring the Nigeria Justice system to relect the true intents of the nations constitution, the demands of a deferrable and the elimination of outdated and arehace pretence that have be derailed our criminal Justice statement for decades and have should down the weeks of Justice and legal diveclopret.

However it must be posited that the enactment must be followed up by intensive education of key operatory and dutiful implementation. If the provisions if goals and objective of the enactment are to be realized

This will largely depend on the pro abusiveness of virtually all stucehoides in the criminal Justice section in Nigeria.
The ACJA is meant to be a model legislation for adaptation and adoption by the federating units of the nation, Nigeria. But in view of the far-reaching implications of such adopting it will take the most pro-active of states to embrace and adopt the provisions mutatis mutandis as was done 20\textsuperscript{th} the CPA and CPC many years hence.

It is noteworthy that for now the ACJA is applicable to all federal court the federation and court of the federal capital territory only.

It is however arguable whether its application will be limited to trials of offence committed and cases filed in the Federal court after its commencement and not he done in light against the corpus of legal authorities on non-retrospect of laws.

It is also opined that its provision will be applicable in state high court where offences created by an Act of the National amend are heny prosecuted by the AGF or prosecution agencies or by the state Attorney general with authorization by the Attorney General of the Federation.