

OPENING REMARKS DELIVERED BY THE HONOURABLE, THE CHIEF JUSTICE OF NIGERIA, HON. JUSTICE MAHMUD MOHAMMED, GCON, AT THE ORIENTATION WORKSHOP ON THE ADMINISTRATION OF CRIMINAL JUSTICE ACT (ACJA) 2015 FOR JUDGES, AND MAGISTRATES, AT THE ASAA PYRAMID HOTEL, KADUNA ON 28 SEPTEMBER 2015 AT 9:00 AM

PROTOCOL

It gives me great pleasure to address you all today on this auspicious occasion of the Workshop on the Administration of Criminal Justice Act, 2015 for Judicial Officers of the FCT Judiciary.

I must extend my gratitude to the Chief Judge of the High Court of the Federal Capital Territory (FCT), Hon. Justice Ishaq Bello, for the kind invitation to declare this Workshop open. I also wish to thank the Nigerian Institute of Advanced Legal Studies (NIALS) for its collaboration with the Judiciary of the FCT in building the capacity of our Judicial Officers in the FCT.

I must also express my gratitude to the European Union (EU) and United Nations Office on Drugs and Crime (UNODC) for their unstinting support to the Nigerian Judiciary in our quest for better justice delivery. With almost a decade of collaborations under your belt, it is safe to say that your role has been an indispensable one for which you must be rightly commended.

I am of the opinion that this Workshop is not only timely but it is indeed long overdue, given the recent enactment of the **Administration of Criminal Justice Act, 2015**, and the profound impact that it is likely to have on the administration of criminal justice in Nigeria. I also believe that this Workshop is of immense importance in sensitizing our Judicial Officers on the changes in nomenclature, as well as the purpose and intent of the new Act vis-a-vis previous Statutes. In this wise, permit me to make a few brief observations on this Act as this may help set the stage for the course itself.

The Administration of Criminal Justice Act (ACJA) is the culmination of a long held desire to improve upon the administration of criminal justice and to bring the rules and procedures of trial in Nigeria in line with global best practices and the needs of the twenty first century. Following a decade of review and proposed reform, the Act was finally passed by the National Assembly and assented to by former President Goodluck Jonathan, **GCFR** in March 2015.

The main objectives of the ACJA, as found in Section 1 of the Act, are to promote efficient management of criminal justice institutions, provide speedy dispensation of justice, and protect the society from crime, while defending the rights and the interest of the defendant and the victim. These indicate a deliberate shift from punishment as the main goal of criminal justice to restorative justice, which pays attention to the needs of the society, the victims, vulnerable persons and human dignity.

Under these overriding objectives, the Act, for instance, reforms the process of arrest. Under section 10(1) of the repealed Criminal Procedure Act, the police could arrest without a warrant, any person who has no ostensible means of sustenance and who cannot give a satisfactory account of himself. Given its vagueness, it is not surprising that this particular provision became an instrument of great abuse by the police who used it as a ground to arrest people indiscriminately. The ACJA has now deleted this provision.

Similarly, the ACJA, via Section 6(2), maintains the right of the suspect to: (a) remain silent or avoid answering any question until after consultation with a legal practitioner or any other person of his own choice; (b) consult a legal practitioner of his choice before making, endorsing or writing any statement or answering any question put to him after arrest; and (c) free legal representation by the Legal Aid Council of Nigeria where applicable. This is quite creditable since the suspect will have the benefit of not only being informed of the offence he has committed, but also an additional advantage of counsel assisting in securing his immediate release on bail and ensuring that trial is expeditious.

This provision re-affirms section 35(2) of the Constitution of the Federal Republic of Nigeria, which provides that any person who is arrested or detained shall have the right to remain silent or not answering any questions until after consultation with a legal practitioner or any other person of his choice. This would in turn prevent prolonged detention of suspects and hopefully bring about decongestion of the prisons. I urge you all to ensure that due regard is given to this provision when an issue bordering on arrests is raised in your courts.

Distinguished participants, the time honoured role of the Judiciary as a guarantor of rights is a clear one. Indeed, a feature which we are enjoined to protect at all times is the human rights of the parties- be they a defendant or a victim. The ACJA helps to ensure this by reinforcing the area of treatment of offenders. The Act further reiterates the constitutional provision that protects the right of a person to his dignity. As such, Section 8(1) of the Act provides that a suspect shall-

- (a) be accorded humane treatment, having regard to his right to the dignity of his person.
- (b) not be subjected to any form of torture, cruel, inhuman or degrading treatment.

Section 8 (2), further addresses the longstanding problem whereby citizens employ the machinery of criminal justice wrongly for civil matters. As you all are aware, it was not uncommon for people to maliciously instigate the arrest and detention of others for a breach of contract, failure to pay a debt owed or for other civil wrongs. This provision that “**a suspect shall not be arrested merely on a civil wrong or breach of contract**” is therefore a laudable one. It is believed that it would check arbitrary arrest of persons and torture by law enforcement and security agencies.

I have also observed that the ACJA makes provisions for the mandatory record of personal data of an arrested Person. This is contained in section 15 of the Act and covers such personal data of the arrested person as his bio-data and last known address, the alleged offence(s) committed, the

date and circumstances of the arrest, and the suspect's identification which include his height, photograph, fingerprint impressions, or such other means of identification.

Section 16(1) of the ACJ Act provides for the establishment, within the Nigeria Police, a Central Criminal Record Registry. Subsection 2 of section 16 provides that there shall be established at every state police command, a Criminal Records Registry which shall keep and transmit all such records to the Central Criminal Records Registry. The establishment of a Central Criminal Record Registry will ensure that all arrests and judgments are well documented. This is intended to avoid a repeat of what happened in the case of ***Agbi v. Ibori***.

Finally, may I also comment on Section 15(4) of the Act, which provides that where a person arrested with or without a warrant of arrest volunteers to make a confessional statement, the police officer shall record the statement in writing or may record the making of the confessional statement electronically on a retrievable video compact disc or such other audio visual means. Subsection (5) of section 15 provides that notwithstanding the provision of subsection (4), an oral confession of arrested suspect shall be admissible in evidence. Thus, we can safely say that the provision of the ACJA also conforms to the position of the law as contained in the Evidence Act.

Without pre-empting the distinguished speakers, another important innovation, which I shall only mention is Plea Bargaining. Suffice it to say that you must be very careful in accepting a plea bargain agreement that is before you and ensure that its use is indeed judicious and not malicious. Similarly, I call on you all to be aware of the provision of other alternatives to custodial sentences, which will assist in ensuring that justice is done, with a human face and in consideration of the capacity of our Prisons to cope with incarcerated persons.

CONCLUSION

Permit me to conclude by stating that this course is an innovative one and it is my expectation that upon its conclusion, in order to better equip you for your task of justice delivery, you should all be familiar with the various adjudicatory tools provided for you by the Act. I therefore urge you all to listen attentively to the facilitators and ensure that you get the most out of the sessions as this will elevate the level of your preparedness perform your duty when you get to your various courts.

I once again applaud his lordship the Chief Judge of the FCT for his foresight in organizing this Workshop as it provides all Judicial Officers within the Judiciary of the Federal Capital Territory with an opportunity to be thoroughly versed in the new provisions relating to the administration of criminal justice in Nigeria.

However, I must urge us to do more. Indeed I make bold to say here that there is an urgent need for other Jurisdictions such as our Federal and State Courts, to adopt this initiative and organize a comprehensive Workshop on the ACJA. I also urge the UNODC to similarly collaborate with other jurisdictions under the auspices of the National Judicial Institute to train our Judicial Officers of all strata of Court towards a smooth transition in the administration of criminal justice in the country.

At this point, it is now my singular honour and pleasure to declare this Workshop for Judicial Officers on the ***Administration of Criminal Justice Act, 2015***, open. I wish you all beneficial deliberations and a highly successful outcome.

Thank you

Mahmud Mohammed, GCON
Chief Justice of Nigeria