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AN EXAMINATION OF LEGAL FRAMEWORK OF INSTITUTIONS OF CRIMINAL JUSTICE ADMINISTRATION IN THE MAGISTRATE COURT, NIGERIA

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Abstract: *LEGAL FRAMEWORK IS VERY CRUCIAL TO ANY JUDICIAL DISPOSITION AS THIS CONSTITUTE THE BASIS FOR ANY OFFICIAL FUNCTION AND DETERMINES THE EVENTUAL CONSEQUENCE. THIS PAPER IDENTIFIES THE THREE BASIC INSTITUTIONS OF CRIMINAL JUSTICE ADMINISTRATION IN THE MAGISTRATE COURT. WHICH ARE THE LAW ENFORCEMENT, THE COURT AND THE CORRECTIONAL SERVICE. THUS, IT AIMS AT CRITICALLY EXAMINING THE LEGAL FRAMEWORK OF THE INSTITUTIONS OF CRIMINAL JUSTICE ADMINISTRATION IN THE MAGISTRATE COURT OF NIGERIA, THESE INSTITUTIONS ARE INDEPENDENT ON THEIR OWN BUT WHEN IT COMES TO CRIMINAL JUSTICE ADMINISTRATION, THEY BECOME INTERDEPENDENT, EACH RELYING ON ONE ANOTHER TO ACHIEVE EFFICIENT CRIMINAL JUSTICE ADMINISTRATION. THUS THEY BECOME ONE WHOLE IN THE CRIMINAL JUSTICE ADMINISTRATION. THE PAPER IN EXAMINING THE INSTITUTIONS EQUALLY IDENTIFIES THE RELEVANT LEGAL FRAMEWORK OF EACH INSTITUTION AND THE CHALLENGES ASSOCIATED WITH THE DISCHARGE OF THEIR FUNCTION AS AN INTERDEPENDENT INSTITUTION OF CRIMINAL JUSTICE. THE PAPER FINDS MAJORLY THAT IN THEIR INTERDEPENDENT RELATIONSHIP IN CRIMINAL JUSTICE ADMINISTRATION THEY LACK SYNERGY AND RECOMMENDATIONS ARE MADE ACCORDINGLY FOR IMPROVEMENT AND AT THE LONG RUN ACHIEVING EFFICIENT CRIMINAL JUSTICE ADMINISTRATION IN THE MAGISTRATE COURT.*

Keywords: EXAMINATION, LEGAL FRAMEWORK, INSTITUTIONS, CRIMINAL JUSTICE, MAGISTRATE COURT.

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1. INTRODUCTION

The word Institution is adopted in this paper to imply Agencies, Elements or Component of Criminal Justice. Generally, it is accepted by authors and scholars of law that criminal justice administration possesses **three** elements by way of institutions and agencies which are **Law enforcements** (police officers and other security personnel capable of prosecution), **Courts** (Attorney, Judges, Magistrates) and **Correctional Service Centre** (prisons, jail, parole, probation). Houghton observes that criminal justice administration has three major components, that is, the Police, the Court and the Correctional Service Centre whose main duties are to prevent or deter crimes by apprehending, trying and punishi]ng offenders. (Houghton, 2016, p. 3) Alemika equally contends that criminal justice administration is usually divided into three components, that is, the law enforcement (police and civil defence); the judicial process (Magistrates, Judges, prosecutors, and lawyers); and correctional service centre (Alemika, 1987, p. 76).

2. INSTITUTIONS OF CRIMINAL JUSTICE IN THE MAGISTRATE COURT

Criminal Justice Administration is a loose term involving various interdependent organisations, each having specific functions that are subject to legal regulations in making decisions to actions. (Daly, 2002, p.257) It is against this background that criminal justice administration is defined as the collective institutions through which an accused or the offender passes till the allegations will be disposed of or the assessed punishment concluded.(Leonard, 2014, p 897) Even in the United States, the criminal justice administration is broken down into three parts: law enforcement, courts and corrections, each with different focus of the law and dealing with criminals in different stages of its criminal activity.

These three institutions of administration of criminal justice are responsible for handling a suspect at different stages for different purposes in ensuring that the defendant passes through the due process of the law. They act conjunctively to prevent or deter crimes by apprehending, trying, and punishing offenders. These institutions are independent on their own but when it comes to criminal justice administration, they become interdependent, each relying on one another to achieve efficient criminal justice administration. Thus they become one whole in the criminal justice administration.

It can thus be argued that criminal justice administration deals with a collection of interdependent institutions with differing functions for the sole objective of promoting and ensuring smooth running of criminal justice administration. (Alemika, 1987, p. 76) A criminal trial involves the State, the society and the offender who commits the act (Baldwin and Mcconvil, 1978, p. 549).

3. LEGAL FRAMEWORK OF INSTITUTIONS OF CRIMINAL JUSTICE IN THE MAGISTRATE COURT

This means that, it is one thing to enact law but to enforce it is another issue. Without the instrument of enforcement through the institutions, the law will remain a mere tissue paper and of no use. This means that no amount of laws can effectively protect persons without the aid of institutions to enforce them. It is on this premise that the next segment seeks to examine major institutions in relation to criminal justice administration in Nigeria. The first element is law enforcement and it will be discussed hereunder.

4. LAW ENFORCEMENT AS AN INSTITUTION OF CRIMINAL JUSTICE

For the purpose of this study, law enforcement is used in this context to denote those Institutions responsible for the prosecution of criminal cases in the Magistrate Court. Thus, these Institutions to be discussed are the Nigerian Police Force, Nigeria Security and Civil Defence Corps as prosecuting Institutions and the Kwara State Ministry of Justice.

The Nigerian Police Force

The Nigerian Police Force is an important organ in the criminal justice system. The general functions of the Police as stated in the Police Act are for "due enforcement of all laws and regulations with which they are directly charged. Police officers operate in a community to prevent and control crime. They cooperate with prosecutors in criminal investigations, gathering evidence necessary to obtain convictions in the courts. (Walker,1977, p.143) Police are the utmost visible administrative agents through whom people often evaluate the character and attitude of a government and political system. In several cases, the activities and the behaviours of the Police mirror the political and economic character of society as well as what those in power are prepared or willing to endure or condone. Police forces are created in reaction to intimidations of the social order and dominant interests of the dominant groups. Generally, the Police detect criminals, investigate, arrests and detains those regarded as dangerous and threats to the preservation of the state security. To enable the Police to play these roles, they are granted powers to use coercion in appropriate cases. The National Advisory Commission on Criminal Justice Standards and Goals has identified eleven functions of the Police which have universal applications.

A policeman initiates criminal justice process through arrest. He is the prosecuting officer responsible for the institution and conduct of legal proceedings against suspect in respect of criminal cases at the Magistrate Court. (Farooqi, 2017, p.1) The prosecutor has the task of prosecuting the offenders before the Magistrate Court and must show the Magistrate Court that an accused person has unreached a law. Prosecution plays an important role in the administration of criminal justice. Without successful prosecution, the desired objective cannot be achieved. The role of prosecutors commences soon after registration of a case and lasts up to when the final verdict is delivered by the Magistrate Court. The role of the prosecutor is very pivotal because he has to finalise the trial after the prosecution witnesses are examined and cross-examined by the defence counsel and after he has cross examined the defence witnesses produced by the accused. In order to succeed, the prosecution is under obligation to lead witnesses who are credible and tender document(s) to sustain the conviction of an accused person. Therefore, for this purpose, the discussions shall be based on the power of the Police to prosecute; power to grant bail; and the power to arrest and arraign an accused before the Court.

Subject to the provision of sections 174 and 211 of the 1999 Constitution of Federal Republic of Nigeria which relate to the power of Attorney General of the Federal and of States to institute and undertake, takeover, continue and discontinue criminal proceedings against any person before any court of law in Nigeria. Section 23 of Police Act provides that any police officer may conduct in person all prosecution before any court whether or not the information or complaint is laid in its name.

The above provision defines the power of the Police to prosecute criminal case. A careful look at the provision shows that the power of the Police to prosecute criminal proceedings is subject to the power of the Attorney General either of Federal or of states to takeover or discontinues such proceedings. Apart from this limitation, the Supreme Court of Nigeria has affirmed in the case of

Olusemo v. Commissioner of Police (1998) 1 NWLR Pt. 575 at 547 that a police officer has the power to prosecute up to the Supreme Court. However, it should be noted that this power is subject to the condition that where an enabling law has ousted the power of the Police in this respect, the Police cannot prosecute. It is on this premise that it is necessary to examine the provision of Section 56 of Federal High Court Act which provides that only a law officer can prosecute before the Federal High Court. This matter was put to rest by the Supreme Court in the case of *Osahon v. Federal Republic of Nigeria [2003] 15 NWLR Pt. 845 at 89.* Though the Court of Appeal held that a police officer was not under the categories of law officers and as such, they cannot prosecute. However, the decision was reversed in part by the Supreme Court to the effects that a police officer who is a lawyer can prosecute at the Federal High Court.

The corollary of the above shows that the Nigerian Police Force plays a vital role in the administration of criminal justice in Nigeria through prosecution of offenders. Therefore, it is required of a police officer to prosecute diligently. In this aspect, a police officer prosecuting a case must not withhold any information that may be of advantage to the accused. As usual, it is unprofessional for a police officer to see that at all cost the accused is convicted. In fact, this is one of the major criticisms against the Police involving in the prosecution of criminal proceedings. While it is not disputable that the Police have power to prosecute, it is necessary for the Police Force to put in place measures of control to ensure that justice is done in the interest of the public and not for personal aggrandizement of the prosecuting police.

However, the power of police officers to prosecute cases has been whittled down by the advent of ACJA and its domestication in each state to the extent that only police officers who are qualified as legal practitioners may prosecute offences as provided by section 113 of Kwara State Administration of Criminal Justice Law (KSACJL).

This sector is not without challenge. One of the major challenges hampering effective and efficient functions of the Police is lack of fund to provide the necessary equipment to enhance police effectiveness. It is a regular defence, by the police to attribute their ineptitude to this particular factor. This manifests itself in lack of vehicles, lack of firearms and other sophisticated gadgets. (Alubo and Lar, 2008, p.15) Another challenge is that most of the prosecutors available have no legal background. They rather rely heavily on their experience as Police Investigating Officer. Due to this handicap, they mostly apply for adjournment which in most cases cause delay in the criminal administration justice. A little objection or legal argument from defence counsel usually frustrates the prosecutor, and thus make him/her apply for adjournment. This invariably becomes a challenge to effective administration of criminal justice. (Agbonika, 2004, p.35)

Nigeria Security and Civil Defence Corps

This organisation by the provision of Section 3e(i)-(vi) of the Nigeria Security and Civil Defence Corps Act 2007 [as amended] (NSCDC) is empowered to prosecute in the court especially when a matter bothers on issues within its jurisdiction. In Kwara State this organisation also prosecutes in the Magistrate Court.

Civil Defence Operation is a global organisation that came into being at the time of the Second World War. The Nigeria Security and Civil Defence Corp (NSCDC) were created in Nigeria on May 23rd 1967 during the Civil War. It was originally referred to as the Lagos Civil Defence Committee with the ultimate duty of sensitising the Lagos public of safety protection during the Civil War. The Charter of April 6, 1968, however, made it possible for states that wished to establish the Corps (NSCDC) under the supervision of Federal Ministry of Internal Affairs. Presently, the Corps, through the Act of 2003 and as amended in 2007 by the regime of the former President Chief Olusegun

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Obasanjo, is statutorily established as a full-fledged paramilitary organisation under the Federal Ministry of Interior.

The fundamental question however has to do with the role of Nigeria Civil Defence in the administration of criminal justice. To answer this question, there is the need to look at the enabling law that established the body. To achieve this, it is necessary to look at the provision of Section 3 of NSCDC Act which stipulates its roles as follows. To:

(a) Assist in the maintenance of peace, order and in the protection and rescuing of the civil population during the period of emergency;
(b) Recommend to the Minister the registration of private guard companies;
(c) Supervise and monitor the activities of all private guard companies and keep a register for that purpose by
(i) Periodically organising workshops and training courses for private guard companies, and
(ii) Sealing up any private guard company which operates without valid licence;
(d) Maintain twenty-four hours surveillance over infrastructures, sites and projects for the Federal, States and Local Governments by
(i) Entering and searching any premises and seize any material suspected to have been used in vandalisation or suspected process of vandalisation
(ii) entering and searching premises of any suspected illegal dealer in petroleum products or material used by Power Holding Company of Nigeria, Postal Services, Nigeria Telecommunication or for any other public utility or infrastructure;
(e) to arrest with or without a warrant, detain, investigate and institute legal proceedings by or in the name of the Attorney-General of the Federation in accordance with the provisions of the Constitution of the Federal Republic of Nigeria against any person who is reasonably suspected to have committed an offence under this Act or is involved in any:
(i) Criminal activity,
(ii) Chemical poisoning or oil spillage, nuclear waste, poisoning,
(iii) Industrial espionage or fraud,
(iv) Activity aimed at frustrating any Government programme or policy,
(v) Riot, civil disorder, revolt, strike or religious unrest, or
(vi) Power transmission lines, or oil pipelines, NIPOST cables, equipment, Water Board pipes or equipment vandalisation; and
(f) Monitor the activities of religious bodies and trade associations.

The provision is not exhaustive of the role of NSCDC. In fact, there are 21 items listed in section 3 of the Act. However, the most relevant to the present study is paragraph (e). A careful look at paragraph (e) shows that the Nigeria Civil Defence is empowered to investigate, make arrest and even prosecute any person suspected of having committed an offence listed in sub-e (i) to (vi). These general powers to investigate, arrest and prosecute are the three major pillars of the administration of criminal justice system in Nigeria. The implication of this is that the body, just like the Police, has the power to prosecute in courts of law in Nigeria. However, one major issue that deserves comment is the part of the provision of paragraph (e) which gives the body the power to institute criminal proceedings on behalf of the Attorney General. This particular aspect contravenes the provision of section 174 of the Constitution which empowers the AG to institute, take-over and discontinue criminal cases. This means that the NSCDC cannot institute a criminal matter on behalf of the AG without prior consent of the AG. To do otherwise is to violate an express provision of the Constitution. In fact, though there is no proviso in paragraph (e) as to whether the AG can take-over

cases from NSCDC; this does not mean that the AG cannot exercise its constitutional role. The reason being that the provision of section 174 of the Constitution is a general one and applies to all authorities involving in criminal justice system in Nigeria. It is hoped that this matter will be presented before the court for interpretation.

Ministry of Justice

The Ministry of Justice is also a competent body responsible for prosecution of criminal cases in the court. There are several legal practitioners employed in the Ministry and assigned to various courts within the state. The Ministry of Justice is headed by the Attorney General of the Federation or of the State as the case may be. He is the Chief Law Officer of the Federation or of the State. Next to him is the Solicitor General/Permanent Secretary who is responsible for the administration of the office and for the coordination and execution of approved policy and also ensures the efficiency of staff. This is followed by the various departmental heads who are directors, professional staff of the Ministry, comprising State Counsels of various grades, distributed across the departments depending on the volume of works of various departments. The role of Attorney General in the administration of criminal justice is derived from provisions of sections 174 and 211 of the 1999 Constitution. The Attorney General of Federation can exercise such power in respect of federal offences while Attorney General of State do so in respect of state offences.

The AG has three main powers with regards to criminal justice system. These are the power to institute criminal proceedings, the power to take-over proceedings and the power to discontinue any criminal proceedings. The power of AG to discontinue is popularly referred to as the power to enter *nolle prosequi.* The power of the AG to discontinue here is final in nature. In the case of *Ilori v. State [1983] 2 SC 155* the Supreme Court held that once a *nolle prosequi* is entered, the court does not go beyond or question the AG as to the reason for so exercising the power. This means that, AG is not under obligation to give reason for doing so. However, Section 174(3) of the Constitution requires that such must be exercised in the interest of public.

On whether the power of the AG to institute, take-over and to discontinue proceedings could be exercised by a law officer in the Ministry of Justice in the absence of a serving AG, the position has been put to rest. With regards to the power to institute and take-over criminal proceedings; such could be exercised in the absence of the serving AG (*AG Kaduna State v. Hassan (1985) NWLR (PT 8) 483).* This is because the accused cannot continue to be in detention merely because there is no AG on ground to prosecute. In fact, this will amount to gross violation of Section 36(5) of the Constitutional provision which sees the accused as being innocent at that stage. However, with regards to the power to discontinue, it is exclusively preserved for AG except where same has been delegated to a law officer in the Ministry of Justice under an existing instrument. However, the Director of Public Prosecution (DPP) though has no power to enter *nolle prosequi,* he can by his advice decide not to prosecute a criminal charge when there is no case to answer.

The Supreme Court of Nigeria held in the case of *State v. Ilori [1983] 1 SCNLR 94,* that the powers conferred on the Attorney-General under the Constitution are unquestionable and absolute. Hon. Justice Kayode's pre-eminent and incontestable position of the Attorney-General, under the common law, as the chief law officer of the State, either generally as a legal adviser or specially in all court proceedings to which the State is a party, has long been recognised by the courts. With reference to these powers, and subject only to ultimate control by public opinion and that of Parliament or the Legislature, the Attorney-General has, in common law, been a master unto himself, law unto himself and under no control whatsoever, judicial or otherwise, vis-a-vis his powers of instituting or discontinuing criminal proceedings. These powers of the Attorney-General are not confined to cases where the State is a party. In the exercise of his powers to discontinue a criminal

case or to enter a *nolle prosequi*, he can extend this to cases instituted by any other person or authority. This is a power vested in the Attorney-General by the common law and it is not subject to review by any court of law. It is, no doubt, a great ministerial prerogative coupled with grave responsibilities. While delivering the lead judgment in that case, Kayode Eso JSC states:- The Supreme Court in the case of *Ezomo v Attorney-General of Bendel State (1986) 4 NWLR (PT 36) 448* described the Attorney-General as a law unto himself. And while rationalising the awesome powers conferred on the Attorney-General in criminal prosecution, the Supreme Court illuminated that the creators of the Constitution were prudent to have made it so, because the AG was both the legal and political officer who was responsible politically for acts done in the Ministry. It should nonetheless be evoked that the AG shares his power to institute and prosecute criminal proceedings with the Police, special prosecutors and even private persons, as the case may be, even though police powers in criminal prosecution are subject to the powers of the AG who has absolute power of control over all other prosecuting authorities in Nigeria as held in Attorney-General of *Kaduna State v. Hassan, (1985) 2 NWLR 483 115 at 117.*

The essence of this is to ensure that there is no delay in the administration of criminal justice. Furthermore, there are some enabling laws where only the AG is empowered to prosecute such as the Code of Conduct Tribunal Act.

However, it has been held in *Ibrahim v State [1986] 1NWLR Pt.18 650* that the absence of AG in office to perform such function would not debar a DPP from doing so. There is indeed logical justification for this because a charge cannot continue to hold at the neck of a defendant merely because there is no AG in office to prosecute. In fact, by the provision of section 35 of the constitution this would in all ramification amounts to an unlawful detention. Though most of the proceedings in the Kwara State Magistrate Courts are handled by the police prosecutors, the Ministry of Justice is departmentalised to handle cases of different kinds. There is the Department of Civil Litigation, Department of Legal Drafting, Department of Public Prosecution, Office of the Public Defender, and Citizen's Mediation Centre**.** The Department of Public Prosecution is headed by the Director of Public Prosecution charged with the responsibility of prosecuting criminal cases at various courts and rendering legal advice to the government on criminal matters and to the Police.

The Office of Public Defenders was established by the Office of the Public Defender Law 2008 to handle civil and criminal matters. Its mandates include investigation of complaints or referrals made to it and to ensure resolution of such cases through the most appropriate dispute resolution mechanism. Legal services rendered by this office are free in consonance with the global focus of providing justice to all. The office has within the one year of its existence received a total of 173 cases out of which 105 have been dispensed with. Though, recently, the Court of Appeal has held that departments and offices set up by states' ministries of justice to provide free legal services to indigent and oppressed litigants cannot defend accused persons in criminal trial. This was the decision of the Court of Appeal in the case of *Ibiloye Matthew v. the State (2017) All FWLR Pt 868 P. 663* where the court was called upon to determine the appropriateness of the officers from the Citizen's Right Department, Ogun State Ministry of Justice defending an accused (the appellant) in a case of armed robbery. In that case, the Court held in part that:

> *In the situations therefore, the question to be answered is what will be the impression of a reasonable person seeing two counsel from the office of the Attorney General of Ogun State, acting in the same case; one prosecuting and the other defending. At the peril of overemphasis, such trial would look like a moot court. After all, since the learned trial judge in the exercise of his powers rightly assigned the Legal Aid Council, which is independent of the Attorney General's office to prosecute the*

defence of the appellant, one would marvel why the concern of the officers in the office of the Attorney General to act as defence counsel, in the matter the same office is prosecuting. I think discretion and sense of fairness should have captivated on them to tramp the course of caution. I consequently agree with learned counsel for the appellant that, a reasonable person who was present at the trial may have the hollow that there was a gang up against the appellant by counsel in the office of Attorney General of Ogun State. It is for the above reason and the reasons in the lead judgment that I agree that the appellant did not enjoy a fair hearing at the court below. His right to fair hearing was therefore violated.

Other Security Agencies

The Administration of Criminal Justice Act (ACJA) has expanded the term "police officer," for purposes of the Act, to include *"*any member of the Nigeria Police Force established by the Police Act or any other officer of any law enforcement agency established by an Act of the National Assembly". This means that members and officers of government agencies and bodies such as the Economic and Financial Crimes Commission (EFCC), Independent Corrupt Practices and other Offences Commission (ICPC), the Nigerian Immigration Service (NIS), the Nigerian Civil Defence Corps (NCDC), the National Drug Law Enforcement Agency (NDLEA), the State Security Service (SSS) (also known as the Department of State Security (DSS)), the Federal Road Safety Commission (FRSC), the National Agency for Food and Drug Administration (NAFDAC), and other law enforcement agencies, whose names are on the Roll of legal practitioners in Nigeria, may also undertake prosecution of criminal proceedings for purposes of ACJA, as "police officers." According to Rules 8 (1) Professional Conduct for Legal Practitioners, 2007 it is only members of these government agencies or departments who are employed as Legal Officers or in the legal departments/units of such agencies or departments that may appear in court as advocates to prosecute any case on behalf of such agencies or departments. Merely being a lawyer and in their employment, is not sufficient.

The effect of section 106 of the ACJA is that, officers and members of the Police Force or other law enforcement agencies who are not lawyers may have some roles to play in initiating criminal proceedings under the ACJA, but no such officers are entitled to prosecute any criminal proceedings under the Act unless they are also legal practitioners. The powers of such non-lawyer officers to participate in criminal proceedings in courts are limited to investigation of offences or complaints and filing of the First Information Report (FIR). Some states like Kano and Lagos have taken steps in this direction. (Sylvester, 2019, p. 83)

5. COURT AS AN INSTITUTION OF CRIMINAL JUSTICE ADMINISTRATION

In the trilateral element of the criminal justice administration, the second component is the Court. A court is a body established by the government to explain and apply the law, to order its implementation, and to resolve undecided issues on which persons or groups do not agree. The determination of an issue as to whether there is reasonable cause to believe that an accused person has breached a particular law or laws is a vital role of criminal courts. Therefore, when a crime is committed, formal action must be channelled through the Court. This is because it is only the Court that can decide the guilt or innocence of an accused. The major function of courts is to seek justice and discover the truth. Courts play key role in the criminal justice administration. The significant responsibility of the court under the criminal justice administration generally encompasses the

determination of guilt or innocence of accused person. Though the determination of guilt or innocence is fundamental to the role of criminal court, it is by no means the sole function.

Court conducts preliminary hearings, gives ruling as to the admissibility of evidence, and pronounces appropriate sentence when a finding of guilt has been decided. The primary actors in the courts are the prosecutors, legal practitioners and judges. The Judge, or Magistrate, is a person appointed whose function is to objectively administer the legal proceedings and offer a final decision to dispose of a case through the adversarial system. In this system, two parties will both offer their version of proceedings and argue their case before the Court (sometimes before a judge or panel of judges) and as such, the case is decided in favour of the party who offers the most sound and convincing arguments based on the law as applied to the facts of the case. The duty of courts is therefore to guarantee impartiality in the criminal justice administration. This objective is attained by using neutral bodies as decision makers (Judges and Magistrates) and by permitting both the prosecution and the defence to present their arguments in open court. The success of a democratic government depends strongly on the judicial system. Vanderbilt describes court in the following expression; (Vanderbilt, 1966, p. 450)

> It is in the courts and not in the legislature that our residents primarily feel the keen, cutting edge of the law. If they have respect for the work of the courts, their respects for law will subsist the inadequacies of every other branch of government; but if they lose their respect for the work of the courts, their respect for law and order will vanish with it to the great impairment of society

There are two types of courts in Nigeria as provided for in section 6 of the constitution. The first one is referred to as Superior Courts of record because they are established by the Constitution they are the Supreme court, Court of Appeal, the Federal High Court, the State High Court, the Sharia Court of Appeal of FCT and States, and the Customary Court of Appeal of FCT. The second categories of courts are established by Act of States' Houses of Assembly these include the Area Court, Upper Area Court, Customary Court as well as Magistrate Court. The jurisdictions of superior courts are as stated in the Constitution. For instance, both the High Court and the Federal High Court have both civil and criminal jurisdictions. However, while the Federal High Court exercises criminal jurisdictions in respect of federal offences; the High Court exercises jurisdictions in respect of other offences. Both the Court of Appeal and the Supreme Court has no criminal original jurisdictions. They both exercise appellate jurisdiction thereto. Furthermore, the Sharia Court of Appeal and the Customary Court of Appeal has no criminal jurisdiction. Their jurisdictions are purely supervisory and appellate in nature. For instance, the Sharia Court of Appeal exercise appellate jurisdictions in respect of matters from Upper Area Court in Kwara State in matters of Islamic personal law and with respect to other matters, it goes to the High Court.

The courts in the administration of criminal justice are to take cognisance of the age of the suspect because age is an important determinant factor in criminal justice administration. For instance, persons between the ages of seven (7) to eleven (11) years old are considered as children while persons between ages twelve (12) to sixteen (16) are considered as juveniles. Cases involving children and juveniles are handled by the juvenile court with different laws regulating the administration of criminal justice. Chapter 2, Section 50 Penal Code Law Cap 89 provides for the full age of criminal responsibility is put for seventeen years as persons from age 17 are regarded and categorised as adult for the sake of criminal justice administration and as such can be tried by a Judge or Magistrate.

Legal Practitioners

The role of Legal Practitioners as agents of criminal justice administration is to protect the rights and freedoms of members of the society. A legal practitioner should see himself as an officer of the Court. Lord Reid in *Rondel, v. Worsley (1969) 1 AC 191 at 227; (1967) All ER 993 at 998* puts the duty of legal practitioner to the client and to the Court in this perspective. "Every Counsel has a duty to his client, fearlessly to raise every issue, advance every argument and ask every question however distasteful, which he thinks will help his client's case. But, as an officer of the Court concerned with the administration of justice, he has an overriding duty to the Court, to the standards of his profession, and to the public which may and often does lead to a conflict with his client's wishes or with what the client thinks are in his personal interests. Counsel must not mislead the Court, he must not lend himself to casting aspersions on the other party or witnesses for which there is no sufficient basis in the information in his possession, he must not withhold authorities or documents which may tell against his clients but which the law or the standards of his profession require him to produce".

Professional associations of lawyers have a vital role to play in upholding professional Standards and ethics, protecting their members from persecution and improper restrictions and infringements, providing legal services to all in need of it, and cooperating with governmental and other institutions in furthering the ends of justice and public interest.

Some basic principles are formulated as fundamental in the role of legal practitioner as adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana,Cuba,27 August to 7 September 1990 to assist member states in their task of promoting and ensuring that the proper role of lawyers are respected and taken into account by governments within the framework of their national legislation and practice and should be brought to the attention of lawyers as well as other persons, such as judges, prosecutors, members of the executive, the legislature, and the public in general.

In fulfilling this role, lawyers are not obliged to serve the client's interests alone. Doing so would conflict with the duty which lawyers owe to the Court and to serving the ends of justice. (Shirvington, 2001, p.11) When acting as an advocate, a lawyer must represent the client resolutely and honourably within the limits of the law. At the same time, he must treat the tribunal with candour, fairness, courtesy, and respect. As an officer of the Court concerned in the administration of justice, a legal practitioner has an overriding duty to the Court, to the standards of his profession, and to the public. This may and often lead to a conflict with his client's wises or with what the client thinks are his personal interests'. (Warren, 2009, p.1)

Sections 8 and 24 of the Legal Practitioners Act, (LPA) 1975 affords Legal Practitioners in Nigeria a right of audience in all the courts in Nigeria. Thus, a legal practitioner shall have the right of audience in all courts of law sitting in Nigeria. In *Uzodimma v. COP (1982) 1 NCR 27*, the Supreme Court struck down the provisions of section 30 of the Criminal Procedure Code that says 'No legal practitioner shall be permitted to appear to act for or to assist a party before an Area court.' This obviously denies Legal Practitioners the right of audience before Area Courts. In that case, the apex court, relies on the provisions of section 36 (6) c of the Constitution of the Federal Republic of Nigeria which grants an accused person a right to be represented in court by a counsel of his choice.

Legal Aid Council

The Legal Aid Council of Nigeria was established by the then Head of the Federal Military Government, General Olusegun Obasanjo on 10th November 1976 through Act No. 56 of 1976. The provisions of the Legal Aid Act was brought into force by Dr. Augustine Nnamani J.S.C., the then

Attorney General of the Federation on the 2nd day of May, 1977.Over the years, the decree had been amended and later codified (except the 1994 amendment) into what is now known as Legal Aid Act. Cap 205, Laws of the Federation of Nigeria. The LAC 2001 Act repealed the 1976 LAC Act. It went through two amendments, and finally, in 2011, an Act was signed by President Goodluck Jonathan. Among the services rendered by Legal Scheme include claims damages for breach of fundamental human rights as guaranteed by the Constitution. The Decree was amended by the Legal Aid Act Cap L9, Law of the Federation, 2004 and to conform to the current democratic dispensation, the Law was repealed in 2011 by the Legal Aid Act 2011. (Adebayo, 2020, p. 78)

The initiation began with the trio of Chief Timothy ChimizieIkeazor, SAN, Chief Adebowale Durosaiye Akande, SAN, and Chief Dr Solomon Daushep Lar, SAN. CON. They formed the Association of Public Defenders (later the Legal Aid Association of Nigeria) in the early 1970s. Their objective was to provide *probono* legal services to indigent, economically deficient and less privileged Nigerians.

Legal Aid Council of Nigeria is a federal body under the supervision of the Federal Ministry of Justice. The Council has its headquarters in Abuja, conducts its operations through offices in 36 states, 6 zonal offices, Legal Aid Centres (14 for now) in Local Government Area Councils in some States and the Federal Capital Territory as part of the drive to establish legal aid offices in all the 774 Local Government Areas of the Federation.

It renders free legal aid and access to justice to indigent persons as widely as possible within its financial resources.. The body provides legal aid to individuals or firms, whose human rights have been threatened or violated, provides free legal advice to the citizens and also individual legal assistance to those who cannot afford but need it. Counsels are designated to different states to provide free legal services to the indigent across the country. It has been recognised that no meaningful development can ensue without the simultaneous availability of access to legal services that can be utilised to enforce all generations of rights and thus ensure the empowerment of all persons in the society. Springing from this premise, the concept of access to justice has attained the status of a right in the society today as it promotes establishment of a legal culture that contributes to development processes.

The vision of the founding fathers of the Legal Aid Council was to see a new Nigerian nation where there is equal access to justice for all, irrespective of means and where all Constitutional rights are respected, protected and defended to ensure justice for all. This is reflected in its motto which is 'Giving Voice to the Voiceless' while the Mission Statement is 'To remain the leading and pro-active provider of free, qualitative and timely legal aid services in Nigeria, ensuring social justice and the emancipation of the oppressed, reprieve to the weak and vulnerable thereby giving voice to the voiceless.'

The Council is not without challenges according to Ayorinde Bolaji SAN the former Chairman of the Governing Board of the Legal Aid Council is of the view that the Council is faced with challenges of poor funding and logistics which is really affecting the efforts of the Council's staff members. Adebayo argues that it is only now that the Council is having its own building as headquarters while a visit to some of its states' offices shows that it needs one aid or the other. The staff are either being moved randomly from one building to another by their host state governments or are provided with office accommodation in remote areas; while in some cases, tables, chairs and other office furniture at these state offices are better imagined than seen. Ordinary stationeries are sometimes provided by indigent litigants. Official vehicles of the Council are in a state of despair in some of the states' offices and where available. The monthly financial grant to cover recurring costs of maintenance and utilities among others from the headquarters was no longer regular.

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6. CORRECTIONAL SERVICE CENTRE

Correctional service centers include probation, parole, jail, prison, and a variety of new community-based sanctions, such as electronic monitoring and house of arrest. Correctional service can be defined as a place delimited and declared as such by the law of the State and created to ensure restraint and custody of individuals accused or convicted of violating the criminal laws of the state. For example, section 2(i) of the Prisons Act states that:

(i) The Minister of Internal Affairs may by order in the Federal gazette declare any building or place in Nigeria to be a prison and by the same or subsequent order specify the area for which the prison is established.

(ii) Every prison shall include the grounds and buildings within the prison enclosure and any lock up house for the temporary detention or custody of prisoners newly apprehended or under remand which is declared by the minister by order in the Federal gazette to be part of the prison.

Thus, the pronouncement(s) of the Minister of Interior as stated above can create a prison within the geopolitical entity called Nigeria. Consequently, a prison can be described as a place where offenders are kept as punishment for crime committed. It also serves as a place where persons are kept while awaiting trial. Correctional agencies are to punish, to rehabilitate, and to ensure public safety.(Schmolka, 1982, p. 23) Prison as an institution of criminal justice administration plays two significant roles, that is, it produces the accused person for trial without delay at every adjourned date. This arises in situation where the accused is not granted bail but ordered to be remanded in prison custody. Therefore, the production of the accused by the prison authority will aid speedy administration of criminal justice.

It also rehabilitates accused persons in its custody. It is expected that the prison authority must put necessary things in place to ensure that the prisoner becomes better person in the future which is expected to enhance the administration of criminal justice by reducing crime rate. This means that the main function of the prison service is to keep the suspects in custody pending trial, or during trial as well as after conviction pending appeal or until expiration of their imprisonment.

It can therefore be said that a new goal of the Prison Service is to offer criminals a chance to be rehabilitated. It is on this premise that several correctional centres in Nigeria and Kwara State offer schooling and entrepreneurship training to prisoners, giving them opportunity to learn a vocation and thereby earn a legitimate living when they are back in the society. Also, religious institutions have presence in these correctional centres, with the goal of teaching ethics and instilling a sense of morality in the inmates.

The aims and objectives of modern correctional centre anywhere in the civilized world are protection of society, retribution, deterrence, reformation and rehabilitation of the convicted Inmates. The Nigerian Correctional Service Centre is in no way different from those stated above. It plays the role of safe custody of inmates to ensure recovery of those who serve the cause of disorder. Reformation and rehabilitation are very important and indeed are the dominant aspects of the aims and objectives of the Nigeria Prison Service.

Through these statutory roles, the Service is expected to create a Nigerian society void of crimes and violence. The Nigerian correctional centre is a sensitive stakeholder in the criminal justice system. Thus, imprisonment serves to deter both the prisoner and the public at large. This is because everybody fears deprivation of liberty, however short. Hence imprisonment terrorizes the majority of people and tends to make them better law abiding citizens.

Today, Nigeria has 240 modern correctional service centre as at 2020 spread across the 36 states and the Federal Capital Territory of Abuja.(Dada, 2015,p. 443) There are maximum, medium and

minimum security prisons and some 'open' prisons in many metropolitan cities of Nigeria. There are two women's prisons in Nigeria located at Kirikirin in Lagos State as well as Numan in Adamawa State. It is a medium security prison and is located adjacent to the only maximum security prison in the country. (Alemika, 1983, p. 137) Nigeria has a centralised system of prison administration. In effect, every correctional centre in Nigeria is a Federal correctional centre.

It is a known fact that Nigeria correctional centres as well as the Police remand cells are congested with suspects awaiting trials, or under trials as well as those under investigation by the prosecuting police officers. Therefore, pre-trial detention has been a serious clog in the wheel of success of the Nigerian criminal justice administration.

It is therefore mandatory for the officers of the correctional centres to ensure that the defendants are being taken to court regularly to ensure further prosecution. It is against this background that Section 35(1)(f) of the Constitution provides that: 'A person who is charged with an offence and who has been detained in lawful custody the prison custody awaiting trial shall not continue to be kept in such detention for a period longer than the maximum period of imprisonment prescribed for the offence'. 'In support of the above provision, Onyekwere states as follows:

> Our criminal justice system as it is, is anti-people. This is because when you keep a suspect who is, presumed innocent until otherwise proven, behind the prison walls in the name of awaiting trial, he stays longer than what he should have served as a convict. Is that what you call justice system? That is why I regard the system as anti-people. What is needed to be done is to take a complete evaluation of our present criminal laws and criminal procedures. (Onyekwere, 2013, p.37)

7. CHALLENGES OF LEGAL FRAMEWORK OF INSTITUTIONS OF CRIMINAL JUSTICE

Having considered the various institutions and their legal framework, it is clears that each of the institutions are very important in the discharge of their function towards achieving efficient criminal justice in the magistrate court, However due to the independent nature of each institution operating together becomes a little bit difficult and causes delay in the discharge of criminal justice.

There are some loopholes in the legal framework that requires legislations to enhance efficiency in the administration of criminal justice.

There are equally many fascinating legislations that are just there in the law but yet to be implemented or the necessary tool for proper implementations are not provided.

8. CONCLUSIONS

In conclusion the legal frameworks of the institution of criminal justice administration as discussed in this paper are necessary tool for efficient justice delivery. Though due to the independent nature of each institution operating together becomes a little bit difficult and causes delay in the discharge of criminal justice. There is the urgent need to fill the existing loopholes in the legal framework and necessary tools must be put in place for the enforcement of the legal framework particularly the Administration of criminal Justice Act 2015 which is almost ten (10) years now and yet to gain full implementation.

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The paper recommends the need for synergy among the various independent institution of criminal justice.

The paper recommends a court manager that will act as a link or facilitator among the various institution of criminal justice to enhance synergy and efficient criminal justice administration.

The paper recommends the need for government of each of the thirty six (36) states of the federation and the federal government of Nigeria to provide all necessary tools and facilities for proper and adequate implementation of the Administration of Criminal Justice Act 2015 and the proper implementation of the already domesticated law in each of the State.

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