

The Jurisprudence Of The Sokoto State Administration Of Criminal Justice Law 2019: Innovative Provisions, Redlines And Suggestions For Future Reforms

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Abstract

This article appraises the jurisprudence, innovative provisions, redlines inherent in the Sokoto State Administration of Criminal Justice Law 2019 and make suggestions for future reforms. Sokoto State is one of States in Nigeria that has domesticated the Administration of Criminal Justice Act 2015 (ACJA 2015) through the signing into law of the Sokoto State Administration of Criminal Justice Law, 2019 by his Excellency, the Executive Governor of Sokoto State, Rt. Hon. Aminu Waziri Tambuwal (*Mutawallen Sokoto*) to take care of the problems of incessant delay in the criminal justice system. This article uses the doctrinal research methodology in gathering information's and observes the need to look holistically at the issue of poor draftsmanship while provisions that runs counter to the Constitution should be addressed. The article recommended amongst others that the provisions relating to expeditious legal advice from the office of the Attorney General of Sokoto State and prohibition against lay prosecutions cannot be effective if the manpower at the Ministry of Justice is not improved upon and the welfare of the lawyers at the said Ministry is not taken care of. Barring the above, it is a new dawn for Sokoto State in the administration of Criminal Justice.

Keywords: *Administration, Criminal, Justice, Constitution and domestication.*

1. Introduction

The Central thrust of this paper is to make an appraisal of the jurisprudence, innovative provisions, redlines inherent in the **Sokoto State Administration of Criminal Justice Law 2019** (hereinafter referred to as 'the **Sokoto State ACJL 2019**') and make suggestions for future reforms in Nigeria. Criminal Law is an aspect of Public Law which is a specialized body of rules on treatment of conduct which the statutes seek to punish, prevent and or control. The state, as representative of society acts positively to ensure enforcement. For this purpose, the state employs the police, judges and magistrates, prosecutors and correctional service institutions to aid in the administration of criminal justice in Nigeria.

Sokoto State of Nigeria is one of the states that have domesticated the Administration of Criminal Justice Act 2015 (**hereinafter referred to as ACJA 2015**) through the signing into law of the Sokoto

State ACJL 2019 by his Excellency, the Executive Governor of Sokoto State, Rt. Hon. Aminu Waziri Tambuwal (*Mutawallen Sokoto*)¹. With the signing of the said law, Sokoto State has been taken out of the realms of the Northern States of Nigeria applying the Criminal Procedure Code (CPC). With the coming into force of the law, the then CPC is now repealed.²

In this article, it accords with common sense to focus primarily on the jurisprudence of the Sokoto State ACJL 2019 and see what innovative provisions and redlines are inherent in same with a view to making suggestions for future reforms wherever necessary.

2. The State of the Criminal Justice System in Sokoto State of Nigeria before the Enactment of the Sokoto State ACJL, 2019

The state of the Criminal Justice System in Sokoto State before the enactment of the **Sokoto State ACJL 2019** was in an uncomfortable state, and the problem of incessant delay topped the list of the overall malfeasance in the system. There was undue delay in the prosecution of even the most important cases and sometimes the most serious offences. There were long and sometimes inexcusable periods of adjournments, unpreparedness or untidiness in the calling of witnesses, transfer of Prosecutors, and Magistrates without effective plans for the cases they are handling and indeed poor working attitudes of the various stakeholders. It was in the light of the above background that the **Sokoto State ACJL, 2019** was enacted with a grand purpose to;

*Ensure that system of administration of criminal justice in Nigeria promotes efficient management of criminal justice institutions, speedy administration of justice, protection of the society from crime and protection of the right and interests of the suspect, the defendant and the victim.*³

The Sokoto State ACJL, 2019 further enjoins the courts, law enforcement agencies and other authorities or persons involved in criminal justice administration to ensure compliance with the Provisions of the Act and the realization of its purposes⁴ and, generally, makes the law applicable to criminal trials for offences established by laws of the State and other offences punishable in the State⁵. Thus, speedy dispensation justice in criminal trial is key and all unwarranted delays must be avoided and discountenanced by the Courts. In some cases, some of the accused persons (defendants) do not live to see the end of their trials for offences alleged to have been committed by them due to long and unending trials. To curb this trend is the essence of the Sokoto State ACJL 2019.

3. Features of the Sokoto State ACJL 2019

The Sokoto State ACJL 2019 is a reformative law which merges the most essential provisions of the Criminal Procedure Code into a single principal state law which is intended to apply uniformly in the State. By so doing, it fills the lacuna inherent in the old Criminal Procedure Law that have accumulated over the decades and introduced provisions that enhance effectiveness in the criminal

¹ The Sokoto State ACJL, 2019 was signed into law on the 28th of May 2019.

² Sokoto State Administration of Criminal Justice Law 2019, s 513.

³ ACJL 2019, s. 2(1).

⁴ *Ibid*, s.1(2).

⁵ *Ibid*, s.3.

justice system⁶. The Sokoto State ACJL, 2019, has most of the features of ACJA 2015 with the ultimate purpose of enhancing effectiveness in the criminal justice system within the State.

4. **Salient and Innovative Provisions under the Sokoto State ACJL, 2019 that aids Speedy and Efficient Administration of Criminal Justice**

The Sokoto State ACJL, 2019 brought radical changes into the administration of Criminal Justice in Sokoto State with several provisions aimed at improving the administration of Criminal Justice. This it does by the introduction of several innovations aimed at fast-tracking justice delivery, with a concerted effort at the preservation of rights of accused persons now referred to as Defendant(s)⁷. The Sokoto State ACJL 2019 deviated from the norm hitherto known. It made provisions that are alien to the Criminal Procedure Code which hitherto governed the administration of criminal justice for offences punishable in the State. It made many provisions repealing the provisions of the Criminal Procedure Code which hitherto governed criminal prosecutions in the Northern States respectively. The position of the law is that any proceeding now commenced under this law from the date of the commencement of the Sokoto State ACJL, 2019 irrespective of the date of gazetting will be void. In the case of **AKINGBOLA V. FRN**⁸, where the Court of Appeal held that any proceeding in Lagos State under the Criminal Procedure Law, repealed by the Administration of Criminal Justice Law of Lagos State **2007** was void⁹.

We will now proceed to briefly consider some of the silent provisions that aid speedy and efficient administration of criminal justice to wit:

a. Abolition of Unlawful Arrests in Lieu Suspect(s)

In the past, there has been the regular practice by law enforcement agents¹⁰ akin to 'hostage taking' in which persons were arrested in lieu of suspects and which over the years has been widely condemned. Such unlawful arrest is one of the major reasons accounting for overcrowding in police stations and the prisons. Judicial reprimand of the police who arrest others in place of a suspect arose as far back as 1997 in the case of **AFRICAN CONTINENTAL BANK LIMITED V. OKONKWO**.¹¹ Such condemnation has now received statutory recognition by the proscription of arrest in lieu of suspects. By Section 8 (1) of the Sokoto State ACJL, 2019 **"no person shall be arrested in lieu of a suspect"**. The Police can no longer arrest a spouse or other relation to smoke or fish out a suspect.

Notwithstanding the fact that the police are allowed to make an arrest as part of the investigation process, this powers is often abused as it has been used for making indiscriminate arrests especially in cases where the police can arrest without warrant. In keeping with the best international

⁶ Y. K. George, *The Administration of Criminal Justice Act 2015: Introductory Notes*, German Corporation, 2015, p. 3.

⁷ For instance, the confessional statement of an accused person must be captured via the use of video technology or video recording. In the absence of such video recording, such confession must be in writing, in the presence of the accused person's legal practitioner. Failure to comply with the mandatory provision of Section 17(2) of the ACJL, 2019 would render any such confession inadmissible in Court.

⁸ (2012) 9NWLR (Pt. 1306) 511.

⁹ The ACJL in section 374 repealed the Criminal Procedure Law long before the Federal Government repealed the equivalent Federal Law in 2015.

¹⁰ Apart from the Police, other agencies vested with power of arrest include the Economic and Financial Crimes Commission (EFCC), National Drugs Law Enforcement Agency (NDLEA), Independent and Corrupt Practices Commission (ICPC), National Agency for Food and Drug Administration and Control (NAFDAC).

¹¹ (1997) 1 NWLR (Pt. 48) 197.

standards in policing, a better approach is to first conduct investigation into an alleged complaint and when substance is found, and then an arrest can follow later.

b. Prohibition of Arrest in Civil and Contractual Cases

It has become the past time of many Nigerians with the connivance of law enforcement agents to use their powers to harass citizens where contracts fail or loans remain unpaid. However, the statutory duties of the Police under the Police Act are to maintain peace, law and order in the society. Debt collection or loan recovery is not within the purview of the statutory duty and powers of the police¹². Admirably section 9(2) of Sokoto State ACJL 2019, made a very laudable provisions to the effect that *“a suspect shall not be arrested merely on a civil wrong or breach of contract”*.

c. Inventory of Properties of Arrested Suspect(s) aimed at Protecting the Property Rights of Suspects

Under the Sokoto State ACJL 2019, provisions a bound aimed at protecting the property rights of suspects and to make the police or any other law enforcement agency making the arrest transparent and accountable. To this end, section 11 of the law makes provision to protect the interest of the suspect as it mandates the police upon the arrest of a person to take the inventory of all items or properties recovered from the person arrested or about to be arrested. The police officer making such an inventory must sign same and the person arrested, his legal representative or any other person he chooses shall be given a copy of the inventory¹³. However, where the suspect refuses to sign, it shall not invalidate the inventory¹⁴. It permits the police to release such property on bond upon request by either the owner of the property or parties having interest in the property¹⁵. The Court may decide whether to release the property or any portion of the property in the interest of justice to the safe custody of the owner or person having interest in the property¹⁶.

d. Creation of a legal Duty for the Police to Ensure Video Recording of Confessional Statements

In Nigeria today, confessional statements are regarded as the best evidence in criminal proceedings especially in our present dispensation where forensic evidence may not be available. But more often than not, most crimes are committed by people with little or no education, consequently they are easily led along by the investigating police officers to write incriminating statements which legal minds find almost impossible to unravel and resolve. Confessional statements are most times beaten out of suspects, and the accused are unable to prove that the statement was not made voluntary. A fair trial presupposes that police investigation of the crime for which the accused person's stands trial was transparent. It is for this reason that Rhodes – Vivour JSC in the case of *OWHORUKE VS COMMISSIONER OF POLICE*¹⁷ admonished that;

...It is time for safeguards to be put in place to guarantee transparency, it is seriously recommended that confessional statements should only be taken from suspects if and only if his

¹² See the decision in the case of *A.C (O.A.O) Nig Ltd. v. Umanah* (2013) 4 NWLR (Pt. 1344) 323.

¹³ See Sokoto State ACJL, 2019, ss 11(1) – (7). This sections and that of Section 10 ACJA, 2015 went a bit further than the Administration of Criminal Justice Law of Lagos State 2007 to provide that the suspect must duly sign the inventory.

¹⁴ Sokoto State ACJL, 2019, s.11(2).

¹⁵ Ibid, s.11(4).

¹⁶ Ibid, s.11(6).

¹⁷ (2015) 18 EJSC 57 AT 71 Paras E – H.

counsel is present, or in the presence of a legal practitioner. Where this is not done, such a confessional statement should be rejected by the court...

In a bid to combat the often reported menace and human rights abuse whereby the police force confessions and torture suspects to confess to crimes they probably did not commit and which may eventually be used in a court of competent jurisdiction and ultimately to conviction and sentence, as confessions are often viewed as the best evidence in criminal proceedings especially in our clime where forensic evidence may not be available, the law placed a onerous duty on the police to ensure video recording of confessional statements. In this respect, section 16 (4) of the Sokoto State ACJL 2019 provides that;

Where any person who is arrested with or without a warrant volunteers to make a confessional statement, the police shall ensure that the making and taking of the statement shall be in writing and may be recorded electronically on a retrievable video compact disc or such other audio visual means.

The beauty of this provision is that it ensures transparency and fairness in the justice delivery sector and therefore lessens the contention of accused persons (defendants) who in the past continue to maintain that their statements were not voluntary and yet you have the police who swear that the suspects made a voluntary statement. Trial within trial is then conducted and which normally is not really a pleasant affair for not only the defence counsel but the prosecution and indeed the court. Complimenting the above provision is the provision of Section 9 (1) (a) & (b) of the Sokoto State ACJL, 2019 which already provides that;

"A suspect shall be accorded humane treatment, having regard to his right to the dignity of his person and not be subjected to any form of torture, cruel, inhuman or degrading treatment"¹⁸.

However, it does appear that compared to the provisions of the Lagos Law, the ACJL 2019 does not make electronic visual recording mandatory. Thus, provisions are made that water down the effects of Section 15 (4) of ACJA. It provides, ***"notwithstanding the provision of Subsection (4) of this section, an oral confession of arrested suspect shall be admissible in evidence"***¹⁹.

At the time the Sokoto State ACJL, 2019 came into force, many thought the provisions relating to confessions offended the rules of evidence over which only the federal legislature superintends as it was seen to be clearly incongruous with the provisions of Sections 28 and 29 of the Evidence Act 2011. Happily, the Federal legislature had already in enacting ACJA, 2015 validated the forward looking and pragmatic initiative relating to confessional statements in line with the reasoning of the Court of Appeal in 2010 when it became an issue of whether a lacuna in the Evidence Act can be positively resolved by a judicial pronouncement when it held in the case of ***FRN V. FANI KAYODE***²⁰ thus;

...While judges must refrain from attempting to make laws from the bench, they must not shy away from adopting a proactive approach to the interpretation of the law. Judicial officers must not place on themselves, disabilities not imposed by the law..." I

¹⁸ See a similar provision under ACJA, s. 8(1) (a) & (b).

¹⁹ See ACJL, s. 16(5).

²⁰ (2010) 14 NWLR (Pt. 1214) 481 at 492.

think, it was the veritable Lord Denning MR, who in his notoriously erudite and visionary characteristics aptly remarked thus – ‘What is the argument on the other side? Only this that no case has been found in which it has been done before. That argument does not appeal to me in the least. If we never do anything which has not been done before, we shall never get anywhere. The law will stand still whilst the rest of the world goes on: and that will be bad for both. See Packer v. Packer (1954) 15 at 22.

e. Introduction of Plea Bargain and Sentence Agreements

Plea bargain was hitherto alien to criminal justice administration in Nigeria²¹ but was imported into our justice system by the implication of Section 14(2) of the Economic and Financial Crimes Commission Act (EFCC)²² even though there was no clear provision for it in Nigeria at the time. The section provides thus;

Subject to the provisions of Section 174 of the Constitution of the Federal Republic of Nigeria 1999 (which relates to the power of the Attorney-General of the Federation to institute, continue, takeover or discontinue criminal proceedings against any person in any Court of law), the Commission may compound any offence punishable under this Act by accepting such sum of money as it thinks fit not exceeding the maximum amount to which that person would have been liable if he had been convicted of that offence.

By way of definition, plea bargain is a negotiated agreement between a prosecutor and a criminal defendant whereby the defendant pleads guilty to a lesser offence or to one of multiple charges in exchanges of some concession by the prosecutor usually a more lenient sentence or a dismissal of the other charges²³.

The Sokoto State ACJL 2019 has now specifically provided for plea bargain in section 269 by allowing the prosecutor and the defendant or his legal practitioner to enter into a plea bargain agreement before the plea is taken subject to the overriding discretion of the judge who will however not participate in the negotiations²⁴.

It has similar provisions that will extend to non-custodial sentencing including parole²⁵, probation²⁶, suspended sentence²⁷, compensation for loss suffered²⁸, restitution or delivery²⁹, community

²¹ The concept of plea bargain itself, originated from the American jurisprudence and became established in the case of *Robert M. Brady v. United States* 397 U.S 742 (90 S. Ct.1463, 25 L.Ed. 2d 747).

²² Economic and Financial Crimes (Establishment Act) 2004.

²³ See B. Garner, *Black's Law Dictionary*, (8th edition) p. 1190.

²⁴ See generally ACJL, s. 269 (1 - 18).

²⁵ ACJL 2019, s. 467.

²⁶ *Ibid*, s. 453 (1), (2) & (3) and 456.

²⁷ *Ibid*, s. 459(1).

²⁸ *Ibid*, s. 318.

²⁹ *Ibid*, s. 320.

service³⁰ and confinement at rehabilitation center³¹. The law makes the judgment of the court convicting a defendant upon a plea bargain to be final save in cases of fraud. The section³² provides;

"The Judgment of the court contemplated in subsection 10(a) of this section shall be final and no appeal shall lie in any court against such judgment except where fraud is alleged"

Plea bargain saves time and resources, reduces the trauma to the victims, aid prison decongestion, helps case management, reduces the number of inmates awaiting trial. In the same vein, non-custodial sentencing helps decongest our prisons and allow convicts to contribute to societal good in terms of community service.

f. Mandatory Data and Record of Arrests

Section 16 (1) of the Sokoto State ACJL 2019 is one of the innovative provisions for which there was no equivalent provisions under the repealed CPC. The section contains a list of mandatory information's that an arresting police officer must obtain from a suspect in the manner prescribed by law. This include the alleged offence(s), date and circumstances of his arrest, full names of the suspect, occupation and residential address and for the purposes of identification, the suspect's height, photograph, full fingerprint impression and such other means of identification³³. This may include the requirement of Bank Verification Number (BVN), National Identity Card number, Drivers License, Facial Marks and other data on the suspect. These data must be obtained within a span of 48 hours after arrest. The essence of this is to check unnecessary pre trial detention under the pretext of recording the personal data of an arrested person. What this translates to mean is that with such detailed physical and biometric data on record, administrative bail should be granted to the suspect who has been well documented by the Police or other law enforcement agencies. This is to prevent unreasonable pre-trial detention by the police and other law enforcement agencies.

The Sokoto State ACJL 2019 further provides that the Commissioner of Police in the State and the head of every agency authorized to make an arrest within the State shall remit quarterly to the Attorney-General of the State and shall maintain a record of all arrests made, with or without warrant in relation to all offences partly or wholly committed within the State whether being inquired into within the state or not.³⁴ Strong political will is therefore needed to give efficacy to these provisions.

g. Liberalization of Bail in non - Capital Offences

By way of definition, a non capital offence is an offence that does not carry capital punishment. Under the Sokoto State ACJL 2019, an officer is required to inquire into any such cases and release a suspect on bail where it is not practicable to bring the suspect before a Court within 24 hours after an arrest. But the suspect is required to enter into a recognizance with or without sureties for a reasonable amount of money to appear before the court or at police station at the time and place

³⁰ *Ibid*, s. 459(2) & (3).

³¹ *Ibid*, s. 466(1) & (2).

³² *Ibid*, s. 269 (18).

³³ By this, it means such other important information on the suspect which would make it easy for the law enforcement agencies to track him or her.

³⁴ See generally ACJL, 2019, ss 29 (1 - 5).

named in the recognizance³⁵. In the event however that such a suspect is not released on bail within 24 hours, an application may be brought on behalf of the suspect before a court of competent jurisdiction and the court shall order for the production of the suspect, inquire the circumstances or grounds of detention and admit the suspect to bail where it deems it. An application for bail under this provision may be made orally³⁶.

h. Report to Supervising Magistrate, Chief Magistrate Inspection and Visits to Detention Facilities and Returns by Comptroller of Prisons

To further enhance the rights of suspects, track everyone who encounter the criminal justice system, prevent human rights abuses and prevent undue and prolonged detention of suspects, the Sokoto State **ACJL 2019** made land mark provisions.

To this end, **Section 33 (1) of the law** provides that an officer in charge of a police station or an official in charge of an agency authorized to make arrest shall on the last working day of every month report to the nearest Magistrate the cases of all suspects arrested without warrant within the limits of their stations or agency whether the suspects have been admitted to bail or not.

Section 34 of the **ACJL 2019** provides that the Chief Magistrate, or where there is no Chief Magistrate within the police division, any Magistrate designated by the Chief Judge for that purpose shall, at least every month, conduct an inspection of police stations or other places of detention within his territorial jurisdiction other the prison.

Section 111 of the **ACJL 2019** further provides that the Comptroller General of Prisons in the State to make returns **every 90 days** to the Attorney – General of the State of all persons awaiting trial held in custody for a period **beyond 180 days** from the date of arraignment. It made it mandatory that upon the receipt of such return, the recipient shall take such steps as necessary to address the issues raised in the return in furtherance of the objectives of the Act and law³⁷.

i. Provisions Relating to Accelerated Legal Advice

In Nigeria, one of the major causes of frustration and delay in criminal trials is the time spent to obtain the Legal Advice from the office of the Director of Public Prosecution in our various States euphemistically tagged as; **“awaiting DPP’s advice”**.

Now the Sokoto State **ACJL 2019** recognized this as an embarrassment and major cause of delays in criminal trials and therefore directs in section 375 (1) of the law that the Police “shall forward all case file or diary to the Office of the Attorney-General for the purpose of issuance of legal advice within **21 days** of the receipt of the case file indicating whether or not there is a prima facie case against the defendant for which he can be prosecuted³⁸. Copies of such legal advice must be served on the police, the court and the suspect involved³⁹. Copies of such legal advice must be served on the police, the court and the suspect involved.

³⁵ *Ibid*, s. 31 (1) & (2).

³⁶ *Ibid*, s. 31 (3).

³⁷ ACJL 2019, s.111(3).

³⁸ *Ibid*, s.375 (2).

³⁹ *Ibid*, s.375 (3) (a), (b), (c).

j. Simplification of Bail Processes

One of the factors which account for prison congestion and long trials in Nigeria is the inability of suspects to meet their bail conditions. Therefore any simplification of the process which any law proposes to facilitate the early release of persons in custody is a welcome development.

The ACJL 2019 now makes provisions to ease bail burden on suspects whom are at times overwhelming and almost impossible to discharge. The provisions are:

1. A person shall not be denied, prevented or restricted from entering into any recognizance or standing as surety or providing any security on the ground that the person is a woman⁴⁰.
2. The Chief Judge of the State High Court may make regulation for the registration and licensing of corporate bodies or persons to act as Bondspersons within the jurisdiction of the Court in which they are registered⁴¹.

k. Remand Proceedings and Time Limits

Sections 292 to 298 of the ACJL 2019 applicable to Sokoto State provide for remand proceedings and time limits. The point to grasp is that sections 292 and 293 of ACJL 2019 generally provides that upon an application *ex parte* by the police in the prescribed form, a magistrate may order the remand of a suspect pending the receipt of the Legal advice of the Attorney-General of the State. The procedure now unlike in the past, must be by an *ex parte* application as against by oral application which holds sway prior to the coming into force of the law.

Section 295 of the ACJL 2019 imposes time limits of 14 days on four different accounts for the prosecution to take steps to prosecute the suspect and where that is not done for a cumulative 56 days, the Magistrate is empowered to release the suspect from prison custody unconditionally⁴². The case of **LUFADAJU V. JOHNSON**⁴³ is illustrative of the applicability of this rule in Lagos State of Nigeria.

l. Abolition of Lay Prosecutors

Constitutionally the Attorney-General of the Federation and his counterpart in the federating States are vested with the powers to prosecute offenders personally or through the legal officers in the Justice Ministry⁴⁴.

The above notwithstanding, the prosecutorial powers of the police and other law enforcement agencies like the Economic and Financial Crimes Commission (EFCC), Independent Corrupt Practices Commission (ICPC) and National Drugs Law Enforcement Agency (NDLEA) have been recognized and assured by the enabling law establishing these agencies albeit subject to the overriding power of the Attorney-General to takeover or discontinue any such proceedings at any time before judgment⁴⁵.

⁴⁰ ACJL, s. 166(3).

⁴¹ *Ibid*, s. 186(1).

⁴² *Ibid*, s. 106(a).

⁴³ (2007) 8 NWLR (Pt. 1037) 538.

⁴⁴ ACJL, s. 295(6) & (7).

⁴⁵ ACJL, s. 107 (1).

In the two landmark cases of ***OLUSEMO V. THE COMMISSIONER OF POLICE***⁴⁶ and ***FEDERAL REPUBLIC OF NIGERIA V. OSAHON***⁴⁷ the Supreme Court of Nigeria held that the power to prosecute is not limited to the Attorney General alone. A police officer and any such other person or body who has been statutorily clothed with the power to prosecute can do so but subject of course to the Attorney General's power to take over and continue any such criminal proceedings that may have been instituted by any other authority or person; and to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by him or any other authority or person. In exercising these powers, the Constitution granted the Attorney General the latitude and wide discretion as he shall only have regard to the public interest, the interest of justice and the need to prevent abuse of legal process and the Attorney General alone determines when and in what circumstances to act.

Therefore the fact that the EFCC and ICPC and other such bodies as NAFDAC and NDLEA have the powers to prosecute before the enactment of ACJL is a moot point⁴⁸. The Supreme Court even widened the frontiers, pronouncing in ***FAWEHINMI V. AKILU & TOGUN***⁴⁹ that a private citizen has the locus, which is the standing to prosecute or file information after an application endorsed by the Attorney-General.

However, the tables have turned now. By the relevant provisions of the Sokoto State ACJL, police lay prosecutors are to be abolished. By the provisions of ACJL 2019, trials are to be held in either at the Magistrate Court or the High Court on a charge of information filed by a Law Officer or Private Prosecutor.

Section 110 (1) of the Sokoto State ACJL 2019, it categorically provides that "the charge sheets shall be signed by any of the persons mentioned in section 106 of this law". The implied interpretation of this is that since a police officer is not named in section 106 of the ACJL, the policeman, even if learned in law, not being a Law Officer in the office of the Attorney General of Sokoto State, he or they are thus excluded from prosecuting either at the Magistrate or High Court.

Similarly, failure to conduct police investigation before initiating criminal prosecution cannot vitiate the process as long as there are materials sufficient in the judgment of the Attorney-General to initiate criminal proceedings.

The above provisions were made to ostensibly cure the patent incapacity of lay prosecutors to respond to vital issues of law raised for determination by legal practitioners appearing for defendants in criminal trials, delay by lay prosecutors who never seem to have their witnesses at hand and the alarming failure of lay prosecutors to secure convictions in many simple cases especially at the magistrate courts.

m. Recognition of the Traditional Role of the Legal Aid Council in Providing Legal Aid Services to Indigent Nigerians

The Sokoto State ACJL 2019 in section 17 (2) provides for the desirability of recording a suspect's

⁴⁶ (1998) II NWLR (Pt 575), 547.

⁴⁷ (2006).

⁴⁸ *Customs and Excise v. Senator Barau* (1982) 2 N.C.R. 1 and *Unipetrol Plc. v. E.S.B.I.R* (2006) Vol. 6 M.J.S.C 114.

⁴⁹ (1987) 4 NWLR (Pt. 67) 797.

extra-judicial statement in the presence of a legal practitioner of his choice or **an officer of the Legal Aid Council of Nigeria**, or an official of a Civil Society Organization or a Justice of the Peace or any other person of his choice.

n. Plea of Guilty by a Defendant

Where a defendant pleads guilty to an offence with which he is charged, the Court shall invite the prosecution to state the fact of the case; and enquire from the defendant whether his plea of guilty is to the fact as stated by the prosecution. It is however noteworthy that a review of facts by the prosecution may be carried out either orally or through the tendering of documents showing facts of commission of the offence alleged against the accused person (defendant).

o. Absentia Trials

In the past, the courts have held that trial in absentia is a procedure unknown to our procedural law and therefore a negation of fair hearing⁵⁰. Under the Sokoto State ACJL 2019, the defendant must be present in court for his trial to commence and must so continue to conclusion except if he falls under any of the exceptions provided under section 265 of ACJL to wit; if he misconducts himself during the proceedings⁵¹ or hearing is that of an interlocutory application⁵².

Admirably, the Sokoto State ACJL 2019 has introduced a new exception in Section 351(4)⁵³ which allows the court to continue with the trial of a defendant who is on bail but fails or refuses to return for his trial after arraignment. In this case, after two adjournments without reasonable explanations, the court is empowered to continue with his trial in his absence and convict him unless the court see reasons to the contrary but sentence shall be imposed only when the defendant is arrested or surrenders to the custody of the court⁵⁴.

p. Conditional Abolition of Stay of Proceedings in Criminal Cases

The Sokoto State ACJL 2019 has conditionally abolished stay of proceedings in Criminal cases. This is to prevent lawyers from using disingenuous ploy to delay criminal proceedings relating to alleged offences. Thence, section 305 provides thus;

“An application for stay of proceedings in respect of criminal matter before the Court shall not be entertained except a matter touching on jurisdiction”

The above provision is therefore not an outright prohibition but it still permits stay to be granted in matters bordering on a challenge of jurisdiction.

q. Introduction of Professional ethics of Diligence in the Defence of Criminal Cases **The ACJL**

Like its counterpart, the ACJA made innovative provisions not only on professional diligence in the defence of criminal cases but also in actualizing the constitutional right of a defendant to counsel

⁵⁰ See the case of *Chief of Air Staff vs Iyen* (2005) ALL FWLR (PT. 252) 404 SC.

⁵¹ ACJL, s. 265(a).

⁵² *Ibid*, s. 265(b).

⁵³ See the equivalent provision under section 352(4), ACJA.

⁵⁴ ACJL, s. 351(5).

and speedy trial⁵⁵. Specifically, section 348(7) of ACJL 2019 demands that a legal practitioner who accepts a brief to represent the prosecution or a defendant shall conduct the prosecution or defence with all due diligence until final judgment unless allowed for any special reason to cease from representation. If a legal practitioner intends to disengage from any matter, he is obliged under section 348(8) of ACJL 2019 to notify the court, not less than three days before the date fixed for hearing and such notice shall be served on the court and on all parties. This is another safeguard provided for under the law.

r. Introduction of Trial in Camera and Witness Protection in Specified Offences

In contemporary times, the need for witness protection has become a necessity. In cases of rape, defilement, incest, unnatural or indecent offences against person's trial can be held in camera⁵⁶. Other cases where witness protection are permitted under the law include cases of Terrorism, offences relating to Economic and financial Crimes, human trafficking and any other offences in respect of which a law of the State permits the use of such protective measures. The Sokoto State ACJL 2019 permits the Courts to use wide discretion in the type of protective measures considered relevant and adequate in the circumstances. The protective measures that can be taken in such circumstances are; non – disclosure of the names, address, telephone numbers and identity of the victims of such offences or witnesses in any record report of the proceedings; receiving evidence by means of video link; use of face masks and screens and other protective measures which the judge considers appropriate in the circumstances⁵⁷.

s. Introduction of Compensation to Victims of Crimes

In the past, victims of crimes were neglected and calls for reparations especially for victims of rape fell on deaf ears. This has left victims with sordid experience after conviction and sentence of the offenders this ugly trend has now been remedied by the powers vested in courts to award costs, compensation and damages in well deserving cases and based on the peculiarities in individual cases. By the tenure of section 318 of ACJL 2019, the court may within the proceedings or when passing judgment, order the convict to pay compensation to any person injured by the said offence(s) irrespective of any other fine or other punishment that may be imposed or that is imposed on the defendant and where substantial compensation is in the opinion of the court recoverable by civil suit⁵⁸, the court may order the defendant to pay a sum of money to defray expenses incurred in the prosecution of the criminal case⁵⁹. This equally extends to ordering the convict to pay compensation to an innocent purchaser of any property in respect of which the offence has been committed and who has been compelled to give it up⁶⁰. The powers of the Court equally extend to making orders to defray expenses incurred in medical treatment of any person injured by the convict in connection with the offence⁶¹. But where the judgment of a court is on appeal, no payments are to be made⁶².

⁵⁵ *Ibid*, ss. 348(1 - 8).

⁵⁶ ACJL, ss. 230 & 231(4) (a).

⁵⁷ *Ibid*, ss. 231(3) (a - d).

⁵⁸ *Ibid*, s. 318(1) (a).

⁵⁹ *Ibid* s. 318(1) (3).

⁶⁰ *Ibid*, s. 318(1) (b).

⁶¹ *Ibid*, s. 318(1) (c).

⁶² *Ibid*, s. 318(2).

t. Introduction of non – Custodial Sentences

Prior to the coming into force of the Sokoto State ACJL 2019, there was the excessive use of imprisonment as a means of punishment with the consequences of over crowding our correctional service institutions and Sokoto State is not an exception. To address this ugly trend hook line and sinker, other means of punishment other than imprisonment were introduced consistent with best international practices. These include:

- i. **Suspended Sentence: Under section 459 (1)** of ACJL 2019, the court after convicting an offender and imposing the sentence under the law creating the offence, may order that the sentence be suspended with or without conditions. In this case, the convict shall not be required to serve the sentence as long as he observes the conditions of the suspension. The difference between suspended sentence and probation is that in suspended sentence, it involves conviction and a sentence to a particular punishment but in probation, an order is made to avoid the imposition of any sentence after conviction.
- ii. **Probation:** Probation is made to avoid any sentence after sentence. Thus where a defendant is convicted for theft and there is cogent evidence before the court suggesting that on account of ill health, he would not be able withstand the conditions of the prison, the court may order him to refund the monies stolen without additional compensation to the victims failing of which he may be sentenced to a term of imprisonment. The basis aim of probation is to prevent the repetition of an offence or the commission of other offences. By section 454(3) of ACJL 2019, the court is obliged to furnish the defendant a notice in writing stating the simple terms and conditions he is required to observe. A probation officer is appointed to supervise the defendant. Section 455 stipulates the duties of a probation officer and the Chief Judge of the State is expected to make regulations in respect for the appointment of a probation officer⁶³. Suspended sentence has the effect of reducing prison congestion, rehabilitate prisoners by making them to undertake productive work and prevents convicts who commit simple offences from intermingling with hardened criminals.
- iii. **Compensation and Restitution to Victims of Crimes in Judgment**
The Court in delivering judgment in a criminal matter is enjoined to make order for compensation to victims of a crime. In doing same, the court may call additional evidence to enable it to determine the quantum of compensation to be awarded. This equally includes the award of costs⁶⁴. Further, the court is empowered to order restitution to any victim of crime or the victim's estate under section 320 of ACJL 2019.
- iv. **Community Service**
This is an alternative to imprisonment. In this case, the court after conviction may with or without conditions sentence a defendant to perform specified service in his community or place as the court may direct. The court cannot however sentence a defendant to these non custodial sentences if the offence involves the use of arms, offensive weapons or other sexual offence or offences which attract more than 3 years imprisonment⁶⁵. By the provision of section 460(1), ACJL 2019, the Chief Judge of the State is required to establish in every Judicial Division, a Community Service Center which shall be headed by the Registrar who shall be responsible for the administration of Community Service Orders in the division.

⁶³ *Ibid*, s. 456(2).

⁶⁴ See generally the provisions of section 318, ACJL.

⁶⁵ ACJL, s. 459(3).

v. Parole: The Comptroller of Prisons is enjoined by section 467 of ACJL 2019 to recommend to the Court for the release from custody with or without conditions of a convict serving a term of imprisonment of at least fifteen years who has spent one third of the prison term. The court after hearing the prosecution and the prisoner or his legal representative may order the remaining part of the prison term to be suspended with or without conditions and the prisoner released accordingly. The Prisoner is then required to proceed to a rehabilitation center for the purpose of assisting him to be properly reintegrated to the society. Therefore, there is an obligation on the Comptroller of Prisons to make budgetary provisions for the rehabilitation and Correction Center.

vi. Confinement in a Rehabilitation and Correctional Centre

Alternatively to the foregoing, the Court may sentence a defendant convicted of an offence triable summarily to serve the sentence at a rehabilitation and Correctional Center established by the State Government. In making such an order, the court is to be guided by the age of the convict, the fact that the convict is a first time offender and any other relevant circumstances necessitating an order of confinement to the center⁶⁶.

u. Introduction of Sanctions for failure to attend as a witness and Production of Documents.

The Sokoto State ACJL 2019 now imposes sanction for failure to attend as a witness after been duly served or who refuses to be sworn or affirmed or failed to produce documents on demand and this punishment may extend to committal to prison or other place of safe custody for a period not exceeding 30 days⁶⁷.

v. Establishment of Administration of Justice Monitoring Committee

Section 268 of the Sokoto State ACJL 2019 established a body to be known and called the Administration of Criminal Justice Monitoring Committee. It consists of major stake holders in the Criminal Justice System in the State and mandated to ensure that:

- i. Criminal Matters are speedily dealt with;
- ii. Congestion of criminal cases in courts is drastically reduced;
- iii. Congestion in prisons is reduced to the barest minimum;
- iv. Persons awaiting trial are, as far as possible not detained in prison custody;
- v. The relationship between organs charged with the responsibility for all aspects of the administration of justice is cordial and there exists maximum co – operation amongst the organs in the administration of justice in the State;
- vi. Collate, analyze and publish information in relation to the administration of criminal Justice Sector in Nigeria; and
- vii. Submit quarterly report to the Chief Judge of the State and keep him fully abreast of the developments towards improved criminal justice delivery and for necessary action; and
- viii. Carry out such other activities as are necessary for the effective and efficient administration of criminal justice⁶⁸.

Suffices to state that the ACJMC is a standing Committee established by ACJL aimed at addressing the problem of inadequate synergy amongst the agencies of Criminal Justice administration and it is headed by the Chief Judge of the State.

⁶⁶ ACJL, s. 466(2).

⁶⁷ Ibid, s. 249(1) (c).

⁶⁸ ACJL, s. 469(2).

w. Streamlining the Criminal Courts in the State with Criminal Jurisdiction and Increasing their Criminal Jurisdiction.

By the provisions of sections 496 – 512 of ACJL 2019, the law streamlined the courts with Criminal jurisdiction in the State and pegged same at 9 (nine), inclusive the Shariah Courts deemed to have been established in the State under any law. The provisions equally brought to play, the powers of the Judicial Service Commission in appointments and by the new law, a Magistrate of the First Grade can now entertain jurisdiction over an offence which term may exceed 20 years and impose a fine which may exceed five Million Naira under section 504 (a) of ACJL 2019. This is indeed a welcome development as it will further ease the workload on judges of the High Court of Justice. Further, a corresponding power was vested on the Governor under section 507 to increase the jurisdiction of Magistrates in Criminal Matters on the recommendation of the Chief Judge of the State.

5. Redlines in the Sokoto State ACJL 2019

Granted the Sokoto State ACJL 2019 is a revolutionary legislation in the annals of administration of Criminal Justice in Sokoto State of Nigeria, the said legislation is not without its own peculiar lapses. Some of the redlines inherent in the legislation include the following;

- a. The provisions relating to the taking statements of suspect(s) accused of the commission of an offence to be made amongst others in the presence of his legal practitioner would not be useful if the legal Practitioner cannot guide the suspect(s) especially where direct questions which if answered may amount to self incrimination are thrown at the suspect(s). The proviso in section 17(2) of the ACJL 2019 provides that the legal practitioner present shall not interfere while the suspect is making his statement, except for the purpose of discharging his role as a legal practitioner. The one trillion questions to ask then is; ***what is his role as a legal practitioner in the circumstances? This is not spelt out and this can lead and has indeed led to friction between lawyers and security operatives in the investigation process.***
- b. In Capital offences, the Sokoto State ACJL 2019 makes well documented provisions regarding conditions for the grant of bail in capital offences; it provides that bail may only be granted by a High Court under exceptional circumstances like ill health, extraordinary delay in the investigation process, arraignment and prosecution for a period exceeding one year or any other circumstances that the judge may, in the particular facts of the case consider exceptional⁶⁹.

The above however shows some element of conflict with the provisions of section 35(1) of the Constitution of the Federal Republic of Nigeria 1999. The operative provisions of section 35(1) state that **“every person shall be entitled to his personal liberty and no person shall be deprived of such liberty save, and in accordance with the procedure permitted by law”**. Any person who is arrested and/or detained in accordance with sub-section (1) (a) of section 35 of the Constitution shall be brought before a court of law within a reasonable time. The section also provides the limit or the period of detention within which the applicant may be taken to court thus, **“two months from the date of arrest or detention in the case of a person in custody; and not entitled to bail.”** But by implication, the Sokoto State ACJL 2019 has now elongated the period for capital offences to 1 year and this apply even though the state may be unwilling to prosecute such a suspect. The civil rights contained in the Constitution of the Federal Republic of Nigeria 1999 against the unjust arrest and detention

⁶⁹ ACJL, 2019, s. 160 (1) & (2) (a - c). See equivalent provision under ACJA, 2015, s. 161 (1) & (2 a-c).

of a citizen which is protected by the enforcement of the fundamental right provisions should not be restricted in any way by technicalities or limited by the ACJL 2019 where none is justified by the Constitution⁷⁰. The one year restriction in capital offence(s) is an additional restriction imposed the Sokoto State ACJL, 2019 which is quite alien to the Constitution of the Federal Republic of Nigeria 1999. The exercise of the applicant's human right (Miranda Rights) to complain of a wrongful arrest and detention should not be subject to any disability. Rather than decongest the prisons in respect of awaiting trial inmates, the strict application of the 1 year restriction has the potentiality of further congesting the prisons. The Constitution⁷¹ establishes beyond per adventure the supremacy of the Constitution. It is settled law that where the Constitution has covered the field by providing for any subject matter, the provision of the Constitution on that subject matter is the overriding authoritative statement of the law on the subject matter. The National Assembly or State House of Assembly which is bound by the Constitution cannot legislate contrary to the provision of the Constitution. In the case of **INEC & ANOR V. MUSA & ORS**⁷², the Supreme Court per Ayoola, JSC held;

Where the Constitution has covered the field as to the law governing any conduct, the provision of the Constitution is the authoritative statement of the law on the subject. The constitution would not have 'covered the field' where it had expressly reserved to the National Assembly or any other legislative body the power to expand on or add to its provisions in regard to the particular subject. Where the Constitution has provided exhaustively for any situation and on any subject, a legislative authority that claims to legislate in addition to what the Constitution had enacted must show that, and how, it has derived its legislative authority to do so from the Constitution itself. In this case, Section 222 of the Constitution having set out the conditions upon which an association can function as a political party, the National Assembly could not validly by legislation alter those conditions by addition or subtraction and could not by legislation authorize INEC to do so, unless the Constitution itself has so permitted.

Therefore any law, whether an Act of the National Assembly or Law of a House of Assembly, any Rules of Court or even case law that conflicts with the Constitution is to the extent of the inconsistency void and of no effect. The Sokoto State ACJL 2019 should be subject to the Constitution and not the other way round. In the case of **OBASANJO V. YUSUF**⁷³, the Supreme Court of Nigeria held that;

It is admitted that the Constitution being the supreme law of the country, is not subject to the Electoral Act or any law at all rather, it is the Act that is made subject to the Constitution. The Constitution is only subject to itself." In keeping with the provisions of Section 1(3) of the 1999 Constitution, I hereby

⁷⁰ See *Adesanya v. President of Federal Republic of Nigeria & Ors.* (1981) 5 SC 112, (1981) 2 NCLR 358.

⁷¹ Constitution of the Federal Republic of Nigeria, 1999 (as amended) , s. 1(1) and (3).

⁷² (2003) 1 SC (PT.1) 106.

⁷³ (2004) 9 NWLR (PT 877) 144 AT 183.

declare the said paragraph 27(1) of the First Schedule to the Electoral Act, void.

- c. Interestingly, the **ACJL 2019** eschewed the provision of **section 33(4) of ACJA 2015** which is to the effect that;

“The Attorney General of the Federation shall upon request by the National Human Rights Commission, the Legal Aid Council of Nigeria or a Non – Government Organization make the report available to them”

One wonders the rationale behind this since Sokoto State has branch offices of the Legal Aid Council, National Human Rights Commission as well as presence of Non - Government Organizations. Crisis of transparency may therefore ensue.

- d. The **Sokoto State ACJL 2019**, the law makes the judgment of the court convicting a defendant upon a plea bargain to be final save in cases of fraud. The section⁷⁴ provides;

“The Judgment of the court contemplated in subsection 10(a) of this section shall be final and no appeal shall lie in any court against such judgment except where fraud is alleged”

The above provision can be viewed as a breach of the right of appeal constitutionally guaranteed. The right of appeal, against decisions of courts and tribunals is donated by the constitution, the *fons et origo* of our laws. In other words, appeal is a constitutional right. It is allocated, as of right by the sacred and inviolable provisions of section 246(1) (b) of the 1999 Constitution, as amended by the Second Alteration, Act No. 2 of 2011. In the case of **E.F.P. Co. Ltd. V. N.D.I.C.**⁷⁵ Tobi, JSC, lucidly opined;

The right of appeal is constitutional as it is provided in the Constitution. It stands on the very height of the appeal decision by virtue of the fact that the Constitution provides for it. As a constitutional right, it overrides most other negative principles aimed at foreclosing the right. See, also, Nwana V. F.C.D.A. (2007) 11 NWLR (Pt. 1044) 59. Indeed, if “any other person having an interest in the matter”, one not an original party to an action, could have a right of appeal, albeit with the leave of court, under section 243 of the 1999 Constitution, as amended, then afortiori the appellants who were parties to the petition ab initio.

Being a right constitutionally guaranteed, it cannot be fettered other than as provided under the constitution or the statute creating same. When a party who is aggrieved by a decision or order court or tribunal, and he sets out to appeal, that aggrieved party is simply doing no more than exercising his constitutional right. Nothing must be done or left undone which is

⁷⁴ ACJL, s. 269 (18).

⁷⁵ (2007) 9 NWLR (Pt.1039) 216 at 253.

capable of thwarting the exercise of that right⁷⁶. In the case of ***GLOBAL EXCELLENCE COMMUNICATIONS LTD. V. DUKE***⁷⁷, Tobi JSC (of Blessed Memory) stated as follows;

"Access to Court is a constitutional right which can only be taken away by a provision in the Constitution. It cannot be taken away by implication or speculation by the Courts."

Ariwoola, JSC captured the situation aptly in the case of ***IMEGWU V. OKOLOCHA & ORS***⁷⁸ where this Court stated thus;

"There is no doubt; every aggrieved party has constitutional right of appeal to challenge the decision of the Court below in this Court. In other word, right of appeal to this Court is constitutionally guaranteed and cannot be denied or removed by any subsidiary legislation except by the same Constitution. See Section 233 of the 1999 Constitution (as amended)."

Every citizen of this country may thus approach a higher court on appeal against a decision(s) of a lower Court depending on the nature of the decision, or even as an interested party for a favourable relief(s). That is why the Constitution has categorized these decisions on which a citizen can exercise such Constitutional right of appeal as of right⁷⁹ and or where he can exercise such right by leave of Court⁸⁰. The exercise of such a right by the citizen is not, however, left as a matter of course or unwieldy. Section 233(6) of the 1999 Constitution and other corresponding Sections of the same Constitution provides as follows;

Any right of appeal to the Supreme Court from the decisions of the Court of Appeal conferred by this Section shall, subject to Section 236 of this Constitution, be exercised in accordance with any Act of the National Assembly and rules of Court for the time being in force regulating the powers, practice and procedure of the Supreme Court.

- e. The elaborate prescriptions for time limits for the issuance of legal advice by the Attorney-General will greatly help the decongestion of our prisons and facilitate expeditious trials. Interestingly, the number of days that is required for legal advice to be given under the Sokoto State ACJL 2019 is higher than that under the ACJA 2015 thus leading to the conclusion that in terms of speedy legal advice, that of ACJA is more preferable.
- f. **In trials in absentia**, the Sokoto State ACJL 2019 did not address the issue where a person who is not on bail but in the prison absent himself from trial for more than two adjournments owing to the refusal and or neglect of the officers of the correctional services to produce him before the court.
- g. **With respect to provisions relating to conditional stay of proceedings**, some lawyers can take advantage of the leeway created under the Sokoto State ACJL 2019 to raise frivolous

⁷⁶ See *Mangraht vs. Oduba* (2004) 4 NWLR (Pt.863) 279 at 287.

⁷⁷ (2007) 16 NWLR (Pt. 1059) 22.

⁷⁸ (2013) LPELR-1986.

⁷⁹ Sections 241(1), 244(1), and 245(1) of the Constitution of the Federal of Nigeria 1999 (as amended).

⁸⁰ Sections 233(3), 241(2), 242(1), 243, 244(2) and 245(2), *ibid*.

notice of appeal and imbue in it issues of jurisdiction for the purposes of obtaining a stay of proceedings from the court. An outright prohibition would have met the essence of the law.

- h. Typographical and or drafting errors are bound in the legislation. For instance, under section 186(1) of Sokoto State ACJL 2019, there exist a typographical error which if not rectified may convey a different meaning not intended by the legislators and that is instead of stating **'persons to act as bonds persons'** it was erroneously stated, **persons to Law as bondspersons'**. Similarly, one has to labour in finding out specific provisions of the law arising from the absence of a table of contents containing the sections of the law and the page numbers. It therefore creates a laborious read.
- i. So much is demanded on the part of the drivers of the system to wit the Ministry of Justice Sokoto which houses the Attorney General of Sokoto State but lack of adequate and effective working tools as well as proper care of staff may lead to the failure of the law archiving its objectives.

5. Conclusion and Suggestion for Future Reforms

The Government of Sokoto State of Nigeria ought to be commended for the long overdue overhaul of the administration of criminal justice in Sokoto State which is largely based on the model federal law in her jurisdiction of competence.

A crime free society is a prosperous society where economic and social development is assured. Therefore any attempt at galvanizing an efficient and effective administration of criminal justice in Nigeria is one that all stakeholders and every Nigerian must embrace and work assiduously towards the realization of the objectives of the Federal and State Laws. In Sokoto State, all hands must be on deck to ensure that the objectives of the law is not defeated arising from non compliance. To achieve the above, the following recommendations are herewith proffered:

- a. There is equally the need to look holistically at the issue of draftsmanship so that avoidable typographical and grammatical errors can be remedied so that we don't run into the problems of interpretation.
- b. The provisions relating to expeditious legal advice from the office of the Attorney General of Sokoto State and prohibition against lay prosecutions cannot be effective if the manpower at the Ministry of Justice is not improved upon and the welfare of the lawyers at the said ministry not taken care of. Presently, the welfare of staff of the Ministry of Justice, Sokoto leaves much to be desired and can therefore act as a clog in the effective implementation of some of the provisions of the Sokoto State **ACJL 2019**.
- c. The importance of registration of criminal convictions has an overwhelming impact on the administration of criminal justice in Nigeria as a whole. By so doing, the prosecution will know who and what they are dealing with from inception. The defence counsel on the other hand, can no longer cast every serial offender as an innocent person making his first and unintended transgression against the Law. Above all, everyone could search the registry as you would at the Corporate Affairs Commission and easily overcome the problem of information asymmetry in the administration of criminal justice in Nigeria. This would no doubt improve crime prevention and management in Nigeria. But here, implementation requires strong political will of the police leadership and other federal justice sector institutions leaders. Strong coordination and increased exchange of data including harmonization of biometric information among the security and other electronic data sources including telecommunications, banks, customs, passport and immigration offices, etc needs to be

enhanced so that it can be fed into the national identity card programme that would ensure that all residents of Nigeria are captured in a well managed and IT-based data base.

- d. **In legal aid matters, both the Courts and the Legal Aid Council** must ensure that lawyers assigned to defend indigent persons are sound professionals who not only appreciate the essence of the assignment but are also well imbued with adequate sense of responsibility and commitment. If the section of the Sokoto State ACJL 2019 are to have any meaningful impact, such lawyers assigned with such responsibilities should be monitored and be made to submit periodic reports on the cases so assigned and this is without prejudice to the fact that indigent persons to whom counsel are so assigned have the right to reject such counsel where there are good reasons for that. **Under the section 7(3) of the Legal Aid Regulations made pursuant to the Legal Aid Act**, a legally assisted person shall have the right to change the legal practitioner assigned to him provided he first gives reason in writing to the Director General of his intention to do so.
- e. Whilst it is recognized the traditional role of the Legal Aid Council in providing legal aid services to indigent Nigerians, there is the need for the Sokoto State ACJL to further widen the scope and borrow the Lagos State example which prescribed a State-run free legal services to a suspect in the form of the **Office of the Public Defender (OPD)** which operations would enable the provision of free legal services in respect of criminal and civil matters to indigent residents of Sokoto State without regards to tribe, race or religion. **In section 74 (6) ACJL of Lagos State**, it provides;

A form indicating a desire to be represented by counsel of his choice or the Office of the Public Defender, Legal Aid Council or any other organization providing legal aid shall be attached to each legal advice for purpose of endorsement by the person in respect of whom legal advice is preferred.

The OPD has such powers as:

- a) The provision of legal aid services and advice;
- b) To receive complaints from individuals or by referrals from government and private institutions;
- c) Investigate complaints and referrals made to it and to prepare necessary legal documents;
- d) Negotiate settlements or give necessary legal advice in alternative dispute resolutions, etc.

Even though Sokoto State has the office of the Citizens Rights Department, the nature, scope and functions of this office is not akin to that of the **OPD** of Lagos State.

- f. In the area of stay of proceedings, what needs to be done in this area for the purposes of not defeating the purpose of the law itself as it relates to speedy trial is for an outright prohibition of stay of proceedings in criminal matters in the state. To this end, the approach adopted by the ACJA 2015 is more preferable as it prohibits stay of proceedings in *toto*. Section 306 of ACJA provides thus;

“An application for stay of proceedings in respect of a criminal matter before the court shall not be entertained.”

The above prohibition is total and admits no exception. This total proscription of stay of proceedings in criminal proceedings under section 306 of **ACJA 2015** was upheld by the Supreme Court of Nigeria in the notorious of **OLISAH METUH vs FRN**.⁸¹

- g. All the structures that need to be in place for the effective implementation of the law must be provided and the assistance of the State government in this regard is *sine quanon* in view of the enormous financial implication involved.

⁸¹ (2017) 4 NWLR (PT. 1554) 108 AT 131.