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**AN EXAMINATION OF THE OBLIGATIONS OF THE NIGERIAN
POLICE UNDER THE ADMINISTRATION OF CRIMINAL JUSTICE ACT
2015: CHALLENGES AND THE WAY FORWARD**

Oyovwikerhi Imoni-Ogbe*

Abstract

The Administration of Criminal Justice Act (ACJA) was enacted by the Nigerian National Assembly in 2015 to repeal the Criminal Procedure Code and the Criminal Procedure Act which were both in operation in the Northern and Southern regions of Nigeria respectively. It introduces some innovations aimed at ensuring the better protection of human rights of criminal suspects in Nigeria. Consequent on the above, the aim of this article is to examine the obligation of the Nigerian police and other security agencies to suspects under the ACJA in order to ascertain if its provisions are adequate in addressing the issues of human rights' violation of criminal suspects in Nigeria. In this light, the article examined among others issues bothering on apprehending of offenders, provision of humane treatment to suspects, and granting of bail to suspects in detention facilities. In achieving this, the author adopted the doctrinal research method which deals with the use of primary and secondary materials. The author found among others that section 18 of the ACJA having provided that a person may be arrested without warrant upon reasonable suspicion, the ACJA is silent on the elastic term-'reasonable suspicion'. This has vested the police with unrestricted discretion which may be used to violate the rights of Nigerian citizens. The article therefore recommends among others that section 18 of the ACJA should be urgently amended to define the elastic term – 'reasonable suspicion'. This is necessary to reduce the discretion of the Police in arresting citizens without warrant.

Keywords: ACJA, Human Right, Obligation, Police.

* Department of Private Law, Faculty of Law, University of Delta, Agbor, Delta State, Nigeria; kimoniogbe@gmail.com, +2347033154054, ORCID: 0009-0002-6207-0680

1.1 Introduction

Over the years, the Criminal Procedural Code (CPC)¹ and Criminal Procedure Act (CPA)² have guided the criminal procedure in the Northern and Southern parts of Nigeria respectively. There is no doubt saying that human rights of persons may be violated by the police during the exercise of their statutory duties of criminal investigation and prosecution of suspects. In the face of the existence of the CPC and CPA, the Nigerian police and other security agencies have continued to violate human rights of Nigerian citizens with so much impunity.³ This fact necessitated the Nigerian National Assembly to enact the Administration of Criminal Justice Act (ACJA) in 2015 to address the issues of human rights' violations of suspects by officers of the Nigeria Police Force (NPF) and other security agencies vested with the statutory duties of arresting, detaining, investigating and prosecuting of suspects. The ACJA 2015 which is an Act of the National Assembly of Nigeria, has been adopted verbatim or near verbatim by all States of the Federation. Notwithstanding the innovations introduced by the ACJA, cases of human rights violations by the Nigerian Police persist.⁴ The central problem this research addresses is whether the provisions of the ACJA are adequate and effectively implemented to curb such violations. Particularly, the absence of clear definitions of key concepts—such as 'reasonable suspicion'—and the lack of enforcement mechanisms raise concerns about the effectiveness of the Act.

The aim of this research is, therefore, to examine the obligations of the Nigerian Police under the ACJA. The article is of the position that the courts are there to provide appropriate remedy for any breach. However, since the violations of human rights can lead to loss of lives, it is crucial to state that the courts cannot restore lives, and as such, issues of human rights of citizens should be specially accorded the necessary attention it deserves to fill the gaps in every legislation.

1.2 Obligations of the Nigerian Police under the Administration of Criminal Justice Act

The ACJA provides in section 112 that once a complaint is made at a police station with regards to an offence that requires an arrest without warrant,⁵ and such offence is triable by a court within jurisdiction,⁶ the complaint must be recorded in the police diary, read over to the complainant, and signed by the Charge Room Officer (CRO).⁷ This report known as the 'First Information Report'

¹ Northern Nigeria: Criminal Procedure Code (CPC), Cap C41 LFN 2004, 2 September 1990, Policinglaw, [accessed 22 February 2025], https://www.policinglaw.info/assets/downloads/1960_Criminal_Procedure_Code.pdf.

² Nigeria: Criminal Procedure Act (CPA), Cap C41 LFN 2004, 2 September 1990, Refworld, <<https://www.refworld.org/legal/legislation/natlegbod/1990/en/74476>> (accessed 22 February 2025).

³ N. J. Madubuike and O. K. Obayemi, 'Assessment of the Role of the Nigerian Police Force in the Promotion and Protection of Human Rights in Nigeria' (2019) 23(1) *Annual Survey of International & Comparative Law* 23.

⁴ O. Imoni-Ogbe and A. Henry, 'Reflection on the Evolution and Continuous Violation Human Rights in Nigeria' (2024) 2(1) *Western Delta University Law Journal* 17.

⁵ Administration of Criminal Justice Act, 2015 (ACJA), s 112(1)(a).

⁶ ACJA, s 112(1)(b).

⁷ ACJA, s 112(2).

(FIR)⁸ is significant, because it is a complaint made immediately after the occurrence of a crime when facts are fresh within the complainant's memory. This report helps in the investigation of the case⁹ and directs the Investigating Police Officer (IPO) to the complainant in charging the matter to court,¹⁰ or transferring the matter to the appropriate police department.¹¹ The obligation of the police under the ACJA are adumbrated in the following sub-headings.

1.2.1 Apprehending of Offenders

A police officer is authorised under the ACJA to make an arrest of any person he believes to have committed an offence.¹² The method and conditions under which a Police officer may make an arrest are the main innovations in the ACJA, not the authority to make an arrest itself.¹³ The following details describe these circumstances:

i. When a Police Officer can Arrest a Suspect

The ACJA in its section 18 provides for the circumstances under which a police officer may make an arrest without a warrant. The most significant among these provisions are: when there is a good reason to believe that the suspect has committed a crime,¹⁴ when the crime is committed in the police officer's presence,¹⁵ when the suspect is in possession of stolen property,¹⁶ or when the suspect obstructs the police officer while he is performing his official duties.¹⁷ Therefore, the courts must exercise caution while striking a delicate balance between granting adequate room to law enforcement officers to carry out their statutory duties, and the protection of the basic rights of Nigerian citizens.

The test to be applied under section 18 of the ACJA is that of a reasonable person acting objectively and without bias or emotion.¹⁸ Suspicion is the emotion or notion that someone has done something wrong or committed an infraction without having concrete evidence to support it.¹⁹ It is, thus, critical to specify exactly what constitutes this 'reasonable suspicion', and to what extent. It therefore follows that for a police officer to exercise this power with due caution, the conducts that may form such suspicion should be clearly defined. Again, the ACJA does not defined what amounts to reasonable suspicion in the entirety of the Act.

⁸ A. M. Adebayo, *Administration of Criminal Justice Act, 2015: Annotated with Cases and Comprehensive Notes* (Princeton Publishing, 2016), 2.

⁹ The ACJA, s 112(6).

¹⁰ ACJA, s 112(4).

¹¹ ACJA, s 112(5).

¹² ACJA, s 13.

¹³ Adebayo (n 8) 198.

¹⁴ ACJA, s 18(1)(a).

¹⁵ ACJA, s 18(1)(b).

¹⁶ ACJA, s 18(1)(d).

¹⁷ ACJA, s 18(1)(c).

¹⁸ Adebayo (n 8) 91.

¹⁹ Cambridge Dictionary, 'Suspicion', <<https://dictionary.cambridge.org/dictionary/english/suspicion>> (accessed 24 December 2024).

The ACJA provides that a police officer may make an arrest if a complainant or material witness files a complaint, and the police officer obtains a warrant for such arrest.²⁰ The Court of Appeal in *Fayose v State*,²¹ held that a court may only grant an applicant for the issuance of arrest warrant if there is a ‘statement on oath presented before the court, outlining all the important facts required for the court to use its discretion for the grant’. It should be noted that a police officer has the authority to make an arrest even if they do not have the arrest warrant in their possession; all they need to do is to provide the warrant to the suspect upon request as soon as possible after such arrest.²²

ii. Method of Arrest

The ACJA states that a police officer conducting an arrest must physically touch or confine the suspect’s body unless the suspect submits to his custody by word or conduct.²³ It is crucial to note that an arrest is made in order to ensure that the law is properly administered.²⁴ In *Yakundue and Others v Ekperieren and Others*,²⁵ the Court of Appeal defined an arrest as the ‘seizure, forcible restraint or keeping of a person in custody by legal authority in response to a criminal charge for the purpose of securing the administration of the law’. Consequently, for there to be an arrest, there must be actual confinement of the body by an official or unofficial authority.²⁶ In *Sadiq v The State*,²⁷ an appellant who refused to honour police invitation, was convicted for resisting arrest. The appellant was never arrested, hence the Court of Appeal overturned the conviction on the ground that the accusation of resisting arrest was not proven. Therefore, unless the applicant can demonstrate that he is being threatened with detention by actions or words, an invitation of the police without more do not amount to an arrest.²⁸ It, also, follows that for there to be an arrest, the suspect must have been physically confined, threatened to be detained, or the suspect must have wilfully submitted himself to the custody of the police.²⁹

iii. Arrest must not be carried out with Unnecessary Force

It should be noted that as a general rule of policing, a police officer is not allowed to treat suspects brutally or with excessive force while making an arrest.³⁰ The ACJA prohibits handcuffing, bounding, or otherwise restraining a suspect unless in any of the following three circumstances:

- a. where there is reasonable apprehension of violence or an attempt to escape; or
- b. the restraint is considered necessary for the safety of the suspect; or

²⁰ ACJA, ss 39 & 37.

²¹ [2010] LPELR-8658, Court of Appeal, Nigeria (CA).

²² ACJA, s 44.

²³ ACJA, s 4.

²⁴ ACJA, s 14.

²⁵ [2012] LPELR-2007 1, CA.

²⁶ Adebayo, (n 8) 17.

²⁷ [1982] 2 NCR 142, CA.

²⁸ C. Obiagwu *The New Criminal Law and Procedure of Lagos State* (LEDAP, 2016) 53.

²⁹ *ibid.*

³⁰ The Constitution of the Federal Republic of Nigeria 1999 (as amended) (CFRN), s 34(1).

c. by order of a court.³¹

The provision above aims to reduce the use of torture, cruel or human treatment while handling a suspect. However, it should be pointed out that a police officer must anticipate resistance from the suspect while preparing for an arrest, particularly in cases when the alleged offence is capital in nature. A police officer is allowed to make an arrest in such circumstance by using 'such force as may be reasonably required'.³² A police officer conducting a search for a suspect may, also, enter any home or place of business with the intention of apprehending the suspect if he has a warrant for the suspect's arrest or if he has reasonable suspicion that the suspect is there.³³ In the event that he is denied entry, he is entitled to break into such building or premises³⁴ and break out in order to free himself.³⁵ Nonetheless, the Supreme Court of Nigeria held in *Ibikunle v State*³⁶ that teargasing such building or premises for the purpose of gaining entry is not permitted by the law.

iv. Notification of Cause of Arrest

According to Section 8(1) of the ACJA, a police officer must notify the suspect of the reason for his arrest as soon as possible unless the suspect was arrested while attempting to escape from legal custody or while committing a crime.³⁷ This requirement would be satisfied with the provision of adequate details, including the date, location, and conduct in issue, rather than expressing same with the exact charge considered or in technical or precise terms used by the law prohibiting the act.³⁸ The Supreme Court of Nigeria reiterated this in *Ndukwe v Legal Practitioners Disciplinary Committee*³⁹ when the Court held that a police officer has a duty to inform the suspect of the specifics of the offence in a language he can comprehend. This is done to warn the suspect before he agrees to provide a statement in response to the charge or allegation made against him. The suspect must be provided with adequate information by the police officer to allow him to make an educated choice on whether or not to waive his right to legal representation. If this provision is not observed, a suspect may file a lawsuit against the police officer responsible for depriving him of this right.⁴⁰ It should be noted that the ACJA is silent on the consequence of not adhering to this provision. The author is of the view that the ACJA ought to have such provision in order to deter police officers from violating it.

It should be stated that Regulation 341 of the Nigerian Police Regulation provides that any police officer using his power in the course of performing his official duties is personally responsible for

³¹ ACJA, s 5.

³² Adebayo, (n 8) 14; and s 33(2)(b) CFRN.

³³ ACJA, s 12(1).

³⁴ ACJA, s 12(2).

³⁵ ACJA, s 13.

³⁶ [2007] LPELR-8086, Supreme Court of Nigeria (SC).

³⁷ ACJA, s 6(1); and CFRN 1999, ss 35(3) & 36(6)(a).

³⁸ Adebayo, (n 8) 22.

³⁹ [2007] LPELR-1978, SC.

⁴⁰ CFRN 1999, s 35(6).

any abuse of such power or action taken while acting in that capacity.⁴¹ However, the author is of the view that the provision of the said Regulation 341, is inconsistent with the doctrine of *respondeat superior* which means that ‘let the superior answer’.⁴² This is so, because the NPF is the employer and superior of all Police officers and as such should be responsible for any misuse of powers by its officers while carrying out their duties. Further on the discussion of the right of a suspect to be informed of the cause of his arrest, the Supreme Court of Nigeria in the case of *Rufia v The State*,⁴³ held that if it cannot be shown that the defendant was told in a language he could comprehend about the nature of his offence, the defendant may be discharged of the said offence.

v. Notification of the Rights of the Suspect

The ACJA requires a police officer in charge of a case to inform a suspect of his rights as follows:

- a. remain silent or avoid answering any question until after consultation with a legal practitioner or any other person of his choice;
- b. consult a legal practitioner of his choice before making, endorsing or writing any statement or answering any question put to him after arrest; and
- c. free legal representation by the Legal Aid Council of Nigeria where applicable.⁴⁴

The ACJA further stipulates that the authorities in charge of the suspect must inform their next of kin or relatives of their arrest at no expense to the suspect.⁴⁵ It should be stated that this provision which is an innovation in the ACJA is not contained in the CPA, and as such, the CPA fell short of this constitutional requirement. With the United States Supreme Court’s 1966 decision in *Miranda v Arizona*,⁴⁶ certain rights granted to suspects were widely acknowledged in common law jurisdictions⁴⁷ and were known as ‘Miranda rights’. The inclusion of this criterion in the ACJA aligns Nigeria’s criminal justice system with global best practices by prohibiting self-incrimination, particularly by weak suspects during protracted police investigations. It should be stated that even though the law is silent on the subject, if it is proven that a suspect was not informed of his right to remain silent, the court has the power to reject any statement that the police has forcefully extracted from such an arrested person as an involuntary statement.⁴⁸

⁴¹ Regulation 341 of the Nigeria Police Regulation can be seen in ‘Inter-Agency Consultative Committee on Election Security (ICCES)’ INEC Nigeria, [accessed 24 December 2024] <https://inecnigeria.org/wp-content/uploads/2020/06/CODE-OF-CONDUCT.pdf>.

⁴² Lisa Guerin, ‘Employer Liability for an Employee’s Bad Acts’, Nolo, published 10 April 2022, <https://www.nolo.com/legal-encyclopedia/employer-liability-employees-bad-acts-29638.html>.

⁴³ [2001] 7 SCNJ 122, SC.

⁴⁴ ACJA, s 6(2).

⁴⁵ *ibid*.

⁴⁶ 384 US 436 (SC). The Miranda rights in countries like the United States of America are a type of notification customarily-given by the Police to suspects who are arrested of their right to silence, or to have an attorney present before answering questions or providing information.

⁴⁷ Obiagwu, (n 28) 57.

⁴⁸ Adebayo, (n 8) 32.

vi. Abolishment of Arrest in Lieu of a Suspect

The ACJA prohibits arrest in lieu of a suspect.⁴⁹ Despite the fact that there is no legal provision permitting the arrest of someone in place of suspects, police officers often detain suspects' family members, friends, or acquaintances until such suspects submit themselves to the police.⁵⁰ This approach was widely condemned because it was perceived to be antithetical to natural justice.⁵¹ The Supreme Court of Nigeria in *Zubairu v The State*⁵² emphasised the two fold aim of criminal justice which are 'that the guilty shall not escape justice and the innocent shall not suffer ridicule'. Many detention and correctional facilities would be less congested if section 7 of the ACJA is properly implemented and enforced.

1.2.2 Provision of Humane Treatment to Suspects

The ACJA stipulates that a suspect must not only receive humane treatment,⁵³ but should not also be subjected to any kind of cruel, inhumane, or degrading treatment,⁵⁴ should not be arrested for civil or contractual disputes,⁵⁵ must be brought before a court as required by law or be released conditionally or unconditionally,⁵⁶ and must be tried in-line with the requirements of the law.⁵⁷ A person is presumed innocent until his guilt is proved. This is a fundamental tenet of criminal justice that is undermined by any cruel treatment of criminal suspects.⁵⁸ In handling an arrested suspect, deprivation of liberty is the only treatment allowed by the law against such suspect.⁵⁹ Hence, extrajudicial executions of suspects, use of violence against suspects, rape, threats, and physical and psychological abuse of suspects, are thus strictly forbidden and condemned. The necessities that the government is under obligation to provide in detention centres to protect the dignity of an arrested suspect in accordance with the law and international standards include minimum floor space, quality ventilation, sufficient sanitary and sleeping facilities, and nourishing food supplies.⁶⁰

The provision of section 27 of the Police Act 2020 (PA) provides that a person may only be held in detention as long as the law permits.⁶¹ In addition, the CFRN makes it clear that suspects must

⁴⁹ ACJA, s 7.

⁵⁰ [1997] 1 NWLR (Pt 48) 197, CA. Nigeria. In this case, the Court of Appeal condemned the act of Police officers who arrested other persons in place of suspects.

⁵¹ *ibid.*

⁵² [2015] 16 NWLR (Pt 1486) 524, SC.

⁵³ ACJA, s 8(1)(a).

⁵⁴ ACJA, s 8(1)(b).

⁵⁵ ACJA, s 8(2).

⁵⁶ ACJA, s 8(3).

⁵⁷ ACJA, s 8(4).

⁵⁸ Obiagwu, (n 28) 55; and CFRN, s 36(5).

⁵⁹ Adebayo, (n 8) 38.

⁶⁰ This is provided for under the United Nations Specialised Conferences, Standard Minimum Rules for the Treatment of Prisoners, United Nations, 30 August 1955, Refworld, [accessed 20 December 2024], <https://www.refworld.org/legal/otherinstr/un/1955/en/108625>; and A. M. Adebayo *Role of Police Officers in the Administration of Criminal Justice in Nigeria* (Princeton Publishing, 2012) 1.

⁶¹ PA s 27; and the ACJA, ss 30 & 32. It should be noted that these provisions can only apply where the offence is not capital in nature.

be brought before a court of competent jurisdiction within twenty-four hours of their arrest, provided that the court is located within forty kilometres radius or forty-eight hours when the radius exceeds forty kilometres.⁶² In *Shagari v The Commissioner of Police*,⁶³ the Court of Appeal held that ‘the arrest, detention, and continued detention of the suspect without granting him administrative bail within the stipulated twenty-four or forty-eight hours of his arrest is illegal, wrongful, unlawful, and constitute a blatant violation of his fundamental rights’. In a similar vein, the Court of Appeal held in *Mclaren v Jennings*⁶⁴ that where police officers arrest suspects for civil wrongs or breach of contract and are sued for damages, the act is considered unlawful, wrongful and illegal, because they have acted outside the purview of the law, on frolics of their own. Additionally, in *Arab Contractors Nigeria Limited v Umanah*,⁶⁵ the Supreme Court of Nigeria held that debt collection and loan recovery are beyond the scope of the police’s statutory duties under the PA 2020, which is to ‘maintain peace, law and order in the society’.⁶⁶

1.2.3 Granting of Bail to Suspects in Detention

The ACJA provides that an officer of the police may release a suspect upon entering into a recognisance, with or without sureties for a reasonable amount, if the officer believes that the investigation into the case cannot be concluded forthwith after the suspect has been arrested without a warrant of arrest for a non-capital offence.⁶⁷ This provision, which works in conjunction with section 27 of the PA, permits a police officer to release an apprehended suspect on bond while the investigation is ongoing or before the suspect is formally charged to court. Therefore, it is crucial to note that the ACJA does not include any provision that require a suspect to pay money for his bail.⁶⁸ However, the fact that some police officers are vengeful and charge suspects, innocent or not, for refusing to pay bail, is a contributing factor to indiscriminate arraignment of criminal suspects in courts⁶⁹ which leads to the backlog of criminal cases in Nigerian courts and correctional centres.⁷⁰

In *Shagari v The Commissioner of Police*,⁷¹ suspects who were arrested in May 2003 for non-capital offences were detained till September 2009 without bail. They were refused bail at every stage, even when they were charged before a Chief Magistrates’ Court and subsequently a High Court on appeal. This act was condemned and characterised as an inappropriate use of authority as well as an illegal and unfair detention of suspects by the Court of Appeal upon a subsequent appeal. Also, in *Suleman and Another v Commissioner of Police, Plateau State*,⁷² the Supreme

⁶² CFRN, s 35(5).

⁶³ [2007] 5 NWLR (Pt 1027) 257, 299, CA.

⁶⁴ [2002] LPELR-5784, CA.

⁶⁵ [2013] 4 NWLR (Pt 1344) 323, SC.

⁶⁶ PA, s 6.

⁶⁷ ACJA, s 31(1).

⁶⁸ It should be noted also, that Regulation 354 of the Nigerian Police Regulation prohibits Police officers from accepting gifts of any kind in the course of their official duties.

⁶⁹ Adebayo, (n 8) 104.

⁷⁰ *ibid.*

⁷¹ [2005] All FWLR (Pt 262) 450, CA.

⁷² [2008] LPELR-3126, SC.

Court stated that the purpose of granting bail is to ensure a suspect appear in his trial, and that bail should not be denied as a form of punishment. If suspects are arrested for a non-capital offences and they are not released on bail or charged within the time allowed by law, they have the option of filing an application, either in writing or orally,⁷³ to a court having competent jurisdiction over the offence for the court to order the production of the suspects, look into the circumstances, and grant bail where necessary.⁷⁴

The Court of Appeal further emphasised that the courts must take into account a number of factors when evaluating such an application as stated above.⁷⁵ These, include the nature of the charge, the strength of the evidence, the severity of the punishment, the suspect's prior criminal record, the possibility that the suspect will not appear in court for his trial, the likelihood that the suspect will tamper with witnesses or suppress evidence, the possibility of additional charges, and the requirement to obtain a social or medical report while the case is still pending.⁷⁶

In *Akpa v Federal Republic of Nigeria*,⁷⁷ the Court of Appeal stressed that any person who is unlawfully arrested and detained is entitled to compensation and public apology.⁷⁸ The ACJA mandates a police officer to take a suspect to a police station as soon as possible after an arrest,⁷⁹ and to provide him with all the resources reasonably required to aid the exercise of his legal rights to counsel, bail, and his defence.⁸⁰ Therefore, in order to give effect to the said provision of the Act, government should create and make certain resources accessible, including money and recharged phones.

1.2.4 Searching and Seizing of Property

The ACJA provide that when someone is arrested, he may be searched with force if it is deemed reasonably required,⁸¹ and any items discovered on him must be taken into safe custody.⁸² If the items discovered are linked to the crime committed, they may be held until the defendant is discharged or acquitted, and it makes no difference if the defendant has been granted bail during the trial or not.⁸³ Items found are often kept in the care of the Police exhibit keeper, who is in charge of looking after items that have been found on suspects.⁸⁴ If, upon police inquiry, no crime is found, the suspect may file a lawsuit to reclaim the properties if the police have refused to return them upon the suspect's request.⁸⁵ The ACJA mandatorily provides that a person of the same sex

⁷³ This can be done on behalf of a suspect by his legal representatives, relatives or friends.

⁷⁴ ACJA, s 32(1)(2) & (3).

⁷⁵ (n 71).

⁷⁶ *ibid.*

⁷⁷ [2012] 1 NWLR (Pt 1281) 403, CA.

⁷⁸ Nigerian Police Regulation 354 which provides that: (a) 'every Police officer shall be personally liable for any misuse of his powers, or for any act done in excess of his authority. (b) Used his public position for his private advantage'.

⁷⁹ ACJA, s 14(1).

⁸⁰ ACJA, s 14(2); and [2015] LPELR-24675, SC.

⁸¹ ACJA, s 9(1)(a). 'Unless he is wearing an apparel'.

⁸² ACJA, s 9(1)(b).

⁸³ *ibid.*

⁸⁴ Adebayo (n 62).

⁸⁵ Adebayo (n 62) 23.

with a suspect must conduct the search on the suspect in a respectable manner.⁸⁶ Due to the fact that everyone has the fundamental right to privacy and dignity of person, and because it is better to follow the law rather than risk it being abused or misunderstood, it is usually in the interest of justice for a female police officer to search a female suspect, and a male police officer to search a male suspect.

1.2.5 Mandatory Inventory of Properties of Arrested Persons

The ACJA provides that a police officer must take an inventory of all goods taken from a suspect after an arrest,⁸⁷ sign the inventory alongside the suspect, and provide a copy of the inventory to the suspect or his representative.⁸⁸ The ACJA, also, provides that the police officer may release the property on bond to the owner or other interested persons while the suspect is being arraigned in court,⁸⁹ or where the officer refuse the request, he shall report to the court⁹⁰ and in which case the court will make the appropriate decision.⁹¹

The Court of Appeal held in *Abah v Jabusco*⁹² that when police officers seize goods under the provisions above, they take ownership of the goods while they are in their care and they are obligated to return them to the bailor at the conclusion of the bailment period, unless they can provide a valid reason for not doing so. There have been humiliating instances when items that police officers recovered or evidence that were needed for prosecution were either lost or converted to the personal use of police officers.⁹³ The Supreme Court of Nigeria held in *Adekunle v The State*⁹⁴ that an individual does not have to wait until the trial is over to request delivery of properties that were confiscated during an arrest or inquiry if such properties do not form part of the exhibits of the case.

1.2.6 Records of Arrest

The ACJA stipulates that arrest records must be taken in the designated format⁹⁵ within a fair amount of time, but not more than 48 hours.⁹⁶ The alleged offence,⁹⁷ the time and circumstances of the arrest,⁹⁸ the suspect's full name, occupation and residential address,⁹⁹ the suspect height,¹⁰⁰

⁸⁶ ACJA, s 9(3). 'Except where it is urgent or impracticable in which case, the Police officer shall first be searched'.

⁸⁷ ACJA, s 10(1).

⁸⁸ ACJA, s 10(2). It should be pointed out that the refusal to sign inventory does not invalidate inventories.

⁸⁹ ACJA, s 10(4).

⁹⁰ ACJA, s 10(5).

⁹¹ ACJA, s 10(6).

⁹² [2008] 3 NWLR (Pt 1075) 526, 567, CA, Nigeria.

⁹³ [2006] ALL FWLR (Pt 332) 1452, SC, Nigeria.

⁹⁴ *ibid*.

⁹⁵ ACJA, s 15(1).

⁹⁶ ACJA, s 15(2).

⁹⁷ ACJA, s 15(1)(a).

⁹⁸ ACJA, s 15(1)(b).

⁹⁹ ACJA, s 15(1)(c).

¹⁰⁰ ACJA, s 15(1)(d)(i).

picture,¹⁰¹ fingerprints,¹⁰² and other forms of identification,¹⁰³ should all be included in the arrest record. Any additional activities regarding the arrested suspect should also be included in this record.¹⁰⁴ These provision of the ACJA are commendable, because they seek to prevent abusive and irrational pre-trial procedures,¹⁰⁵ and eliminate any uncertainty about the identification of the detained person, particularly with respect to any potential use of their prior criminal history. Nonetheless, the ability of the police is limited by lack of equipment and independent laboratories in state Commands of the NPF that would enable them conduct forensic investigation, as there is only one forensic laboratory and digital centre in the Federal Capital Territory, Abuja, and none in state Commands of the NPF.¹⁰⁶

1.2.7 Recording of Statement of Suspects

The ACJA provides for the mandatory writing of confessional statements by police officers, and this can also be electronically done.¹⁰⁷ The ACJA on the other hand, specifies that an oral confession made in compliance with the Evidence Act,¹⁰⁸ must be admitted into evidence.¹⁰⁹ This provision of the Act will go a long way to reduce cases of trial within trial, and by so doing, it will also reduce delayed criminal trials,¹¹⁰ thereby establishing that such statement was voluntarily made, which will eliminate all allegations of torture and violence.¹¹¹ Again, it should be stated that there are very few police contingent with electronic facilities that can aid the provision of the Act as per recording of confessional statements by electronic means.¹¹² It is, therefore, important to make provisions for electronic equipment that would ensure full compliance with the provisions of the Act in receiving confessional statements by electronic means.

Additionally, as provided by the ACJA, if a suspect desires to give a statement,¹¹³ a police officer must record it in the presence of the suspect's preferred legal practitioner,¹¹⁴ even if it is not a confession. In *Ola v Alaka*,¹¹⁵ the Court of Appeal held that a person is denied a fair hearing when he is denied the opportunity to represent himself with a legal practitioner of his own choice. Also, the Supreme Court of Nigeria held in *Federal Republic of Nigeria v Nnaji*¹¹⁶ that a

¹⁰¹ ACJA, s 15(1)(d)(ii).

¹⁰² ACJA, s 15(1)(d)(iii).

¹⁰³ ACJA, s 15(1)(d)(iv).

¹⁰⁴ ACJA, s 15(3).

¹⁰⁵ Such as vindictive, arrest in lieu and other indiscriminate arrests.

¹⁰⁶ N. D. Nte 'An Evaluation of the Challenges of Forensic Investigation and Unresolved Murders in Nigeria' (2012) 6(1) *African Journal of Criminology and Justice Studies* 157.

¹⁰⁷ ACJA, s 15(4).

¹⁰⁸ Evidence Act 2011 (EA), ss 27 & 28.

¹⁰⁹ ACJA, s 15(5); and LPELR-20759, CA.

¹¹⁰ [2013]10 NWLR (Pt 1362) 33, 371, CA.

¹¹¹ EA, s 29.

¹¹² Yinka Kolawole, 'NISER: Digital Policing 'll Enhance Effective Crime Control in Nigeria', Thisday, <<https://www.thisdaylive.com/index.php/2024/03/27/niser-digital-policing-ll-enhance-effective-crime-control-in-nigeria/>> (accessed 30 November 2025).

¹¹³ ACJA, s 17(1).

¹¹⁴ ACJA, s 17(2).

¹¹⁵ [2000] 5 WRN 113, 124, CA.

¹¹⁶ [2024] 10 NWLR (Pt 1947) 443, SC.

confessional statement of a defendant taken in the absence of his counsel or any person of his choice is not admissible and that such statement must be recorded in compliance with section 15(4) and 17(2) of the ACJA. However, there is no precise provision in the ACJA on the consequences or punishments for not adhering to this provision. The, also, ACJA stipulates that in cases where the suspect do not understand English language, an interpreter must record and re-read the statement of the suspect in the language he understands before the interpreter and suspect would sign the said statement.¹¹⁷

1.2.8 Monthly Reports by Police to Supervising Magistrate

The ACJA mandates that, on the last working day of each month, the police officer in charge of a police station or any agency authorised to make an arrest, must report all cases of arrests without a warrant made within the limits of their respective stations or agencies to the nearest Magistrate, regardless of whether the arrested suspects have been admitted to bail.¹¹⁸ This is intended to ensure a collective check on the activities of law enforcement agencies, and to foster cooperation among stakeholders of the criminal justice system.¹¹⁹ According to the Act, this report must be sent to different stakeholders of the criminal justice system within the state.¹²⁰ In the event that the said police officer fails to submit a report, the Magistrate will forward a report to the Chief Judge of the state in order to initiate necessary ‘remedial action’.¹²¹ Despite the fact that the ‘remedial action’ referenced in the section is not explicitly stated, it may be assumed that the term refers to a punitive step that the Chief Judge may take against the said police officer.

1.3 Implications of State ACJL Obligations on Federal Police Officers

It should be pointed out that the provisions of the ACJA have been enacted by the Houses of Assembly of the 36 States of the Federation.¹²² An important consideration in examining the obligations of the Nigerian Police under the ACJL of the States is the potential conflict of legislative competence. The Police Act, which governs the structure and duties of the NPF, is a federal law and does not fall within the legislative powers of the State Houses of Assembly. Despite this, several State ACJLs prescribe obligations for police officers operating within their jurisdictions. This situation raises a critical legal question: how can officers of a federal institution discharge obligations imposed by State legislation without undermining the constitutional separation of powers?

The implication is twofold. First, it underscores the necessity for careful harmonisation between federal and State criminal justice frameworks to ensure that police officers are not placed in a position of conflicting duties. Second, it highlights the potential need for the creation of State

¹¹⁷ ACJA, ss 17(3), (4) & (5).

¹¹⁸ ACJA, s 33(2).

¹¹⁹ ACJA, s 33.

¹²⁰ ACJA, s 33(3).

¹²¹ ACJA, s 33(5).

¹²² Partners West Africa Nigeria, ‘ACJL tracker’, <<https://www.partnersnigeria.org/acjl-tracker/>> (accessed 15 June 2025).

police forces or special State-level enforcement agencies tasked with implementing State ACJL provisions, without infringing upon the mandate of the NPF. Until such mechanisms are clarified, federal police officers remain constitutionally bound by the Police Act, and any State-imposed obligations risk legal ambiguity or non-compliance.

This analysis demonstrates that while the ACJL of States aims to strengthen human rights protections and procedural compliance, the federal character of the Police must be considered to avoid legal conflicts and ensure effective implementation of these obligations.

1.4 Conclusion

The criminal procedure of every legal system is sacrosanct in the protection of human rights of the citizens of every country. That of Nigeria is not an exception. It is perceived that the provisions of the CPC and CPA before the enactment of the ACJA have not adequately protected the rights of criminal suspects in Nigeria. The ACJA was enacted to repeal the CPC and CPA in order to address this defect. Thus, it expected that the provisions ACJA should adequately address the issues of human rights' violations of criminal suspects. This article examined the obligation of the Nigerian Police and other security agencies under the ACJA 2015. In this wise, it examined issues bothering on: apprehending of offenders; provision of humane treatment to suspects; granting of bail to suspects in detention; searching and seizing of properties; mandatory inventory of properties of arrested persons; records of arrest; records of statement; and monthly reports by the police to supervising Magistrate. It settled the argument on whether the provisions of the ACJA are adequate to address the issues of human rights' violations of suspects. The article takes the stance that though the provisions of the ACJA are not adequate, they are not sufficient to address issues of human rights' violations of suspects. However, the article observed among others that the provisions of the ACJA are not being implemented due to lack of necessary equipment that would facilitate the implementation of its provisions. Also, that the ACJA has not define the elastic term 'reasonable suspicion' in its section 18 which empowers a Police officer to arrest a person on reasonable suspicion of having committed an offence. It proffered recommendations which if implemented would eliminate or reduce the issues of human rights' violations of criminal suspects by the Nigerian Police in the course of performing their statutory duties.

A summary of findings during the research, are outlined as follows:

- i. It was observed that the provisions of the ACJA are adequate but they are being obeyed in breach by officers of the NPF.
- ii. It was observed that section 18 of the ACJA having provided that a person may be arrested without warrant upon reasonable suspicion, the ACJA is silent on the elastic term 'reasonable suspicion'. This has vested the police with unrestricted discretion which may be used to violate the rights of Nigerian citizens as the obligations of the Police under the said section is not clearly defined.

- iii. It was observed that there is need to have more electronic facilities in Police stations that can aid compliance with the provision of the ACJA as per recording of confessional statements by electronic means as provided for in its section 15(4).

The scourge of law is insufficient provisions in laws. The ACJA is not an exception. A critical recommendation that is worthy of note is that the inadequate provisions of the ACJA should be urgently addressed by the National Assembly of Nigeria. This is necessary, so as not to create the impression that the Nigerian Government itself is not serious with the extermination of the menace of incessant human rights violations by law enforcement officials. Other critical recommendations that are worthy of note are:

- i. The NPF should intensify efforts to give full implementation to the provisions of the ACJA. This can be done by training and retraining of police officers, particularly Investigating Police Officers on the provisions of the ACJA.
- ii. Section 18 of the ACJA should be urgently amended to define the elastic term – ‘reasonable suspicion’. This is necessary to reduce the discretion of the Police in arresting citizens without warrant.
- iii. The NPF should as a matter of urgency equip its stations with electronic facilities that can aid compliance with the provisions of the ACJA as per recording of confessional statements by electronic means as provided for in its section 15(4).