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E-mail: [sriwijayalawreview@unsri.ac.id](mailto:sriwijayalawreview@unsri.ac.id) | [sriwijayalawreview@gmail.com](mailto:sriwijayalawreview@gmail.com)  
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## The Nigeria Police Philosophy and Administration of Criminal Justice Post 2015: Interrogating the Dissonance

Adedoyin Akinsulore<sup>a</sup>

<sup>a</sup> Department of Public Law Obafemi Awolowo University Ile-Ife, Nigeria. E-mail: [adkinsulore@oauife.edu.ng](mailto:adkinsulore@oauife.edu.ng)

Article	Abstract
<p><b>Keywords:</b> Criminal Justice System; Criminal Law; Democracy; Nigeria Police; Philosophy.</p> <p><b>Article History</b> Received: Sept 18, 2019; Reviewed: Jan 18, 2020; Accepted: Jun 27, 2020; Published: Jul 31, 2020.</p> <p><b>DOI:</b> 10.28946/slrev.Vol4.Iss2.432.pp136-153</p>	<p>The importance of the enactment of the Administration of Criminal Justice Act (ACJA) 2015 for the Nigerian Federation and the subsequent state variants have an impact on the need for speedy dispensation of justice. This enactment enjoins all institutional actors that make up the criminal justice system in Nigeria to accelerate the processes leading to the quick dispensation of justice for the defendant, the victim and the society. The Nigeria policing philosophy characterised by centralised command and control governance system appears to be at variance with this aim as provided by the Act. It is particularly so in component states where variants of the ACJA have not been enacted. Quick dispensation of justice may be painful to achieve when the police cannot be controlled by any other body in the Federation other than the central command. This paper provides that if there is no realignment or a total recalibration of the philosophies between the ACJA and the Nigeria Police, the aims of ACJA may become far from reality. The combination of jurisdictional limitation of crime and the peculiar federating structure of the country which imposes a pseudo-independent criminal justice system on each state has a crucial impact on the aims of ACJA.</p>

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### INTRODUCTION

Policing is society's contemporary prerogative response to deviant acts that constitute crimes. Therefore the efficiency and effectiveness of the policing system in the administration of criminal justice foretells us the status of the justice system in a community. Sloppiness by men and officers of the police engaged in the vital task of investigating crimes, gathering evidence for the prosecution against suspects and arresting criminals may spell doom for the continued existence of such a society. Impunity and high-handedness by men of the police on members of the community often end up in the erosion of fundamental human rights guaranteed under the laws. It is, therefore, essential to continually engage the given roles of the police within the

framework of the rules that establish the criminal justice system of a state, particularly in developing countries such as Nigeria where institutions of states are still changing to align them with accepted international standard. The newly enacted Administration of Criminal Justice Act (ACJA), 2015 falls into this category. It was signed into law by President Goodluck Jonathan on May 15, 2015 and applicable to all federal courts and institutions involved in the administration of criminal justice.

This paper pursues a rigorous appraisal of the re-defined patterned roles assigned to the police and the administrative checks and balances provided in the Administration of Criminal Justice Act (ACJA), 2015 and variants of this law enacted in the component states. It seeks to discover if there is an alignment between the Nigerian police philosophy and that of the Act. As of 2019, twenty-six states out of thirty-six have passed the Administration of Criminal Justice Law (ACJA/L) for the country.<sup>1</sup> It also foregrounds the novel and critical inputs in the ACJA 2015 relating to the police, which is aimed at promoting efficiency, preventing delays and encouraging speedy delivery of justice within the criminal justice system of Nigeria.

## **ANALYSIS AND DISCUSSION**

### **The Nigerian Criminal Justice System**

Criminal justice is the system of practices and institutions directed at upholding social control, deterring crimes or sanctioning those who violate laws with criminal penalties and rehabilitation efforts.<sup>2</sup> The system encompasses the collective institutions through which an alleged criminal must pass through until the accusations against him have been disposed of, or the assessed punishment concluded.<sup>3</sup> It is about society's formal response to crime, and it is defined more specifically in terms of a series of decisions taken by several agencies in response to a specific crime or criminal or crime in general.<sup>4</sup> Therefore, in addition to legislation on crime, the institutions, infrastructure, expertise and agencies involved in the process of implementation are essential to a criminal justice system.

What constitute Administration of Criminal Justice in Nigeria could be outlined as follows: the laws on crime are the Criminal Code (for the Southern part of Nigeria) and the Penal Code (the Northern Part of Nigeria); The Criminal Procedure Act (for the Southern part of Nigeria) and The Criminal Procedure Code (the Northern Part of Nigeria) and the Administration of Criminal Justice Act, 2015 (for Federal Courts and Institutions administering justice); Administration of Criminal Justice Law of State( for States courts and institutions administering justice). The institutions established to engage the administration of criminal justice are The Nigerian Police, The State/ Federal Ministry of Justice, Legal Aid Council, The Courts and the Nigerian Prison

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<sup>1</sup> "The Civil Society Observatory on Administration of Criminal Justice in Nigeria" August 4, 2019, accessed 8 November 2019, <https://www.cleen.org>.

<sup>2</sup> Joseph B. Daudu, 'Criminal Investigations, Procedure and Evidence – Reform Imperatives' in J.B. Daudu & D. Adekunle (eds), *Reforming Criminal Justice in Nigeria* (Abuja, Nigerian Bar Association, 2012).

<sup>3</sup> B. Van Schaack & R. Slye, *International Criminal Law and Its Enforcement-Cases and Materials*, 2nd ed (London: Thomas Reuters Press, 2010).

<sup>4</sup> Hazel Croall and Jane Tyrer Malcolm Davies, *Criminal Justice: An Introduction to Criminal Justice System in England and Wales* (London: Pearson Education Ltd, 2005).

Services. Note that Borstal Homes, Free Way Houses for the convicts that have just concluded their terms of imprisonment are adjunct to the institutions mentioned above.<sup>5</sup>

The objective of a criminal justice system is to deliver justice to the victims, the defendant, the immediate community affected by the crime committed and to the society as a whole. It also includes maintaining public order, sentencing criminals with regards to the principles of just dessert, registering social disapproval of disciplined behaviour of criminal acts, and maintaining public confidence. So, the general system of criminal justice is perceived as dealing with the threat to the public from criminals such that citizens do not feel the need to engage in private acts of vengeance and vigilantism.<sup>6</sup> To achieve these objectives, there must be sufficient and available resources, there must be some coordination and collaboration among the agencies, and most importantly, there must be an existing legal framework for the coordination and cooperation of available resources.<sup>7</sup>

The Nigerian Police is the first security apparatus established for the protection and securing of lives and property within the Nigerian territory. By Constitutional provisions the Federal Republic of Nigeria has only one Police Force:

There shall be a Police Force for Nigeria which shall be styled the Nigerian Police Force and subject to the provision of this section, no other police force shall be established for the Federation or any part thereof. The members of the Nigeria Police Force shall have such powers and duties as may be conferred upon them by law.<sup>8</sup>

It is empowered to investigate, detect and prosecute crime within the country.<sup>9</sup> It has about three hundred and eighty-one thousand eight hundred men and officers, and its jurisdiction covers all the states of the Federation as there is no provision for state police.<sup>10</sup> To carry out its investigative and detective duties, the Nigerian Police is divided into several departments, principal amongst which are the Criminal Investigation Department (CID) and the Special Anti-Robbery Squad (SARS). The former investigates serious offences, apart from armed robbery, while the latter is for the investigation of armed robbery or related crimes. It also has the legal department which trains police prosecutors and appoints officers to perform their prosecutorial duties in the Nigerian Courts.

In the business of public prosecution, certain personnel and institutions of government are apparent, and they play a significant role in the process. The Ministry of Justice at both the states and federal levels are at the forefront of public prosecution in Nigeria usually the personnel of these Ministries in the Department of Public Prosecution conduct prosecution of criminal cases. The Attorney General is the chief prosecutor of the state. He is conferred with powers to initiate, conduct, take over or discontinue any criminal prosecution in any court of law in the country except in the court-martial. The Director of Public Prosecution (DPP) and other counsel often

<sup>5</sup> David McQuoid-Mason, "Legal Aid in Nigeria: Using National Youth Service Corps Public Defenders to Expand the Services of the Legal Aid Council," *Journal of African Law* 47, no. 1 (2003): 107–10.

<sup>6</sup> McQuoid-Mason.

<sup>7</sup> A. Idigbe, 'The Role of Legal Practitioners in an Efficient Criminal Justice System' in Adekunle (eds), *Reforming Criminal Justice in Nigeria*.

<sup>8</sup> Section 214 (1) Constitution of Nigeria, 1999. See *Willie v Ibiok* (2012) 52 WRN where the court elaborated on the establishment and powers of the Nigerian Police.

<sup>9</sup> Section 4 Police Act Cap P19 Laws of the Federation of Nigeria (LFN) 2004.

<sup>10</sup> The information on the population of the Nigerian Police could not be sourced from its website, perhaps for security purposes. Hence the resort to another medium. See Alice Hills, "The Dialectic of Police Reform in Nigeria," *The Journal of Modern African Studies* 46, no. 2 (2008): 215–17.

assist the Attorney-General in his chambers. There are yet other institutions and agencies of government which are also empowered to conduct public prosecution. Some of these include the National Drug Law Enforcement Agency (NDLEA), National Agency for Food Drug Administration and Control (NAFDAC), the Independent Corrupt Practices and Related Offences Commission (ICPC), the Economic and Financial Crimes Commission (EFCC), and indeed, the three arms of the Armed Forces (Army, Air force and Navy)-that conduct prosecution concerning offences committed by their members.<sup>11</sup>

From the above, initial observations can be made of the roles of the Nigerian police within the criminal justice system. First, and importantly, the police serve as the gateway into the criminal justice system as they are by law given the prerogative to select persons suspected of criminal acts through the criminal justice system in Nigeria. It is an enormous responsibility for which the Nigerian police have not acquitted themselves well. It is because there are many documented complains by citizens of arbitrary police arrest, detention etc.<sup>12</sup> Secondly, they engage in fact-finding and gathering of evidence on reported or suspected criminal activities for prosecution either by the police or by the office of the Attorney General. It is regulated in the Section 150 of the Nigerian Constitution 1999 for the Attorney General of the Federation and section 195 of the Nigerian Constitution for the Attorney General of states. It can also be seen in the case of *FRN v Osahon* (2006) 24 WRN 1, where the Nigerian Supreme Court held that the police could prosecute to the highest court of the land as long as the officer is a qualified legal practitioner. In reality, the usual practice is that police prosecutors file charges at the inferior courts. At the same time, the state counsels from the Ministry of Justice of each state prosecute cases at the Supreme Courts. Further analysis of the roles of the police will be made in subsequent paragraphs of this paper.

### **Federalism and the Administration of Criminal Justice in Nigeria**

Osagha defines federalism as the dispersal of power to the constituent units which is obligated by constitutional provisions and that this division of power between the central government and the component units is inevitable.<sup>13</sup> In Ronald Watts' opinion, a characteristic feature of federalism generally is an emphasis upon constitutional supremacy as the ultimate source defining federal and state or provincial jurisdiction.<sup>14</sup> Even at that, he concedes that federalism has not one uniform model applicable worldwide.<sup>15</sup> He defines federalism in normative terms contemplating it as a "multi-tiered government" having "shared rule" and "regional self-rule" as featured elements. He elaborates further that within a federation no constituent unit is subordinate to the other and the powers exercised by each group has its founding in the constitution "rather than

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<sup>11</sup> Abegunde Babalola, "Power of Police to Prosecute Criminal Cases: Nigeria and International Perspectives," *European Journal of Business and Social Sciences* 2, no. 11 (2014): 130.

<sup>12</sup> The report of Amnesty International "Annual Report 2017/2018" accessed November 11, 2019 <https://www.amnesty.org/en/countries/africa/nigeria/report-nigeria/&hl=en-NG> ; See also the report of the Human Rights Watch, "Everyone's in on the Game"; Corruption and Human Rights Abuses by the Nigerian Police Force 2010 accessed November 11, 2019 <https://www.hrw.org/report/2010/08/17/everyones-game/corruption-and-human-rights-abuses-nigeria-police-force>.

<sup>13</sup> Eghosa E. Osagha, "A Reassessment of Federalism as a Degree of Decentralization," *Publius* 20, no. 1 (1990): 85.

<sup>14</sup> Ronald L. Watts, *Comparing Federal Systems*, 3rd ed (Montreal, McGill-Queen's University Press, 2008).

<sup>15</sup> Watts.

another level of government". It is nothing further that each unit is voted for directly by its citizens and has the power to deal directly with its citizens in the execution of legislative and executive powers.<sup>16</sup> Watts identifies that the main disadvantage usually attributed to federations is their tendency to complexity, legalism and rigidity.<sup>17</sup>

Daniel Elazar's analysis of the power dynamics within the federal structure provides the position that federalism is not about decentralisation or centralisation of power in a constituent unit of government. Still, it is more about the non-centralisation of power.<sup>18</sup> It is what Elazar refers to as "contractual non-centralisation" which entrenches diffusion of power that is a necessary part of federalism, such that power cannot be concentrated within a constituent unit without breaking the structure and spirit of the federal constitution.<sup>19</sup> Beyond the structure and power dynamics is the need for a socio-cultural acceptance and resolution to abide by the tenets of federalism –otherwise referred to as “process”.<sup>20</sup> The process is "sense of partnership, on the part of parties to the federal compact manifested through negotiated cooperation on issues and programmes and based on a commitment to openly bargain between all parties in such a way as to strive for consensus or failing that, an accommodation which protects the fundamental integrity of all the partners."<sup>21</sup>

The underlying precept in federalism is that the component state federating in a nation agree, at a certain historical interregnum, to donate some powers ordinarily exercisable by each state, to an external entity which the federating states have all agreed to work within unison while still maintaining other basic powers that qualify each state as an independent state. Such controls include the ability to protect the lives and property of all persons within the territory of a state, power exercise financial independence, the power to regulate social, economic and environmental activities taking place in such a state. One phenomenon that is common to all federations, whether ancient or modern, is that it is the coming together of formerly independent entities, to establish a central organisation to serve their purposes. Whatever the size and extent of the central organisation, for it to remain a federal set-up, the federating units must remain autonomous and supreme in those areas reserved for their exercise of authority. It, therefore, becomes a misnomer to (or an infraction of) the agreement between the federating state governments and the federal government if the latter attempts to exercise primary powers of the component states not donated to it. The key to the formation of a federation is that historical point where the component states conceded powers to the federal government.<sup>22</sup>

Nigeria purports to run a federal system of government. However, there are different features of the Nigerian version of federalism which conflicts with the usual operation of federalism in other parts of the world. For example, Canada, India, Mexico, Brazil and the

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<sup>16</sup> Watts.

<sup>17</sup> Watts.

<sup>18</sup> Daniel J. Elazar, *Exploring Federalism* (Tuscaloosa: The University of Alabama Press, 1991).

<sup>19</sup> Daniel J. Elazar, "Federalism and Consociational Regimes," *Publius* 15 no. 2 (1985): 22. See generally Daniel J. Elazar, "Federalism vs Decentralisation: The Drift from Authenticity," *Publius* 6, no. 4 (1976): 12–13.

<sup>20</sup> Daniel J. Elazar, "International and Comparative Federalism," *PS: Political Science & Politics* 26, no. 2 (1993): 190–95.

<sup>21</sup> Elazar.

<sup>22</sup> Raoul Blindenbacher and Abigail Ostien eds., *A Global Dialogue on Federalism Vol I* (Montreal, McGill-Queens University Press, 2005); K.C Wheare, *Federal Government*, ed. New York London, 4th edition (Oxford University Press, 1963).

United States of America all have a working model of federalism based on sharing of power between the Federal and State components without one overly accumulative of basic controls of a state. Canada's reason for adopting federalism was to forestall likely military expansionism of the USA and maintain separate political entity from their powerful neighbour but primarily to deal with the cultural division between the French and English in Canada.<sup>23</sup> Under the Nigerian federal system of government, the component states do not have the constitutional power to create a security force for the protection of lives and property of citizens and persons living within the territorial boundaries of each state. The task of internal security for the whole of the Federation lies in the hands of federal security agencies, prominent of which is the Nigeria Police. It is regulated in the Section 3 of the Nigerian Police Act, Chapter P19 Laws of the Federation of Nigeria (LFN) 2004 provides that there shall be established a police force to be known as the Nigerian Police Force and the Section 4 of the Nigerian Constitution 1999 and its Second Schedule Part I (Exclusive Legislative List) Item 45 where the powers to make laws for the police and other government security services established by law is placed firmly within the exclusive legislative duties of the Federal Legislature.

The absence of a historical timeline when the peoples that makeup Nigeria discussed the terms of the federating union is a strategic faux pas in the creation of the country. Nigeria was created not by a voluntary association of previously existing closely related and freely contracting political units but by the imposition of the union by an imperial power on an artificially demarcated territory containing a heterogeneous population of strangers. Although the strangers had established many economic, social and political links before British rule, they did not recognise themselves as one political community.<sup>24</sup> Therefore it was much easier to manipulate the entity that controls security through the imposition of Constitutions. It is compounded by the long years of military rule with the inevitable centrist, command and control model of leadership which negates the basic tenets of federalism.<sup>25</sup> It has been pointed out that the recent increase in crime and general insecurity in the country can be traced to inadequate, ill-trained police personnel.<sup>26</sup> Hence there has been a concerted cry for the creation of state police, with a command structure limited to the state and answerable to the Governor of the state.<sup>27</sup> Creating state police would require a constitutional amendment for which the federal government has been reluctant to undertake.

There is also the absence of a sense of partnership among the different levels of government that make up Nigeria.<sup>28</sup> What exists is the conception of domination of one order of government (the federal) on the other rules (state and local government). Such that control of essential organs of state, such as policing is controlled exclusively by the federal government to the exclusion of

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<sup>23</sup> Rainer Knopff and Anthony Sayers, "Canada" in Raoul Blindenbacher and Abigail Ostein Eds, *A Global Dialogue on Federalism Vol 1* (Montreal, McGill-Queens University Press, 2005).

<sup>24</sup> Ignatius Akaayar Ayua and Dakas C.J. Dakas, "The Federal Republic of Nigeria" in Eds.

<sup>25</sup> Between 1960 when Nigeria gained independence from the British and 1999 when a re-established civilian rule, the Nigerian military was in power for 28 years out of the 39 years.

<sup>26</sup> Emmanuel C. Onyeozili, "Obstacles to Effective Policing in Nigeria," *African Journal of Criminology and Justice Studies* 1, no. 1 (2005): 50. : See also Etannibi E.O. Alemika, "Policing and Perceptions of Police in Nigeria" *Police Stud. Int'l Rev. Police Dev.* 11, (1988):170.

<sup>27</sup> Onyeozili, "Obstacles to Effective Policing in Nigeria" 50; Okemuyiwa Akeem Adedeji, "State Police In Nigeria: Issues and Challenges," *SSRN Electronic Journal* 1, no. 8 (2012).

<sup>28</sup> Elazar, "International and Comparative Federalism."

state governors who are the chief security officers of their lands. The implication is that police chief of each state are not amenable to whatever security policies emanating from the state except it is sanctioned by the Inspector General of the Police of the Federation. In November 2016, the security details of the Governor of Rivers State was withdrawn by the state Commissioner of Police without consultation with the Governor. The Governor alleged political intimidation on the part of the federal government in order to gain the advantage for the ruling party at the national level on the rerun legislative election that was to take place December of that same year.<sup>29</sup> Hence, policing within other orders of government has become a tool to dispense political favour and dominance in the hands of the federal government.

The federalism practice in Nigeria is centrist<sup>30</sup> in nature and its impact on the administration of criminal justice can be observed in the manner of control on the institutions that make up the criminal justice system in Nigeria. While the Nigerian Constitution envisages an independent criminal justice system within the component states that is distinct from the federal justice system, essential institutions that form the framework of the administration of criminal justice, such as the police and the prison services, are under the exclusive control of the federal government. States incapacity to control the institutions as mentioned earlier produces centres of laxity for the smooth running of the criminal justice system with states and invariably the whole country.

In contrast, in the United States' practice of federalism all orders of government are guaranteed equal status constitutionally in such a way that the existence of one order of government is not "the control of the US government."<sup>31</sup> This constitutional status provides a "multi-jurisdictional criminal justice system" in such a way that all orders of government have powers to run an independent criminal justice system with the courts ready to intervene where an order of government infringes on the other's jurisdiction.<sup>32</sup> It is therefore suggested that for the purpose of having a justice system that is efficacious and achieves the aim of the quick dispensation of justice, the police, in particular, should be brought within the control of the state criminal justice system.

### **The Nigerian Police and the Understanding For Its Philosophy**

The primary functions of the police are detection and prevention of crime as well as preservation of law and order. The police have constitutional powers of ensuring the prevalence of law and order and the preservation of public peace. The 1999 Constitution of the Federal Republic of Nigeria confer on the police force powers and duties for effective oversight and accountability.<sup>33</sup> Similarly, the Police Act charges the force with the general duties of the protection of life and property, detection and prevention of crime, apprehension of offenders, preservation of law and

<sup>29</sup> Cletus Ukpong, "Governor Wike Accuses Police of Withdrawing Security from him," *Premium Times Online Newspaper*, November 26, 2016, accessed 11 November 2019, <https://www.premiumtimeng.com/regional/south-south-regional/216349-governor-wike-accuses-police-withdrawing-security.html&hl=en-NG>.

<sup>30</sup> Ignatiua Akaayar Ayua and Dakas C.J. Dakas, "Federal Republic of Nigeria" in Eds, *A Global Dialogue on Federalism Vol 1*.

<sup>31</sup> G. Alan Tarr, "The United States of America" in Eds.

<sup>32</sup> Rachel E. Barkow, "Federalism and Criminal Law: What the Feds Can Learn from the States," *Michigan Law Review* 109, no. 4 (2011): 519.

<sup>33</sup> "The 1999 Constitution of the Federal Republic of Nigeria" (n.d.).



order, the due enforcement of law regulations with which they are directly charged, the performance of such other military duties within and without Nigeria as may be required of them by or under the authority of any other Act.<sup>34</sup>

The law has clothed the Nigeria Police with enviable powers in the sphere of the administration of justice, preservation of law, order and maintenance of public tranquillity.<sup>35</sup> In the exercise of its primary powers, the police also act in other spheres which are necessarily incidental to the enjoyment of the actual abilities of the police. For instance, in the exercise of the primary duty of the police under section 4 of the Police Act, the Act gives the police the power of public prosecution.<sup>36</sup> By these powers, the police can charge and prosecute any person suspected to have committed a crime before any court of law in Nigeria.<sup>37</sup>

So what is the philosophy that drives this enormous power constitutionally and statutorily bestowed on the Nigerian Police? Identifying the Nigeria police philosophy in a coherent cognisable manner may not be an easy task. For a start, the Nigerian Police Force webpage does not contain any section where its policing philosophy is outlined. What can be sourced as nearing a policing philosophy can be found in what the Ministry of Interior provides as the "mission statement", "Values" and "Code of Conduct and Professional Standard for Police Officers."<sup>38</sup>

The idea of a Nigeria policing philosophy that can be deduced from these documents refer to idealistic police that work to fulfil its mandate of providing security to the citizens of Nigeria with a well-trained force that is ready to partner "other relevant security agencies", to deliver quality police service that is "accessible to the generality of the people", while building in the members of the public "lasting trust in the police."<sup>39</sup> The police hope to be able to achieve this feat by operating on a Code of Conduct and Professional Standards for Police Officers which provides "Nigeria Police Force with a set of guiding principles and standards of behaviour while on or off-duty."<sup>40</sup>

This Code inscribes on all Nigeria Police officers the philosophy of impartiality in the conduct of their official duties as an official representative of the government. It imposes the principle of circumspection in the use of force and negatives the attitude of "unnecessary infliction of pain or suffering and will never engage in cruel, degrading or inhuman treatment of any person."<sup>41</sup> The summary of the eight principles set for the conduct of officers conceptualises that ideal officer that is law-abiding and carries out his duty with integrity and impartiality, behaves in a manner that does not bring dishonour to the force, treat members of the public with respect and courtesy, and manages the information they have professionally and confidentially to ensure the safety and security of everyone in the country.<sup>42</sup>

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<sup>34</sup> Section 4 of the Police Act Cap 359 Laws of the Federation of Nigeria (LFN), 2004.

<sup>35</sup> Benjamin Okereke Brownson, "The Role of Nigeria Police Force in the Administration of Justice: Issues and Challenges" (Ahmadu Bello University, Zaria, Nigeria, 2012).

<sup>36</sup> Sections 23 Police Act, Chapter 359, Laws of the Federation of Nigeria, 2004.

<sup>37</sup> See *FRN v. Osahon* (Supra)

<sup>38</sup> "Nigeria Police Force," Ministry of Interior, 2017.

<sup>39</sup> "Nigeria Police Force."

<sup>40</sup> "Nigeria Police Force.": See also the Nigerian Police Code of Conduct. 2014, accessed June 28, 2018, <http://eie.ng/wp-content/uploads/2014/02/NIGERIAPOLICECODEOFCONDUCT.pdf>

<sup>41</sup> "Nigeria Police Force."

<sup>42</sup> "Nigeria Police Force."



Despite the lofty visions the Nigeria Police may have for itself, the average Nigerian citizen has for a long time held the police in distrust as a consequence of their belief that the police are unamenable to living up to the lofty propogates of the Code of conduct, police regulation and law.<sup>43</sup> At any rate, when compared to citizen's expectations police performance has been abysmal.<sup>44</sup> The Nigerian police have been noted to be violent in their approach to other citizens and maintain an attitude of impunity which has a theme of “you are guilty until you prove yourself innocent.” A recent survey has shown the Nigeria police as highhanded, corrupt and a reliable tool to political actors.<sup>45</sup> This survey put to tatters any of the lofty ideals the Nigerian police may wish to put out as its philosophy.

Joseph A. Schafer et al., in analysing the deductibility of a policing philosophy from the mission statement of Colorado Springs Police Department (CSPD) in the United States, comment that the mission statement serves as an ideal template for a targeted future yet to be achieved and a strategic pointer to the direction such a police outfit intend to pursue.

“The mission statement defines the organisational purpose: what the organisation does, for whom, how, and why. Mission statements can help assess new services or programs by asking, "Does this fit within our mission?" The values statement includes core values that, ideally, are universally subscribed to by all organisational members. These are the guiding principles, the core ideology or philosophy.”<sup>46</sup>

They illustrate by citing some of the mission statements of the CSPD which provides that "We believe that we (the Police) derive our powers from the people we serve; we will never tolerate the abuse of our police powers; we recognise that our conduct, both on and off duty, is inseparable from the professional reputation of the Police Department; we are committed to protecting the constitutional rights of all individuals; we view the people of our community as our customers who deserve our concern, care, and attention; we encourage the pursuit of higher education by our employees.”<sup>47</sup> Obviously, the pursuit of providing security to the satisfaction of their "customer" in line with the constitutional provision with a competent well-trained staff can be deduced as the philosophy of this police department.

Given the detectable citizen-friendly philosophy of a police department in the United States, as shown above, David Weisburd et al. observe that realising these philosophies in the daily activities of police departments across the country "mirrors the conflict between order and legality" such that the question is not “whether police operate under the constraints of due process of law, but whether they operate within bounds of civilised conduct.”<sup>48</sup> It is because the police, as part of the democratic bureaucracy emphasises initiative rather than "disciplined adherence to rules and regulations" in the achievement of order. However, citizen's rights and the constraints it imposes on law enforcement officials is what the rule of law emphasises. The

<sup>43</sup> Marshall Carter and Otwin Marenin, “Police Culture in Nigeria: A Comparative Perspective,” *Journal of Asian and African Studies* 15, no. 3–4 (1980): 242–47.

<sup>44</sup> Adoyi Onoja, “A Reappraisal of the Historiography of the Police in Nigeria during the Colonial Period,” *Journal of Historical Society of Nigeria* 22 (2013): 1.

<sup>45</sup> Socio-Economic Rights and Accountability Project (SERAP) Report, “Police most Corrupt Institution in Nigeria, Reveals SERAP Survey “ ,2019 , accessed November 15, 2019 <https://serap-nigeria.org/police-most-corrupt-institution-in-nigeria-reveals-serap-survey-ngo/>

<sup>46</sup> Joseph A. Schafer et al., *The Future of Policing: A Practical Guide for Police Managers and Leaders* (Boca Raton: CRC Press Taylor & Francis Group, 2012).

<sup>47</sup> Joseph A. Schafer.

<sup>48</sup> Craig Uchida and Lorraine Green eds David Weisburd, *Police Innovation and Control of the Police: Problems of Law, Order, and Community* (New York: Springer-Verlag New York Inc, 1993).

problem faced by the police in a democratic society is, therefore, managing the tension caused by the constraints instituted by "legality" on the one hand and the operational consequence of imposing "order, efficiency and initiative" on the other.<sup>49</sup>

Despite the scant details of the Nigeria police philosophy, there is a more significant political challenge for the achievement of this philosophy. The foundation of police governance is a command and control precept, and this hierarchy of control is designed to be distant to the influence of the public.<sup>50</sup> However, in a democratic setting, this hierarchy of control is not shielded from the publicly appointed head of government. In Africa, as Alice Hills observes, the police answers to the President only such that reference to democratic control of public institutions such as the police is "rarely more than tactical concessions or gestures to donors on the part of political elites."<sup>51</sup> So in the end, police philosophy is what the President chooses it to be as "policing is shaped by the politics of political order and accumulation in ways that are at variance with requirements of accountability."<sup>52</sup> Presidential attitudes to police may not be measured in precision as it appears that these political heads see the police "little more than technicians capable of dealing with crime."<sup>53</sup>

One apparent lacuna in the Nigeria police philosophy is the policy of professional autonomy which erodes the influence of politics, the political elite and the ruling class. There is a need for the police to establish this professional autonomy based on "strategic partnership with the public" in the fight against crime rather than being content to be adjuncts to groups controlling the state resources.<sup>54</sup> Police partnership with the public will create a power base for them which will support them in their inevitable fight against political actors that see them as tools to be used to achieve political ends. In the end, the public in a democratic setting, being the employer of both the police and the politician, will realise it stands to gain more lending support to the independence of the police while understanding thatn "police governance should be guided by broad normative principles such as accountability, civilian oversight, public participation and, increasingly, development and poverty reduction."<sup>55</sup>

Getting the support of a sceptical and wary Nigerian public based on the scantiness of the publicised police philosophy, which is dissonance with the Act of its personnel is not going to be an easy feat.<sup>56</sup> There is an increasing perception that the quality of personnel making up a security agency like the police impacts positively or otherwise on its philosophy.<sup>57</sup> Recruitment of high-quality police personnel allows for the better manoeuvrability and capacity to tow the fine line between the imposition of order and working within the bounds of legality.<sup>58</sup>

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<sup>49</sup> David Weisburd.

<sup>50</sup> Mathew Jones, "A Complexity Science View of Modern Police Administration," *Public Administration Quarterly* 32, no. 3 (2008): 447.

<sup>51</sup> Alice Hills, "Police Commissioners, Presidents and the Governance of Security," *The Journal of Modern African Studies* 45, no. 3 (2007): 403.

<sup>52</sup> Hills.

<sup>53</sup> Hills.

<sup>54</sup> Hills.

<sup>55</sup> Eboe Hutchful and J. Kayode Fayemi, *Security System Reform in Africa* (Security System Reform and Governance, 2005).

<sup>56</sup> Onoja, "A Reappraisal of the Historiography of the Police in Nigeria during the Colonial Period."

<sup>57</sup> David Weisburd, *Police Innovation and Control of the Police: Problems of Law, Order, and Community*.

<sup>58</sup> David Weisburd.

### **The Nigerian Police in the Administration of Criminal Justice: Wither the Synergy?**

The Nigeria Police is a vital and active participant in the administration of criminal justice in Nigeria. A society's attempt to control the incidents of crime, investigate the commission of a crime, punish crime, deter crime may amount to nought without the existence of a competent policing system. Conversely, an inefficient policing system that is ill-equipped, ill-trained and unmotivated to the pursuit of excellence in their job spells doom for such society, and there might be a return to what Thomas Hobbes argues that the 'state of Nature' every person has a natural right or liberty to do anything one thinks necessary for preserving one's own life and life is solitary, poor, nasty, brutish, and short.<sup>59</sup> Therefore the Nigeria Police's role in the administration of criminal justice can be stated as follows: Receiving distress calls from complainants who are victims of crimes,<sup>60</sup> investigate crime,<sup>61</sup> arrest suspects,<sup>62</sup> grant bail before trial<sup>63</sup> remittance of the criminal case file to the Ministry of Justice for Legal Advice,<sup>64</sup> prosecute criminals in courts,<sup>65</sup> serving as witnesses in cases in the courts.<sup>66</sup>

<sup>59</sup> Thomas Hobbes, *Leviathan* (London: Basil Blackwell, 1946).

<sup>60</sup> The first point of complaint about many Nigerian that are victims of crime is the police. Although there is no central phone number to call the police during the process of distress (Such as the 911 in the USA) victims still find a way to reach the police during or immediately after a crime has been committed. See The Nigerian Police Regulation 1968 at Regulation 250 (d) (i) which forbids a Police station to keep a record of all complaints made of the commission of criminal offences.

<sup>61</sup> By the function of section 4 of the Police Act, one of the cardinal duties of the police is to investigate the crime. The capacity of the police to investigate crime and detect criminals for prosecution has deterrence value. It is also aimed at securing lives at the property of citizen and persons in Nigeria. Adjunct to this is the power conferred on the police officer to intervene to prevent the commission of a crime. See sections 50 & 51 of the Administration of Criminal Justice Act (ACJA) 2015.

<sup>62</sup> The police officer is empowered by the law to arrest any person he finds committing any crime or any person whom he reasonably suspects of having committed or of being about to commit any crime in Nigeria. The direct implication is that anybody arrested by the police may have his freedom curtailed and may not be heard complaining that his right to freedom of movement has been violated as long as the detention is within the constitutionally prescribed limit or such extended detention is authorised by a competent court of law in Nigeria. A common practice by the Nigerian Police is to arrest in lieu. This is a form of practice where the relative of a suspect (wife, mother, father, husband etc.) is arrested and kept in custody till the time the suspected criminal is produced by other members of the suspect's extended family or suspects gives himself up to the police. Furthermore, arresting a suspect by the police merely based on a civil wrong or breach of contract has also been prohibited by the law. Section 24 Police Act.; See also sections 7,8 & 52 Of the ACJA 2015.

<sup>63</sup> The Police are empowered to grant bail before trial to suspects for minor offences upon entering recognisance by the suspect with or without sureties for a reasonable amount. Section 24 (1)(c) (ii) of the Police Act. See also Section 31 of the ACJA 2015.

<sup>64</sup> When the police investigation is completed, and the Investigating Police Officer (IPO) believes that the offence committed by the suspect is a capital offence or any other serious crime, the Duplicate Casefile is often forwarded to the Department of Public Prosecutions (DPP) in the Ministry of Justice of the State where the crime is committed for Legal Advice. The Attorney-General of the State shall issue a Legal Advice within a reasonable time stating whether upon the evidence provided by the police investigation, there is a prima facie case established against the suspect or not. The ACJA at section 376(2) mandates the Attorney-General of the Federation to issue Legal Advice within 14 days of receipt of casefile from the police.

<sup>65</sup> The Police are empowered to prosecute criminals in all the courts in Nigeria. See Section 23 of the Police Act. This duty is carried out through the legal department of the Nigerian Police. In practice, most offences at the inferior courts (such as the Magistrate Courts) are prosecuted by police officers trained and skilled to prosecute at the inferior court. The police also have officers who are lawyers and who could prosecute in the Superior Courts of Record. For example, the Special Fraud Unit (SFU) of the Nigerian Police prosecute fraud-related cases at the Federal High Courts with officers who are qualified lawyers. See also *Osahon v FRN* (supra)

<sup>66</sup> The IPOs often serve as witnesses in a criminal trial conducted in the Courts. Being custodians of the evidence gathered during the investigation, most of the exhibits prosecution counsel intends to rely upon, and tender in

The enactment of the ACJA 2015 and its variants at the state level is about legal control of the police. Judicial powers are defined as including any written rules regulating police conduct, and this contains statutes, court decisions, and administrative policies.<sup>67</sup> The peculiar pattern of federalism that Nigeria runs, which ensure that centralisation of powers in the federal government prevents the exercise of legal control on federal agencies such as the Nigeria police by any other order of government.<sup>68</sup> Even at the intra-agency relations, between the federal ministry of justice and the police on matters relating to the administration of criminal justice, there is likely to be a dispersal of power position when it comes to the supremacy of order in the sphere of operation of each agency within the criminal justice system. The command and control nature of the police assures it remains unamenable to the dictates of the ACJA 2015 since the final order the police respond to comes from the Inspector-general- who also panders to the political whims of his master, the President of the country.

The political centralisation of key security agencies such as the police in the federal order of government as practised in Nigeria with component states having no control of the security architecture of their countries serves as a point of dissonance to the achievement of speedy trials as wont to be established by the ACJA 2015 and all other state variants of it.<sup>69</sup> It is the fact that the police supreme control does not lie in the law but in the political needs and interpretation of Nigerian President who is Commander-in-chief of all the Nigerian forces. His understanding of a security situation, perhaps as advised by the Inspector General of Police, is to all intent and purposes, the law and nothing more pretentious. Until this centralised lopsided federalist model is amended, it is opined that there will continue to be friction between the aspirations of the ACJA and its states variants and the role of the Nigeria police inscribed in these laws.

### **The Assessment of the Police Role in the Nigerian Criminal Justice System**

There is need for an assessment of the role of the Nigeria Police considering the purpose of the ACJA 2015 which is to promote efficient management of the criminal justice institutions, speedy dispensation of justice, protection the society from crime and interests of the suspects, the defendant and the victim.<sup>70</sup> This is so as the ACJA 2015 demands that all law enforcement agencies (often Federal agencies) or persons involved in criminal justice administration comply with the provisions of the Act. It would mean that even when the ACJA apply at the federal courts and federal institutions involved in the administration of criminal justice, the police are still bound to act in fulfilment of the tenets of this law in states where the CPA or CPC still operates to ensure speedy dispensation of justice.

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court in proof of the elements of the offence is done through the IPO. Evidence such as the extra-judicial confessional statement of the defendant, weapons used for commission of the crime, pictures of crime scene etc. would have to be tendered by the IPO(s) who investigated the crime.

<sup>67</sup> Samuel Walker, "Historical Roots of the Legal Control of Police Behavior," in David Weisburd Craig Uchida and Lorraine Green Eds, *Police Innovation and Control of the Police: Problems of Law, Order, and Community* (New York: Springer-Verlag New York Inc, 1993).

<sup>68</sup> Ignatius Akaayar Ayua and Dakas C.J. Dakas, "The Federal Republic of Nigeria," in John Kincaid and G. Alan Tarr Eds, *A Global Dialogue on Federalism: Constitutional Origins, Structure, and Change in Federal Countries* Vol I (Mc-Gill-Queen's University Press 2005) 239.

<sup>69</sup> Section 214(1) Nigerian Constitution 1999.

<sup>70</sup> Section 1(1) ACJA 2015.

Achievement of speedy dispensation of justice demands that every agency, or persons involved in the administration of criminal justice, take decisions quickly and without delay. It is doubtful if the police would be able to meet this demand of the ACJA 2015 due to the over-centralisation of the decision-making command system, thereby reducing the rate of reaction to events and impugned flexibility. For example, Section 5 of the Police Act, following the provisions of section 215 (2), of the Nigeria Constitution, provides for the office and rank of a Commissioner of Police. They shall be in control of contingents of the Police Force stationed in a State. He is subject, however, to the command of the Inspector-General of Police or whosoever acts for him, in his absence. Therefore, there is less room for the use of initiative by any other officer lower than the Inspector General of the Police.

Police are wont of arresting suspects and detaining them before completion of the investigation. Where detention spans beyond the constitutionally provided period, there is the tact of applying to the court for a remand proceeding (often referred to as Holding Charge) to keep the suspect in jail for as long as the police.<sup>71</sup> It creates the "awaiting trial" phenomenon that has choked up the prison space in Nigeria.<sup>72</sup> The ACJA 2015 attempts to correct this by providing that Magistrates and High Court Judges shall conduct an inspection of the police station or other places of detention other than prisons within his territorial jurisdiction where he may inspect the record of detention, direct arraignment for detainees and grant bail where bail has been refused by the police.<sup>73</sup> This procedure is to be conducted at least once every month by the judicial officers concerned. In case a police officer in charge of a police station fails to comply with the dictates of this law, this fault shall be treated as misconduct and shall be dealt under the relevant Police Regulation and the Police Act.<sup>74</sup> It appears that having police carry out actions that run counter to the popular conception of justice or even against legal precepts as contained in the prevailing laws that support the criminal justice system is not peculiar to a developing African country like Nigeria. Examples of such deviant police acts have been identified in Indonesia too.<sup>75</sup>

The Indonesian judiciary has not helped curtail deviant police characterisation as the courts have long been perceived as having "a reputation for corruption, institutional decay and low levels of competence."<sup>76</sup> The bright side to the Indonesia example is that there appears to be in recent times a deliberate technical improvement in the police force which has allowed the power to respond proactively to the current existential threat to national security.<sup>77</sup> This judicial

<sup>71</sup> *Mrs E.A. Lufadeju V. Evangelist Bayo Johnson* (2007) 8 NWLR (PT 1037) 535.

<sup>72</sup> The International Centre for Investigative Reporting, "Over 80% of Prison Inmates are Awaiting Trial," 2016, accessed March 11, 2018, <http://icirnigeria.org/80-prison-inmates-awaiting-trial/>; Emeka Obioha, "Challenges and Reforms in the Nigerian Prisons System," *J Soc Sci* 27 no.2 (2011):95,98; See also the Home Office's Country Policy and Information Note, "Nigeria: Prison Conditions," 2016, accessed March 11, 2018, [https://www.ecoi.net/file\\_upload/1226\\_1478790062\\_cpjn-nigeria-pcs-v1-0-nov2016.pdf](https://www.ecoi.net/file_upload/1226_1478790062_cpjn-nigeria-pcs-v1-0-nov2016.pdf).

<sup>73</sup> Section 34(1) ACJA, 2015.

<sup>74</sup> Section 34(5) ACJA, 2015.

<sup>75</sup> Bambang Waluyo, "Law Enforcement in Indonesia (Penegakan Hukum di Indonesia)," Sinar Grafika, Jakarta, 2016, 2 cited in Budiyanto, "Implementation of Suspect and Accused Rights in the Indonesian Criminal Justice System," *JL Pol'y & Globalisation* 77 (2018): 85.

<sup>76</sup> Cate Sumner and Tim Lindsey, "Courting Reform: Indonesia's Islamic Courts and Justice For The Poor," *International Journal For Court Administration* 4, no. 1 (2011): 6.

<sup>77</sup> Muhammad Tito Karnavian, "The Role of the National Police in Countering Insurgencies in Indonesia," *Counter Terrorist Trends and Analyses* 9, no. 9 (2017): 8–13.

monitoring of the police is the sequel to the provision of the ACJA 2015, which mandates the officer in charge of a Police Station or any official which includes the Directorate of State Services (DSS), The Nigerian Drug Law Enforcement Agency (NDLA), Nigerian Security and Civil Defence Corps (NSCDC) in charge of an agency authorised to make an arrest, to give a monthly report to the nearest Magistrate of cases of all suspects arrested without a warrant within the limit of their jurisdiction. This is a form of checks and balances between the organs of government in a democracy like Nigeria and the enthronement of the rule of law. Rule of Law is a regime of the rule announced in advance which predictably and effectively applied to all they address including the ruler who promulgate them -formal rules that tell people how the state will deploy coercive force and enable them to plan their affair accordingly. For the rule of law to succeed, it depends not only on the provision of adequate safeguards against abuse of power by the executive but also on the existence of effective government capable of maintaining law and order, of ensuring sufficient social and economic conditions of life for the society. For an act to rule, it has to be made. This is the primary function of the legislative arm of government which is to make laws through a clearly defined legislative process aimed at producing statutes that would be applied equally to all persons within the territory of the state where the law is promulgated. It should be noted that there is no free-standing clause explicitly enumerated in the constitution on the rule of law but what is espoused is the principle of democracy.<sup>78</sup> The ACJA 2015, being an enactment by the Federal Legislature, seeks to check some excessive conducts of the police which is an agency under the Executive Arm of Government. The Act then imposes the Act of checking these excesses on judicial officers who derive their powers from the Judicial Organ of Government.<sup>79</sup> A dissonance is created for this judicial monitoring of the police in the Nigerian states that are yet to enact the administration of criminal justice law.<sup>80</sup>

The capacity of a crime controlling agency to detect crime through investigation and deployment of tools designed to unravel crimes reflects the effectiveness of such agency in achieving its aims and consequently in large part, deterring criminal intents from manifesting and criminal acts from going unpunished. Where capacity decay impugns the workings of such an agency, its officials might then have to resort to methodologies that can be easily (improperly) procured to justify their existence as a crime-fighting outfit. It is the case in the manner in which the Nigeria Police acquire extra-judicial confessional statements from suspects- which when accepted in evidence by court is capable alone in securing the guilty verdict against the defendant.

<sup>78</sup> Olusola Babatunde Adegbite, Oreoluwa Omotayo Oduniyi, and Jubril Akinwunmi Farinde, "Separation of Powers Under the 1999 Nigerian Constitution: The Core Legal Dilemmas," *Sriwijaya Law Review* 3, no. 2 (2019): 235–52, <https://doi.org/10.28946/slrev.Vol3.Iss2.281.pp235-252>.

<sup>79</sup> Sections 4, 5, 6 and 14 of the Nigerian Constitution, 1999; Jeremy Waldron, "Separation of Powers in Thought and Practice?" *Boston College Law Review* 54 (2013): 432; Bo Li, "Constitutionalism and the Rule of Law." *Perspective* 2no.1(2012) accessed March 13, 2018 [https://www.facebook.com/permalink.php?id=159103014120223&story\\_fbid=455757904454731](https://www.facebook.com/permalink.php?id=159103014120223&story_fbid=455757904454731); Toriola Oyewo, *Constitutional Law and Procedure in Nigeria* (Ibadan: John Archers Ltd, 2009). Adedoyin Akinsulore, "Democracy, Good Governance, Rule of Law and the Executive in Nigeria," *Ife Juris Review* 2 (2015):389-411.

<sup>80</sup> As at 2019, of the 36 states in Nigeria, there still ten states that have yet to enact a variant of the ACJL. The states are Borno, Gombe, Taraba (North East) Sokoto, Katsina, Zamfara, Kebbi (North West) Niger (North Central) Ebonyi, Imo (East). See Civil Society Observatory on the Administration of Criminal Justice in Nigeria (2019).



The Nigerian Evidence Act espouses the principles of “best evidence rule”<sup>81</sup> such that to succeed in proving a statement of fact, convincing evidence “that proves beyond a reasonable doubt” must be put forward in a criminal trial.<sup>82</sup> The elevation of “confessional statement” to the level of best evidence has encouraged the Nigeria Police to rely on this form of evidence to prove criminal charges against defendants in courts. Judicial pronouncements have supported this form of proof by stating that “confessional statements” solely is sufficient to prove guilt in any charge of an offence.<sup>83</sup>

One of the innovative provisions in the ACJA 2015 is plea bargaining in section 270 of the Act. Plea bargaining in Nigeria can be traced to the trial of Tafa Balogun in 2005.<sup>84</sup> The ACJA defines “plea bargain” to mean the process in criminal proceedings whereby the defendant and the prosecution work out a mutually acceptable disposition of the case, including the plea of the defendant to a lesser offence than that charged in the complaint or information and in conformity with other conditions imposed by the prosecution, in return for a lighter sentence than that for the higher charge, subject to the court’s approval.<sup>85</sup>

By section 270 (7) of the ACJA, a plea bargain agreement shall be reduced into writing. It shall affirm that, before the approval, the defendant has been informed that he has a right to remain silent and that he is not obliged to make any confession or admission that could be used in evidence against him. The agreement shall fully state the terms of the contract and any disclosure made and shall be signed by the prosecutor, the defendant, the legal practitioner and the interpreter if any.

One obvious inference from the meaning of the concept of plea bargaining concerning the underlying philosophy of Nigeria’s criminal jurisprudence is that once an accused person accedes to the use of plea bargaining, his right to presumption of innocence and the corresponding duty of the prosecution to prove its case beyond reasonable doubt abates. A guilty plea would be entered, and a pre-negotiated penalty follows. Again, any person convicted in this circumstance cannot appeal, unless fraud can be proved or there is a fundamental breach of his rights, just like a consent judgment in a civil case.<sup>86</sup>

Apparently, plea bargaining hastens the process of criminal prosecution. Whether the Nigerian police will see plea bargaining as a means to achieving quick resolution of criminal matters is still in doubt as they have not been known to exercise this option provided under the law.<sup>87</sup> Other specialised criminal investigation agencies, such as Economic and Financial Crimes Commission (EFCC) and Independent Corrupt Practices Commission (ICPC) Nigerian Drug Law

<sup>81</sup> Sections 131,132 & 135 of Nigerian Evidence Act, 2011.

<sup>82</sup> Dale Nance, “The Best Evidence Principle,” *Iowa Law Review* 73(1987-1988) 227.

<sup>83</sup> Section 29 of the Nigerian Evidence Act,2011; See also the cases of *Egboghomome v. State* (1993)7 NWLR (Pt 306) 383 SC, *Alarape v. State* [2001] FWLR (Pt. 41) 1872 SC; See also Adedoyin Akinsulore, “A Jurisprudential Analysis of Confessional Statement,” *Ife Juris Review* 3 (2015): 982–1000.

<sup>84</sup> Samuel Idhiarhi, “Practice and Procedure of Plea Bargain under ACJ Act,” *Punch Newspaper*, 2017. See also the high profile case of Tafa Balogun, former Inspector General of the Nigerian Police in the corruption case of *Tafa Balogun vs the Federal Republic of Nigeria* (2005) 4 NWLR(Pt 324) 190 where the defendant in a plea bargain deal forfeited the sum of \$ 130 million to the state for a lesser punishment of six months imprisonment.

<sup>85</sup> Section 494 (1) ACJA 2015.

<sup>86</sup> Kehinde Adegbite, “Plea Bargaining In Nigeria: Any Legal Foundation?,” *The Lawyer’s Chronicle*, 2019.

<sup>87</sup> Chinwe Mordi, “The Use of Plea Bargain in Nigerian Criminal Law,” *Beijing Law Review* 9, no. 2 (2018): 153–61.

Enforcement Agency (NDLEA)<sup>88</sup> have been known to use the plea bargaining option with many criminal cases expeditiously dealt with. Even at that, it is argued that there is need for legislative intervention stipulating clearly defined guidelines for the application of plea bargaining, as plea bargaining cannot be entrusted to the whims and caprices of law-enforcement agencies and the courts as it is presently constituted. The effect of lack of such guidelines, for instance, played out in the infamous case of pension fraud where one John Yusuf, an Assistant Director with the Police Pension Board allegedly misappropriated about N32.8 billion and upon his making a guilty plea, he was given a sentence of two years' imprisonment or an option of paying N750, 000 as fine. He gladly and instantly paid the meagre fine.

## CONCLUSION

It is often said that justice delayed is justice denied. Hence the central philosophy of the Administration of Criminal Justice Act of 2015, and its variants in the states, make it a prominent cause to expedite criminal trials. This paper has examined this philosophy and its conceptual acceptability with a key institution within the administration of criminal justice in Nigeria- the Nigerian police- and finds that there is a centrifugal variance in the practical understanding of the law on the expeditious dispensation of criminal matter within the administration of criminal justice by the police and the provisions of the law. The skewed federal system run by Nigeria, where the federating state cannot run a fully independent criminal justice system, will continue to deflate proactive legal aspirations that may be designed for the smooth running of the criminal justice system in Nigeria. This paper concludes that the Nigeria police, as it is presently established within the Nigerian Constitution will continue to pose as an impediment to the development of the criminal justice system and its aspiration to dispense justice quickly. There is a need for change.

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<sup>88</sup> *Federal Republic of Nigeria v. Dr (Mrs) Cecilia Ibru, (FHC/L/297C/2009)* plea bargain was effectively deployed such that the defendant had reduced jail term (six months). At the same time, she forfeited her properties (deemed to be proceeds of crime) worth one hundred and ninety-one billion nairas to the state; Afolasade A. Adewumi, "Plea Bargaining: A Panacea for Economic and Financial Crimes in Nigeria," *Ahmadu Bello University Law Journal* 37 (2017): 106–18.

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