

Abstract

This is a review of the book titled, *Criminal Justice in Nigeria: A Practical Guide*. The author of the book is Cordelia Owuma Eke, a legal practitioner and Director in the River State Ministry of Justice, Port Harcourt. The book, of eleven chapters and 287 pages, with ISBN NO: 978-978-57823-2-0, was published in 2022 by Pearl Publishers International Limited, Port Harcourt, and was presented to the public on July 06, 2022.

Keywords: Administration of Criminal Justice, Restorative Justice, Plea Bargain, Investigation and Prosecution, Trial and Judgement, Nigeria.

1. Introduction

I consider it a great privilege and honour, to have been invited by a respected learned friend, Cordelia O. Eke, to write a Review to this book, *Criminal Justice In Nigeria: A Practical Guide*. I have taken my time to read the book. Apart from that this book is a cutting edge treatise on the subject of criminal law practice and system in Nigeria, presented with clarity in a refined style and layout, illustrative of great depth of thought and research, I have established that the work is a product of a well-experienced lawyer and prosecutor's desire to provide a practical, down-to-earth guide on administration of criminal justice in Nigeria, with a view to enriching the knowledge of prosecutors, Legal Practitioners, students of law, Law Enforcement Agents, members of the Bench and other stakeholders in the Administration of Criminal Justice in Nigeria. The masterful and penetrative nature of the author's presentation of the issues and laws on the subject of criminal justice will make the work quite enchanting, a worthy acquisition, to users.

The book is not just another work, but a well-researched, clearly presented in-depth analysis of criminal law practice and administration of criminal justice in Nigeria, focusing largely on a thorough-analytical review of provisions of the *Administration of Criminal Justice Act, 2015*, in comparison with similar legislation in States of the Federation, with relevant case law and related ancillary legislation, including a comparative but prognostic analysis of the practice in some foreign jurisdictions. However, its richness is manifested, not only in the comprehensive coverage of topical issues and aspects of criminal law practice in Nigeria as illustrated in the extant law, but in the easy-to-read style of presentation of the discussions. One other endearing style of this book is the '*Tips for Layers*' closing-section of each chapter, based, as it were, on the both outcomes of discussions on each chapter, and the author's rich knowledge and vast experience spanning over 23 years as an Advocate, and later a very Senior Legal Officer and criminal prosecutor in courts in Nigeria.

Meanwhile, this book is not perfect; indeed, no work of man (this Review not exempted) is perfect, since man himself is not a perfect being. However, if one wants to see one book that vividly illustrates the difference between, on the one hand, the work of a scholar (however brilliant or diligent in research) who possesses little or no practical/personal experience in criminal law practice and procedure, and on the other hand, the work of a Legal Practitioner who combines scholarship and diligent research abilities with knowledge borne of deep personal involvement and experience as a lawyer-practitioner in the criminal law and justice system, I think this work is a sure bet. Finally, the author provides a couple of legal instruments as 'appendices', to lessen the stress encountered by users and readers in searching for, or carrying about separate copies of, relevant statutes, reduce research time and to make reference easier for users of the book.

2. Chapter-by-Chapter Review

This is an 11-chapter, 287-page book, covering a wide range of topics and discussing much of the statutes and case law on the law, system and practice of administration of criminal justice in Nigeria. The author adopts the footnote reference format of citation. The book begins with a Dedication, an Acknowledgments, and a Preface by the author, then followed by the Foreword written by Hon Justice Adolphus Enebeli (Judge of the High Court of Rivers State), a brief Review by Chief Ifedayo Adams Adedipe, SAN, then the Table of Contents, Table of Cases and Table of Statutes, all of which precede the main body which is presented in chapters. The Appendices and the Bibliography come at the end of the book.

Chapter One

This chapter introduces readers to Criminal Justice System, administration and practice in Nigeria. Beginning with a brief discussion on the evolution of modern criminal justice system, law and practice in Nigeria, dating back to the colonial era, and traceable to the influence of the laws and legal system of Nigeria's colonial masters, Britain, and some other jurisdictions, including India, and culminating in the introduction first, in Lagos of a revolutionary legislation, *the Administration of Criminal Justice Law, 2007* (repealed and replaced by the *Administration of Criminal Justice (Repeal and Re-enactment) Law 2011* which later gave birth to the enactment of similar laws (the *Administration of Criminal Justice Act 2015*) at the centre, and in many States of Nigeria, the book proceeds to provide a general overview of the system and process criminal justice in Nigeria, beginning with arrest, summons, bail, investigation, Legal Advice (where necessary), arraignment, trial, judgment and sentencing, and appeal, among others. This Chapter also provides an overview of the legal and regulatory framework on the subject, highlighting major sources of criminal law practice and procedure in Nigeria and the involvement of major stakeholders in the criminal justice process -- the Police and other Law Enforcement Agencies, the Attorney-General of the Federation and Attorneys-General of States of the Federation, the Courts, the Correctional Service, and the Legal Aid Council, among others. Then comes a discussion of many underlying principles of criminal litigation and practice in Nigeria, starting with presumption of innocence in recognition of Nigeria's criminal justice system being adversarial in nature; the requirements of a fair trial, and the burden of proof, among other. A very interesting component of this segment is the discussion on the notion of '*justice delayed is justice denied*', to highlight the need for speedy dispensation of justice as a major feature of an effective criminal justice system. This discussion on need for accelerated justice delivery, especially in criminal proceedings, is both necessary and helpful because slowness in a justice delivery system oftentimes leads to loss of public confidence, which might in turn result in citizens looking

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elsewhere for the 'justice' they desire and deserve as their fundamental right. The result is a situation where lawlessness and self-help might overtake the rule of law and due process. Besides, the *judiciary* cannot exist without the *trust and confidence* of the people. Judges and all stakeholders in the criminal justice process must, therefore, be accountable to legal and ethical standards. Furthermore, if legal redress or equitable relief to an injured party is available, but is not forthcoming in a timely fashion, it is effectively the same as having no remedy at all. The Chapter ends with a lucid analysis on '*ethical considerations*' -- a discussion which highlights various duties and ethical responsibilities of major participants in the criminal justice process, especially the Prosecutors, Defence Counsel, presiding officers of the Court, etc. This is apt considering the place of professional ethics in law practice and adjudication generally and in criminal justice administration in particular. Ethics are actually the very foundation of the criminal justice system, in that they have helped each jurisdiction to develop the moral reasoning used to define criminal activity. Maintenance and observation of ethical standards are so important in criminal justice, especially because, without ethical decision-making on the part of stakeholders, it is possible that individual civil rights and liberties would suffer.

Chapter Two

This Chapter dwells on the entire criminal investigation process. The discussion starts with a discussion of various investigation agencies, including but not limited to the Police, the Economic and Financial Crimes Commission (EFCC), the national Agency for Prohibition of Trafficking in Persons (NAPTIP), the Independent Corrupt Practices Commission (ICPC), the Nigerian Customs Service (NCS), the Nigerian Security and Civil Defence Corps (NSDC), the State Security Services (SSS), the National Drug Law Enforcement Agency (NDLEA), the National Agency for Foods and Drug Administration (NAFDAC), the Nigerian Armed Forces. This is among the features that stand this book out from the pack of many works on the subject; many textbooks and other scholarly works in Nigeria commit the unfortunate error of treating the Nigeria Police as the only investigation agency in the country, although the author's use of such terms as '*Police Administrative Bail*' tends to move the author back into the pack but for the subsequent informative discussion which shows the author as one who has a good grasp of the scope of administrative bail. While classifying types of Bail in Nigeria, such books start with '*Police Bail*' which gives the wrong impression that such (administrative) bail is available only at Police Stations or that the Police are the only agency with power to arrest and release suspects on bail. A discussion of investigation agencies is followed by a detailed analytical presentation of the process of investigation -- from various modes reporting an alleged commission of crime, to the various aspects, stages and requirements of the investigation process, with a view to illustrating how, according to the author, and with which I totally agree, '*the success or failure of many criminal trials starts with the investigation of crime*'. The author believes that a careless, shoddy or inconclusive investigation is likely to result in prolonged trial, and ultimately loss of the case for the prosecutor after wasting of the time of the court. A major case made by the author is the need for a standard investigation process to stringently observe all relevant laws and ethical standards in order to properly ground a trial process or ensure that only necessary charges make their way to court. Application of the *Judges Rules*² is thoroughly discussed, to illustrate the scope and limits of the guidelines prescribed in the *Rules* for obtaining valid statements for criminal suspects. Then follows a comprehensive discourse on the purpose, processes and procedure for arrest, persons or authorities empowered to effect arrest, treatment of an arrested person, rights of the arrested person, limits, rights and liabilities of investigating officers in investigation and detention of criminal suspects, conduct of identification parade (where necessary), procedure or means of securing release (conditional or unconditional) of a detainee, and general challenges faced by participants in the investigation process in Nigeria.

Chapter Three

One of the many distinguishing features of this book is the devotion of an entire chapter to comprehensively discussing '*Attorney-General's Legal Advice*' the aim being, I suppose, to illustrate the vital place of Legal Advice in criminal justice administration. The AG's Legal Advice is commonly referred to (by members of the public, especially investigating agencies and lay prosecutors) as '*DPP's Legal Advice*' (although the Director of Public Prosecutions,³ DPP, is an officer in the Attorney-General's Department/Ministry). The Legal Advice comprises mainly in AG's evaluation and conclusions on investigation reports submitted to the AG's office by a security agency in a particular instance. A Legal Advice usually ends with a directive to institute criminal proceedings or to discontinue/terminate any criminal process already begun against the defendant/suspect or suspects, and against whom such process should be commenced, and/or in favour of whom such should be discontinued. Although Legal Advice relies mainly on police (or other security agencies') investigation reports, the AG in issuing his Legal Advice is not bound by Investigation Reports, basically because the ultimate power in criminal prosecution lies with the Attorney-General who, under the Constitution,⁴ reserves the absolute discretion to decide who to prosecute, when and for what. The decision of the AG in this respect is unquestionable and the AG owes no explanation to anyone for decisions made in this respect.⁵ Even the provisions of section 174(3) and section 211(3) of the Constitution, directing that the AG shall, in exercise of his powers, '*have regard to the public interest, the interest of justice and the need to prevent abuse of the legal process*' has been held to be only advisory and not directory.⁶ However, as rightly observed by the author, the law Officer to whom a Case File is assigned must critically examine the contents in order to arrive at an objective conclusion, the overall objective being to ensure justice and fairness at all times. This Chapter examines the nature, essentials and effect of AG's Legal Advice, as well as modes of obtaining Legal Advice, and impeachability or otherwise of the Legal Advice. Also discussed in details in this chapter, are the nature and roles of the DPP in criminal prosecution, and an incisive examination of some challenges faced by the office of the DPP. The chapter is largely successful in its objective to showcase in an in-dept manner, the issues discussed.

² Formulated in the UK in 1912 and 1918, and adopted by Nigeria.

³ The Director of Public Prosecutions (DPP) is the office or official in the Ministry of Justice (of a State or of the Federation) charged with the prosecution of criminal offenses in court. The DPP is head of the Directorate of Criminal Prosecutions, a department in the Ministry of Justice, appointed by, and directly under the supervision of the Attorney-General. The title is used mainly in jurisdictions that are or have been members of the Commonwealth of Nations. In England and Wales, the DPP is the third most senior public prosecutor and head of the Crown Prosecution Service. As pointed out in the book being reviewed, the office was first established under the Constitution of the Federal Republic of Nigeria, 1999, sections 104

⁴ See the Constitution of the Federal Republic of Nigeria, 1999, sections 174 and 211.

⁵ See *State v. Ilori* (1983) 1 SCNLR 94

⁶ *Ibid*

Chapter Four

A lucid analysis of power of criminal prosecution is undertaken in this chapter, which sets out the nature, scope and the limits of various persons, offices, authorities and agencies with prosecutorial powers -- the Attorney-General and officers of his Department,⁷ the Police, Special Prosecutors, and Private persons, among others and concluding with a comprehensive discussion on need for effective synergy among the various prosecuting authorities, especially in recognition of the fact that the AG and officers of his Ministry lack investigative powers, while on the other hand, powers of other prosecuting authorities are subject to the overriding authority of the AG who is the ultimate prosecuting authority. There is then a detailed discussion on nature and involvement of 'Fiat' in criminal prosecution followed by an outstanding 'tips' segment for lawyers-- tips which are rarely found in similar works. The value of experience, in addition to knowledge comes to the fore in this chapter, giving credence to the saying that 'A person can learn beneficial information from books, but they can only acquire wisdom from living a fully engaged life'.⁸ This justifies the views (albeit extreme) by authors such as Shakespeare (*Experience is the teacher of all things*) and Albert Einstein (*The only source of knowledge is experience*). There is indeed no doubt that *Experience without theory is blind, but theory without experience is mere intellectual play*.⁹

Chapter Five

This chapter discusses institution of criminal proceedings generally, and specifically, modes of instituting criminal proceedings in various jurisdictions in Nigeria, showcasing especially innovative provisions of the *Administration of Criminal Justice Act (ACJA) 2015* (for the Federation), and the *Administration of Criminal Justice Laws* of the various States, and position of relevant case law on such matters as Summary Trial, Trial on Charge, Criminal Complaint, First Information Report (FIR), filing and use of Information. A segment is devoted to discussing the position law on use of Proof of Evidence, Front-Loading, Consolidation of Information, and the effect of a defective charge, amendment of charges. This discussion appears apt considering the dangerous effects on criminal prosecution, of badly drafted or defective criminal charges, which are also extensively discussed by the author in this chapter. In view of the provisions of sections 174 and 211 of the Constitution, and of section 107 of the ACJA, on powers of the AG to discontinue criminal proceedings, this chapter devotes sufficient attention to a discussion of the subject, including the procedure thereof, and of power of a court to discharge a Defendant as a result. Issues bothering on need to charge under relevant laws, and jurisdiction of courts to trial for offences, are also discussed in details. Courtroom-decorum tips for both prosecuting and defence counsel wrap up Chapter Five.

Chapter Six

Aspects of the trial processes, practice and procedure in inferior courts (especially Magistrates' and Area Courts) in various States, and under the ACJA, are discussed, with specific focus on nature, issue, and use of Search Warrants, power of the Magistrate to remand a defendants in custody pending trial and determination of the case against the defendant, prosecution of cases in the Magistrates' Courts, and difficulties faced by lay prosecutors¹⁰ as a result of their lack of, or possession of only little, background in expert legal knowledge. A very enriching discussion on stages and forms of trial at the Magistrates' Court, including such concepts as 'Overnight cases', 'Holden Charge', 'Arraignment', 'Hearing', 'Final Address', 'Judgment and Sentencing' brings this chapter to a close.

Chapter Seven

Linked to earlier discussions, and providing a fuller discourse, on various avenues for securing release of an accused person or suspect, this Chapter is devoted to extensive practice-based discussion on legal and ethical justification respecting a defendant's right to bail and where relevant, resort to fundamental rights enforcement in criminal cases. Specifically, the right to personal liberty, constitutional right to bail, types, form and procedure for application for bail, principles of bail, terms of bail, especially the use of sureties, recognizance, etc. A cursory examination of the meaning, legal and regulatory framework, breach and procedure for enforcement of fundamental human rights in Nigeria under the Constitution and the *Fundamental Rights Enforcement Procedure Rules, 2009* is undertaken. Although the discussion on fundamental rights enforcement appears to fall under Civil Procedure/Litigation practice, I respectfully consider it necessary, apt here as an alternative means of securing release of suspects in cases of prolonged, unlawful detention and breach of other rights of criminal suspects, as guaranteed in Chapter Four of the Nigerian Constitution, and under the African Charter on Human and People's Right (Ratification and Enforcement) Act, as well as the various international human rights instruments, guaranteeing respect for rights of person accused of, arrested, being detained or tried for, crimes.

Chapter Eight

This chapter focuses on processes and procedure of criminal trial proper, including the roles, requirements and duties of participants with respect to pre-trial issues, attendances of parties, production of defendant who is in custody/detention, extent of requirement of legal representation, filing and service of necessary processes, arraignment, calling and examination of witnesses, kinds, production and conditions for use and admissibility of evidence, including Electronically-Generated Evidence. This captures the latest drift of current trends in trial prosecution and defence, geared towards a more effective system of administrative of justice to promote equity and ensure that all materials necessary for an effectual and exhaustive determination of the charge are placed before the court, so that not only that justice is done, but that justice is seen to have been done. It must be observed here, that the discussion on such issues as burden of proof, examination of witnesses, use of confessional statements, trial within trial, raising of no-case submission, trial in absentia, presentation of defence, including resting the case on the prosecution's, and place of stay of proceeding in criminal trials, richly testify to the author's mastery of the topic she has undertaken to discuss. No stone appears to have been left unturned in showcasing the law and principles governing practice and procedure on such and many other issues discussed in the chapter.

Chapter Nine

This chapter is devoted to discussing nature, evolution, rationale, types, application and essentials of the concept of Plea Bargain in Nigeria. In view of the obvious gains of Restorative Justice, and the prevailing upsurge in the clamour for full incorporation of Restorative Justice into the Criminal Justice System in Nigeria, this discussion could not have come at a more auspicious time than now. There is a

⁷ Lawyers in the Ministry of Justice

⁸ Per Kilroy J. Oldster

⁹ Per Immanuel Kant

¹⁰ Non-lawyer prosecutors.

saying that timing is everything, which appears to be the major reason for suggestions that one should never row upstream and fight the currents of life, or passively wait for the tides to change. One must calibrate one's inner compass; adjust one's sails to the winds in line with prevailing trends. The seasons change to teach us the very inevitability of change. Our duty is to adjust our sails and flow with the current of change. As Sanchita Pandey put it, in view of the inevitability of change, one has no choice than to '*...adjust and learn, adapt and modify to the newness that life presents from time to time*'. The aptness of the discussion on Plea Bargain may never be over-emphasized because the processes of restorative criminal justice promotes meaningful accountability for the persons responsible for crimes, gives a genuine opportunity of freedom to be heard and understood, and to ask questions and to receive information that can assist in closure and healing in a safe, convenient environment outside the formality and rigid courtroom, gives room for genuine appreciation of the impact of the crime, and the losses and harms sustained. Further, restorative criminal justice practices allow people to see the consequences of their actions on the community as well as give victims a voice in deciding how the harms caused by crime will be redressed. In summary, Restorative Criminal Justice is guided by the Five-R-principle of Relationship, Respect, Responsibility, Repair, and Reintegration. Some have argued that Restorative Justice has not taken full root in Nigeria. Yet, a discussion of the use and process of Plea Bargain under Nigerian law as extensively undertaken by the author in this chapter, illustrates that the tides are fast changing in favour of restorative criminal justice even with its own challenges and limitations.

Chapter Ten

This deals with Final/Closing Address, Judgment and Sentencing, bringing out some modern objectives of sentencing as captured in the ACJA¹¹: prevention, restraint, rehabilitation, deterrence, education of the public, restitution, and retribution. That sentencing principles and practice are tilting towards accommodation of restorative justice is illustrated by the author herself when she wrote that '*Given the above-stated objectives [of sentencing], it is obvious that the Act [ACJA] intends for there to be a paradigm shift from the old method of utilizing sentences as punishment for the offending Defendant, to a focus on the wider interest of society*'. Some other aspects of judgment and sentencing in criminal proceedings in Nigeria, including but not limited to non-custodial sentencing, suspended sentencing and parole, are discussed to illustrate more innovations of the revolutionary ACJA and the ACJL's of the various States in Nigeria.

Chapter Eleven

The final chapter, last but not the least, considers the place of children and juveniles in the Nigeria criminal justice system, showcasing relevant provisions of such laws as the ACJA, the Child Rights Act, the Constitution of the Federal Republic of Nigeria, case law, among others, on 'who is a child', treatment of child-offenders (including investigation, form and venue of trial, judgment, and the principles, form and focus of sentencing or punishment), children as victims of crimes, some noticed challenges (especially with undue exposure of child-victims and suspects, and non-domestication of the Child Rights Act and the ACJA by many states in Nigeria) and some useful recommendations and propositions on legal, regulatory and institutional reforms for further progress in this segment of criminal justice process

3. Conclusion and Recommendations

It was Francis Bacon who observed that some books are to be tasted, others to be swallowed, and some few to be chewed and digested. The book, *Criminal Justice in Nigeria: A Practical Guide* is among the ones to be not only read, but also chewed and swallowed for intellectual enrichment and ethical edification. This said, it must be pointed here and now, respectfully, that being a product of frail humankind; this book is not free from occasional errors and slips. The Reviewer however considers it apropos to communicate directly to the author, such areas (although they are very few) that are, in the Reviewer's opinion, deserving of further touch and fine-tuning in subsequent editions of this great book. Meanwhile, the Reviewer has no doubt that this seminal presentation in the form of a book is a superlative contribution to law/legal scholarship with immense capacity to contribute in assuaging the growing thirst among members of both the Bar and the Bench and as students of law, aspirants to the bar and Bench and other stakeholders in the legal profession, among researchers generally and seekers of knowledge, for practical knowledge on the subject areas covered.

Postscript

Again, I commend the author, Cordelia Owuma Eke for making out time to put together a book of this nature. In an era where many often slide into inertia in other areas upon appointment into the Ministry of Justice, Mrs. C.O Eke has chosen follow her passion to make this superlative addition to knowledge by translating great prevision into an impressive reality with a view to placating increasing craving for knowledge among researchers, stakeholders in the legal profession, as well as students and players in the Criminal Justice Administration and processes in Nigeria and beyond. I commend the author especially for having employed the English Language usage in a masterly manner to achieve clarity, simplicity, concision and precision in presentation of the discussions in this work, so as to make the book a ready and waiting, easy-to-read-and-understand-and-apply work. As you all are aware, English is the official language (the *Lingua Franca*) in Nigeria and the approved language for all law communication and law businesses in Nigeria. Accordingly, virtually all law books, articles and opinions in Nigeria are written in the English Language; the businesses of the Courts and the legislatures in Nigeria are conducted basically in the English Language; all law businesses are conducted in the English Language. And apart from a sound knowledge of the law and possession of other lawyering skills, English Language and communication skills are the most important tools a lawyer needs in order to succeed in the profession; every analysis, opinion, etc., of the law or legal term is hinged on the lawyer's ability to understand and to clearly, efficiently, and effectively communicate in the English language. This makes a sound knowledge and effective command of the English Language very central to success in legal writing. This book substantially achieves this purpose and I commend the author therefor.

¹¹ Section 401