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**Nigerian Institute of  
Advanced Legal Studies  
(NIALS)**



## **ADMINISTRATION OF CRIMINAL JUSTICE IN NIGERIA: A COMPARISON BETWEEN THE FEDERAL LEGISLATION AND STATE COUNTERPARTS IN FOUR SELECTED STATES**

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**This Policy Brief is one of the outputs under a Project that aims to facilitate the implementation of the administration of criminal justice in Nigeria by increasing understanding and awareness about the Administration of Criminal Justice Act 2015 and the various state replicas.**

**The project is supported by John D and Catherine T. MacArthur Foundation**



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### **About the Project Implementation of ACJA 2015**

The Project on the Implementation of the Administration of Criminal Justice Act (2015) aims to deepen understanding of the Federal Act and the respective state counterparts and improve the management of criminal proceedings, including the prosecution of anti-corruption cases in Nigeria. Through workshops, review of bulletins and digests, the Project offers a common framework for providing practical tools for relevant stakeholders and enhances nationwide familiarity with the legal instrument that ensures expediency in, and the modernisation of the criminal justice system.

The John D and Catherin T. MacArthur Foundation is supporting the Project as part of the Foundation's *On Nigeria Grant Program*

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# **ADMINISTRATION OF CRIMINAL JUSTICE IN NIGERIA: A COMPARISON BETWEEN THE FEDERAL LEGISLATION AND STATE COUNTERPARTS IN FOUR SELECTED STATES**

## **1. Background**

Administration of justice determines what is lawful, fair and equal.<sup>1</sup> The protection of rights by preventing oppression of persons and delays in cases before judicial, quasi-judicial or administrative bodies is recognized globally.<sup>2</sup> In Nigeria, the Constitution of the Federal Republic of Nigeria (as amended) is the legal foundation for administration of justice.<sup>3</sup> It provides the powers or jurisdictional mandate of the courts<sup>4</sup> to determine the rights and obligations of citizens.<sup>5</sup> These rights include the fundamental human rights guaranteed in Chapter IV of the Constitution such as the rights to personal liberty, human dignity, fair hearing and fair trial,<sup>6</sup> which are significant to administration of criminal justice.<sup>7</sup>

For a long time, determination of these rights in the dispensation of criminal justice in Nigeria was fraught with delays. Court docket congestions; abuse of arrest powers by the police; excessive use of interlocutory applications and imprisonment due to lack of alternatives; congestion of prisons with a high population of Awaiting Trial Persons (ATPs); lack of witness protection as well as outdated and intricate procedures<sup>8</sup> were identified lapses in the existing laws.<sup>9</sup> Reforming the administration of criminal justice in Nigeria became a front burner issue that engaged the attention of criminologists, legal practitioners, judges, academic writers, legislators, police officers / prosecutors, prison officials, the media and members of the general community.<sup>10</sup>

The passage of the Administration of Criminal Justice Act (ACJA) in 2015 and other state counterparts<sup>11</sup> was thus a positive response for a new legal order to transform the criminal justice system in Nigeria. These legislation were enacted to reflect the true intent of the Constitution to meet the demands of an egalitarian society and eliminate delays in criminal trials<sup>12</sup> and specifically, for the purpose of improving criminal justice administration in



Nigeria through the efficient management of criminal justice institutions, speedy dispensation of justice, as well as the protection of the rights and interests of the suspect, the defendant, the victim and the society.

The Nigerian Institute of Advanced Legal Studies (NIALS) partnering with the MacArthur Foundation has prepared Case Digests and Bulletins to monitor the effective implementation of the legislation. This Case Digest and Bulletin analyses the salient provisions of the federal law (the ACJA) alongside the state laws (the ACJL) of four states (Enugu, Oyo, Kaduna and Delta States). The methodology implored is a comparative analysis to ascertain the extent of implementation and adaptation of the ACJA in the four states based on random selection from regions of the country depending on the year of enactment of the laws.

## **2. THE ACJA 2015**

President Goodluck Ebele Jonathan<sup>13</sup> signed the Administration of Criminal Justice Act (ACJA) on the 15th of May 2015. The objective of the Act is to ensure the system of administration of criminal justice in Nigeria, which promotes efficient management of criminal justice institutions to protect the interests of the suspect, the defendant, the victim, the society and for related matters. The Act repealed the CPA,<sup>14</sup> CPC<sup>15</sup> and the Administration of Criminal Justice Act<sup>16</sup> under section 493.<sup>17</sup> It is tailored to reflect international best practices in the administration of criminal justice<sup>18</sup> and is applicable in all federal courts<sup>19</sup> across the Federation.<sup>20</sup> The major milestone of the ACJA is the emphasis on justice that also promotes restorative justice goals as represented in Figure 1 below.



Figure 1: Key innovative provisions of the ACJA

As shown in Figure 1, some of the salient provisions deal with, unlawful arrest, notification of cause of arrest, humane treatment of suspects, recording of arrests, Police Central Criminal Records Registry (CCRR), electronic recording of confessional statement, right to bail, women sureties, elimination of lay prosecution, professional bondspersons, remand protocols, plea bargain and guidelines, witness protection, electronic record of proceedings, compensations for victims, non-custodial sentences and establishment of Monitoring Committee etc.

### **3. THE ACJL - STATE COUNTERPARTS OF ENUGU, OYO, KADUNA AND DELTA**

Twenty-nine (29) out of 36 States of the federation have adapted the Administration of Criminal Law (ACJL) in their States, as at February 2020.<sup>21</sup> Below is a map showing all the states that have adopted the ACJ Law. The States of Enugu, Kaduna and Delta enacted ACJL in 2017 respectively while Oyo enacted ACJL in 2016.

# (ACJA)

THE ADMINISTRATION OF  
CRIMINAL JUSTICE ACT **2015**

## PASSAGE OF THE ADMINISTRATION OF CRIMINAL JUSTICE LAW

**29** States have passed the Administration of Criminal Justice Act/Law (ACJA/L) in Nigeria.



Passed



Not Passed

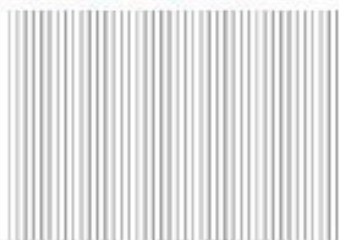


### Year of Passage



#### 2007 – 2015

Lagos State (ACJL 2007/2011)  
Anambra State (ACJL 2010)  
Ekiti State (ACJL 2014)  
FCT Abuja (ACJA 2015)



#### 2016 – 2017

Cross River State (ACJL 2016)  
Ondo State (ACJL 2016)  
Oyo State (ACJL 2016)  
Rivers State (ACJL 2016)  
Kaduna State (ACJL 2017)  
Akwa Ibom State (ACJL 2017)  
Delta State (ACJL 2017)  
Enugu State (ACJL 2017)  
Kogi State (ACJL 2017)



#### 2018 – 2019

Edo State (ACJL 2018)  
Ogun State (ACJL 2018)  
Plateau State (ACJL 2018)  
Osun State (ACJL 2018)  
Kwara State (ACJL 2018)  
Adamawa State (ACJL 2018)  
Bayelsa State (ACJL 2019)  
Jigawa State (ACJL 2019)  
Yobe State (ACJL 2019)  
Kano State (ACJL 2019)  
Benue State (ACJL 2019)  
Nasarawa State (ACJL 2019)  
Bauchi State (ACJL 2019)  
Ebonyi (ACJL 2019)  
Sokoto (ACJL 2019)  
Katsina (ACJL 2019)

Civil Society Observatory on the  
Administration of Criminal Justice in Nigeria

#ACJA\_NG

The table below shows a comparative analysis of the salient innovative provisions of the ACJA and the selected four State counterparts:

S/N	ACJA 2015	ACJL – Enugu 2017, Oyo 2016, Kaduna 2017 and Delta States 2017
1.	<p>Section 6</p> <p>Notification of cause of arrest and right of suspect to counsel.</p> <p>The section provides that the arrested suspect shall be informed of reason for arrest as well as his rights and be entitled to consult a lawyer of his choice or alternatively, free legal representation. The authority is obligated to inform the suspect's next of kin or relative of the arrest.</p>	<p><u>Enugu - Section 6</u></p> <p>Same as ACJA 2015 but is silent on the right to a lawyer or free legal representation which somewhat defeats the intent of the ACJA and more importantly section 35(2) and 36(6)(c) of the CFRN, 1999 which reaffirms the foregoing provision. Also, it does not provide for a suspect's next of kin or relative to be notified of an arrest.</p> <p>An improvement on the ACJA provision is that the Enugu law provides for compensation and for the suspect to seek redress in the court of law for unlawful arrest.</p> <p><u>Oyo Section 8</u></p> <p>Same as the ACJA 2015</p> <p><u>Kaduna - Section 28</u></p> <p>Same as the ACJA 2015</p> <p><u>Delta - Section 6</u></p> <p>Same as the ACJA 2015</p>
2.	Section 15	<u>Enugu - Sections 16-17</u>

	<p>Recording of arrest</p> <p>Record of the suspect is to be taken immediately and concluded within a reasonable time not exceeding 48 hours. A confessional statement volunteered shall be in writing and may be recorded electronically.</p>	<p>Split into two sections and includes a proviso stating that in the absence of video facility such statement shall be made in writing in the presence of any person of his choice.</p> <p><u>Oyo - Section 17</u></p> <p>Same as the ACJA but reduces the duration of recording to 24 hours.</p> <p><u>Kaduna - Section 37</u></p> <p>Includes an obligation on the Prosecutor to adduce evidence to show voluntariness of statement when presenting his case. The section goes further to provide that any objection to the admissibility of such confessional statement shall be recorded and ruled upon by the Court while delivering judgment in the substantive case. This addition fulfills one of the objectives of reforms in Nigeria's criminal justice administration, which is geared towards eliminating delays in criminal trials; oftentimes caused by such objections.</p> <p><u>Delta - Section 15</u></p> <p>Included a proviso that in the absence of video facility such statement shall be made in writing. This provision arguably jettisons the need to activate the provision, which requires the detaining authority to make available electronic devices for the purpose of recording confessional statements. It should thus be amended to</p>
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		reflect the intent of ACJA, which is to reduce incidents of retraction of confessional statement or trial within trial.
3.	<p>Section 17</p> <p>Recording of Statement of suspect</p> <p>Provides for statements to be made in the presence of a legal practitioner of the suspect's choice or where he has none, in the presence of an officer of the Legal Aid Council or of a Civil Society Organization or Justice of the Peace or any other person of his choice, provided that such person will not interfere while the suspect is making his statement except for the purpose of discharging his role as a legal practitioner.</p>	<p><u>Enugu - Section 17</u></p> <p>Restrictive in the sense that it provides for only a private legal practitioner or any other person of his choice. The law does not also capture the proviso contained in the ACJA.</p> <p><u>Oyo - Section 18</u></p> <p>Same as the ACJA 2015</p> <p><u>Kaduna - Section 39</u></p> <p>Same as the ACJA</p> <p><u>Delta - Section 17</u></p> <p>Same as the ACJA</p>
4.	<p>Section 254</p> <p>Witness Expenses</p> <p>Expenses are to be processed and paid by the</p>	<p><u>Enugu - Section 152</u></p> <p>Enugu Law provides for the establishment of a Witness Support Unit and Expenses Fund in the office of the Attorney General of the State. A clear departure from the</p>

	Registrar of the Court out of the relevant vote appropriated by the Judiciary.	<p>ACJA, which places such responsibility on the Judiciary. This is commendable given the problem of funding in the Judiciary, which may make it almost impossible to discharge this burden.</p> <p><u>Oyo - Section 253</u></p> <p>Same as the ACJA 2015</p> <p><u>Kaduna - Section 266</u></p> <p>Same as the ACJA</p> <p><u>Delta - Section 254</u></p> <p>Same as the ACJA</p>
5.	<p>Section 396</p> <p>Time for raising certain objections, day-to-day trial and adjournments</p> <p>ACJA provides that where day-to-day trial is not practicable, each party shall not be entitled to more than five adjournments (a total of ten adjournments) from arraignment to final judgment.</p>	<p><u>Enugu - Section 258</u></p> <p>Enugu ACJL stipulates that each party shall be entitled to two adjournments while two adjournments shall be at the instance of the court making it a total of four adjournments.</p> <p>This provision indeed appears to fulfill one of the purposes of ACJA, which is to ensure speedy trial. States that are yet to adopt the ACJL are encouraged to key into this innovation.</p> <p><u>Oyo - Section 397</u></p> <p>Same as the ACJA.</p> <p><u>Kaduna - Section 403</u></p>



		<p>Same as the ACJA</p> <p><u>Delta - Section 393</u></p> <p>Same as the ACJA</p>
6.	<p>Section 106</p> <p>Prosecution of offences</p> <p>Provides that only the Attorney General, a legal practitioner authorized by the Attorney General and a legal practitioner authorized to prosecute under the Act can prosecute offences thus eliminating</p> <p>lay prosecution as endorsed in FRN v Osahon.<sup>22</sup></p>	<p><u>Enugu - Section 181</u></p> <p>The Enugu law restated the practice of allowing lay prosecutors to prosecute offences. This is obviously against the intent of ACJA, which seeks to ensure speedy trial by doing away with the practice of using lay prosecutors who lack the requisite legal knowledge to handle cases and this has led to poor prosecution and contributed to delays in criminal trials especially in Magistrate courts. It is therefore important for the Law to be reviewed by expunging the provision.</p> <p><u>Oyo - Section 107</u></p> <p>Includes a police officer that is a legal practitioner. The significance of this provision is to basically recognise that only police officers that are lawyers can still prosecute offences as opposed to lay prosecutors (police officers)</p> <p><u>Kaduna - Section 119</u></p> <p>Same as the ACJA</p> <p><u>Delta - Section 107</u></p> <p>Same as the Oyo Law. It includes a police officer that is a lawyer.</p>

7.	<p>Section 469</p> <p>Establishment of the Administration of Criminal Justice Monitoring Committee (ACJMC)</p> <p>Provides for the establishment and composition of ACJMC.</p>	<p><u>Enugu - Section 538</u></p> <p>Enugu ACJL provides for the establishment of a body to be known as the Enugu State Justice Reform Team with a broader composition and mandate.</p> <p><u>Oyo - Section 457</u></p> <p>Included the Director of Public Prosecution and the Deputy Chief Registrar.</p> <p><u>Kaduna - Section 466</u></p> <p>Expanded the list provided by the ACJA to include the Grand Kadi or Kadi, President of the Customary Court of Appeal or Judge, Director of Public Prosecution, State Director of Department of Security Service or his Representative</p> <p><u>Delta - Section 461</u></p> <p>Included State Director of State Security Service</p>
8.	<p>Section 296</p> <p>Time and protocols for remand orders</p> <p>With respect to timelines for remand of a suspect, after the initial remand order of 14 days had been made and extended for another 14 days, the</p>	<p><u>Enugu - Section 226</u></p> <p>Extends the period of remand and the period within which the case is returnable to 30 days, thus going against the purpose of ACJA, which seeks to eliminate unnecessary delays in criminal trials. This provision should consequently be amended to reflect the true intent of ACJA.</p> <p><u>Oyo - Section 295</u></p>

	<p>ACJA provides that where the detaining authority upon a hearing notice by the court has shown good cause for extended remand, the court may extend the remand for a period of 14 days and make the case returnable within 14 days.</p>	<p>Same as the ACJA</p> <p><u>Kaduna - Section 308</u></p> <p>Extends the remand period in the first instance to 21 days. This provision definitely goes against the purpose of ACJA which is to ensure speedy trial</p> <p><u>Delta - Section 296</u></p> <p>Same as the ACJA</p>
9.	<p>Section 16</p> <p>Central Criminal Records Registry (CCRR)</p> <p>Establishes a Central Criminal Records Registry at the Nigeria Police Force where all criminal trials will be transmitted within 30 days of the judgment.</p>	<p><u>Enugu - Section 18</u></p> <p>Expands the provision stipulating for disciplinary action to be taken against the Chief Registrar where he fails to transmit judgment. Imposes duty on the police officer authorized to make arrests and take records to forward records to be entered in the CCRR every first week of the month and provides for disciplinary action to be taken against him in the event of default.</p> <p>It goes further to provide the person arrested or his lawyer access to the information in the Registry.</p> <p><u>Oyo -</u> No provision on the establishment of a Central Criminal Records Registry. This anomaly should be addressed in the review of the Law because it is one of key innovations of the ACJA</p> <p><u>Kaduna - Section 38</u></p>

		<p>Also provides that such Registry is to be maintained in both manual and electronic forms. This is quite a commendable provision that should be keyed into by other states.</p> <p><u>Delta - Section 30</u></p> <p>Asides from establishing Registry, it places a responsibility on the Registrar of the court to ensure that the judgment of the court is forwarded to the appropriate police division upon conclusion within fourteen days. The ACJL also provides for disciplinary measures by the Judicial Service Commission in the event of default.</p> <p>Furthermore, the Law provides that the State Criminal Records Registry shall upon receipt of the copy of any judgment transmit same to the Abuja Registry within ten days.</p> <p>The innovation is welcomed because it encourages collaboration / synergy between the court and the police to ensure that record of trials is properly documented. The innovation also leaves no room for incompetence on the part of the Registrar and the police.</p> <p>Apart from the above, the law makes it possible for the arrested person or his legal representative to have access to the Register to obtain information relevant to his defence.</p> <p>It also makes it mandatory for the officer in charge of the Legal Unit or any person acting in that capacity to upon</p>
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		request, make available to the ACJMC all documents and records in the Criminal Records Registry. This provision is quite commendable as it makes information in the Register accessible not only to the Police but also to the suspect, his lawyer and the ACJMC for the purpose of carrying out their mandate under the law
10.	<p>Section 306</p> <p>Stay of proceedings</p> <p>The ACJA provides that an application for stay of proceedings in respect of a criminal matter before the court shall not be entertained. The aim of this provision is to simply eliminate unnecessary delays in criminal trials, which are occasioned by such applications. This provision received judicial pronouncement in <i>Olisa Metuh v FRN</i>.<sup>23</sup></p>	<p><u>Enugu - Section 383</u></p> <p>By way of modification, the Enugu ACJL states that subject to the provisions of the Constitution, an application for stay of proceedings in respect of a criminal matter brought before the Court shall not be entertained until judgment is delivered. This provision is commendable as it spells out the intent of ACJA in clear terms.</p> <p><u>Oyo - Section 307</u></p> <p>Same as the ACJA</p> <p><u>Kaduna - Section 317</u></p> <p>Same as the ACJA</p> <p><u>Delta - Section 304</u></p> <p>Same as the ACJA.</p>

#### **4. Policy Recommendations**

The comparative analysis reveals the extent of implementation and adaptation of the ACJA by the States. The four States have adapted provisions of the ACJA and thus, variations exist in their respective laws. The variations will negatively affect efficient implementation of the ACJA and the ACJL of the States. For consistency, coherence and strengthening the efficient administration of criminal justice in Nigeria, the ACJA should take the lead while the State counterparts review their laws to align with the ACJA in the following provisions:

- i. Provision of suspect's next of kin: Section 10 of the ACJL Enugu should be reviewed. It does not provide for a suspect's next of kin or relative to be notified of an arrest as ACJA
- ii. Recording of suspects statement: Section 17 of the ACJL Enugu which provides for suspect's statement to be taken in the presence of a private legal practitioner or any other person of his choice, should be amended to align to the ACJA's more elaborate provision which expands the options for the defendant who may not be able to afford the services of a lawyer and also include a proviso on the role of the legal practitioner at the point of statement taking as provided in the ACJA.
- i. Persons eligible to prosecute offences: Section 181 of the ACJL Enugu that allows lay prosecutors (police officers) to prosecute should be reviewed to conform to ACJA, which prohibits lay prosecutors
- ii. Time and protocol remand orders: Sections 226 and 308 of the ACJLs Enugu and Kaduna which extends the period of remand to 30 and 21 days respectively should be amended to reflect the true intent of ACJA which seeks to eliminate unnecessary delays in criminal trials
- iii. Absence of a provision on the establishment of a Central Criminal Records Registry (CCRR): The ACJL Oyo should be reviewed to provide for the establishment of CCRR to align to the ACJA
- iv. Making of confessional statements: Section 15 of the ACJL Delta stipulates that confessional statements could be made in the absence of a video facility. This is

contrary to the ACJA and should be amended accordingly to reflect the ACJA provision for electronic recording of such statements to reduce incidents of trial within trial or retraction of confessional statements.

## 5. Conclusion

The ACJA 2015 and the ACJLs of the four States have made provisions pertaining to the administration of criminal justice. However, the State laws have, with slight modifications in some instances, departed from the ACJA. Consequently, it must be emphasised that Nigeria is a federation. As such, there are federal and state offences which both the National Assembly and States' Houses of Assembly have legislative competence to make laws in their respective areas. Hence, there is need for coherence and where possible, uniformity between the ACJA and the ACJLs of these States as recommended to engender the smooth and efficient implementation and reform of the Nigerian criminal justice system.

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<sup>1</sup> *UCHBM v Morakinyo* [2014] 16 NWLR (Pt. 1434) 589.

<sup>2</sup> Article 10 Universal Declaration of Human Rights, Sixth Amendment to the United States Constitution and Article 6 of the European Convention on Human Rights etc.

<sup>3</sup> Constitution of the Federal Republic of Nigeria (CFRN) 1999.

<sup>4</sup> CFRN 1999, section 6.

<sup>5</sup> CFRN 1999, section 6.

<sup>6</sup> *Danladi v Dangiri* [2015] 2 NWLR (Pt.1442) 124; *Barbedos Ventures Ltd v FBN Plc.* [2016] 11 NWLR (Pt. 1523) 301. Holding criminal proceedings indefinitely breeds delayed justice, which may result in denied justice.

<sup>7</sup> Adedeji Adekunle, 'An Overview of the Administration of Criminal Justice Act 2015' (Paper presented at the 2016 Induction Course for newly appointed Judges and Kadis organised by the National Judicial Institute 23rd May – 3rd June 2016, Abuja) <[http://nji.gov.ng/images/Workshop\\_Papers/2016/Induction\\_Course/s11.pdf](http://nji.gov.ng/images/Workshop_Papers/2016/Induction_Course/s11.pdf)> accessed 6 January 2020.

<sup>8</sup> Yemi Akinseye George, 'ACJA 2015-Background, Underlying Principles & Innovations' <<http://www.censolegs.org/publications>> accessed 7 January 2020.

<sup>9</sup> The Criminal Procedure Act (CPA) Cap. C42 Laws of the Federation of Nigeria (LFN) 2004) and the Criminal Procedure Code (CPC) Cap. applicable in the South and the North respectively governed the administration of criminal justice.

<sup>10</sup> Comfort Chinyere Ani, 'Reforms in the Nigerian Criminal Procedure Laws' <<http://www.nials-nigeria.org/journals/comfort%20chinyere%20AniL.pdf>> accessed 6 January 2020

<sup>11</sup> Lagos and Anambra States were the first to enact Administration of Criminal Justice Law (ACJL) in 2007 and 2010 respectively. Ebele Gloria Ogwuda, 'A Critique of the Process of Plea Bargain under the Administration of Criminal Justice Act, 2015' in Adekunle Adedeji (ed) *Nigerian Current Legal Problems* Vols. 9 & 10 (2016-2017) NIALS Press 75

<sup>12</sup> Yemi Akinseye-George, 'Summary of some of the Innovative Provisions of the Administration of Criminal Justice Act (ACJA) 2015' <<http://www.censolegs.org/publications/6.pdf>> accessed 6 January 2020

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- <sup>13</sup> The then President of the Federal Republic of Nigeria
- <sup>14</sup> C42 Laws of the Federation of Nigeria (LFN) 2004)
- <sup>15</sup> C 80 Laws of the Federation of Nigeria (LFN) 2004)
- <sup>16</sup> Cap. A3 Laws of the Federation of Nigeria (LFN) 2004
- <sup>17</sup> Akinseye-George, n 6. See also, Abajuo Reason Emma, ‘ An Appraisal of the Administration of Criminal Justice Act, 2015’ < [https://papers.ssrn.com/so3/papers.cfm?abstract\\_id=2665611](https://papers.ssrn.com/so3/papers.cfm?abstract_id=2665611) > accessed 14 April 2020.
- <sup>18</sup> *ibid.* The Lagos ACJL was subsequently amended in 2011
- <sup>19</sup> Except court martial
- <sup>20</sup> See the Long title to the Act
- <sup>21</sup> Status of the States ACJL as at November 2019 by the Federal Justice Sector Reform Coordinating Committee inaugurated by the Attorney General of the Federation in July 2009. This was updated in February 2020.
- <sup>22</sup> (2006) 5 NWLR (Pt. 973) 361
- <sup>23</sup> [2017] 11 NWLR (Part 1575) 157 at 176-178