

Chapter 1 : INTRODUCTION TO NIGERIAN LEGAL SYSTEM(2) - Criminal proceedings ~ The Nigerian B

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Institution of Criminal Proceedings 1. Persons who have Power to Institute criminal Proceedings It is instructive to note that to institute a criminal proceeding is to initiate or start it; while to commence a criminal proceeding is to perform the first act or take the first step in the proceeding. In criminal proceedings, the question of who institutes criminal proceedings is fundamental. This is because a want of competence in the prosecutor will result in the entire proceedings, including any judgment obtained therefrom, being declared as a nullity. Under section of the Administration of Criminal Justice Act , which applies principally and exclusively to Federal Offences, prosecution of all offences in any court shall be undertaken by: Thus, a police officer is not competent to prosecute anybody for federal offences, unless the police officer is a legal practitioner. Also, the above enumeration of competent persons is subject to the provisions of the constitution relating to the powers of the prosecution by the Attorney General of the Federation. Conversely, in the case of state offences, there are broadly, four 4 classes of persons who can commence criminal proceedings against any person in Nigeria. These are the Attorney General, the Police, the Private prosecutor and the special prosecutor. We shall attempt a brief exposition of the principles of law governing criminal prosecution by each of these persons. Section 1 thereof states that the Attorney-General of the Federation shall have power: The Powers Conferred upon the Attorney-General of the Federation under Subsection 1 of this section may be exercised by him in person or through officers of his department. The following points are deducible from the foregoing. First, the power to institute and undertake does not or is not exercisable in a court martial. Also, in the case of a Federal Attorney General, it is exercisable in respect of Federal offences as contained in the Exclusive Legislative List; while in the case of State Attorney General, it is exercisable in respect of state offences created by state laws pursuant to the Concurrent Legislative Lists. Authority for this proposition is the case of *Anyebe v. However*, where a Federal enactment is meant to take effect as a state law, any offence so created shall be deemed to be a state offence, and in such a case, the State Attorney General and not the Federal Attorney General shall be competent to prosecute. The foregoing notwithstanding, a Federal Attorney General can delegate to the State Attorney General the power to institute criminal proceedings in respect of federal offences and vice versal. Again, the power so conferred is absolute and at the discretion of the Attorney General to determine who to prosecute and who not to prosecute. He has no obligation in a particular way; and the court of law has no power to question his discretion. Secondly, the power to take over and continue extends to proceedings begun by any other authority or person and is also absolute and subject only to the unquestionable discretion of the Attorney General himself; and the exclusion of a proceeding before a court martial. This power is however, subject to the provisions of Sections 3 and 3 of the CFRN which provides that in exercising his power under the section, the Attorney General shall have regard to the public interest, the interest of justice and the need to prevent abuse of legal process: *The State 12 SC Pt. See Attorney General of Kaduna State v. The power is also not subject to judicial review: The power can be exercised anytime before judgment is delivered and in respect of proceedings begun by other authority or person. The constitution is silent on the mode of exercising the power of nolle prosequi. However, statutes provide for how the power of nolle prosequi is to be exercised. Contrasting Nolle Prosequi with Withdrawal of a Case by Police or Other Prosecutors* It is opposite at this point to compare nolle prosequi with withdrawal of a case by police or other prosecutors. First, the latter is provided for under section 1 of the Administration of Criminal Justice Act and Section 73 1 of the Administration of Criminal Justice Repeal and Re-enactment Law, of Lagos State and refers to the power of a prosecutor to withdraw from prosecution. The two powers differ in the following respects: Whereas the effect of nolle prosequi is a discharge and not an acquittal; the effect of a withdrawal may be a discharge or an acquittal depending on the circumstances. See section 4 of the Administration of Criminal Justice Act and Section 71 3 of the Administration of Criminal Justice Repeal and

Re-enactment Law, of Lagos State; all to the effect that the discharge of an accused person pursuant to a plea of nolle prosequi shall not operate as a bar to any subsequent proceedings against him on account of the same facts. See the case of *Clarke v. The*. The general effect of the subsection is that where the accused person has not put in his defence, a withdrawal would lead to a discharge, but where he has already put in his defence, a withdrawal would lead to an acquittal. Under subsection 3 of section of the Administration of Criminal Justice Act, where a withdrawal is made before the defendant is called upon to make his defence, the court may in its discretion order the defendant to be acquitted if it is satisfied on the merits of the case that the order is a proper one. The court has a wider discretion in respect of withdrawal, for example, it can acquit even when the accused has not given his defence. The instructions of the Attorney General with respect to withdrawal need not be in any particular form; but in a case of nolle prosequi; it must be in writing and duly signed by the Attorney General. The power to withdraw is exercisable only in proceedings before a Magistrate Court "section 75 1 Criminal Procedure Act or in any trial or proceedings before a court court here means Federal High Court or High Court of the Federal Capital Territory - section 1 of the Administration of Criminal Justice Act or proceedings before a High Court and Magistrate Court" Section 73 1 of the Administration of Criminal Justice Repeal and Re-enactment Law, of Lagos State; while the power of nolle prosequi is exercisable in respect of proceedings before any trial court except a court marshal. This also means that whereas the power is exercisable in respect of state offences, the latter extends to federal offences. Furthermore, the power of institute criminal proceedings conferred on the Attorney General may be exercised by him personally or through officers in his department. Thus, the power is delegable. The delegation may be express or implied. That it is implied means that such a power is exercisable by the subordinate authorities even in the absence of an express authorization. However, the power of nolle prosequi cannot be impliedly delegated; but only expressly delegated; except in Lagos State since the Administration of Criminal Justice Repeal and Re-enactment Law, of Lagos State; is silent on the matter "see Section 71 1 of the Administration of Criminal Justice Repeal and Re-enactment Law, of Lagos State. Lastly, the powers delegated by the Attorney General in this regard may in turn be sub-delegated; since the maxim does not apply to criminal proceedings. A Police Officer Before the enactment of the Administration of Criminal Justice Act, the police had a statutory power to conduct criminal proceedings against any person accused of having committed an offence before any court of law in Nigeria, subject only to the power of the Attorney General in this regard: Section 23 of the Police Act, *Olusemo v.* However, with the enactment and coming into effect of the Administration of Criminal Justice Act, the powers of the Police to prosecute in Federal Courts and in the courts of the Federal Capital Territory has been prohibited; subject only to Police Officers who are qualified legal practitioners. Thus, by section of the Administration of Criminal Justice Act, which applies principally and exclusively to Federal Offences, prosecution of all offences in any court shall be undertaken by: Lastly, it is instructive, illuminating and important to note that the police can only conduct criminal proceedings in State High Courts after the Attorney General or a Law Officer in his Department has instituted such proceedings. However, in the case of a Magistrate Court, a police officer can institute criminal proceedings. Private Persons Private persons can initiate or commence criminal proceedings in Federal Courts and Courts within the Federal Capital Territory, if and only if that private person is a qualified legal practitioner. See section of the ACJA supra. In all other cases, a private persons can initiate or commence criminal proceedings. Two ways a private can institute criminal proceeding are a by laying a complaint before the court and b by filing private information. Indeed, private persons may institute criminal proceedings against a person alleged to have committed an offence by laying a complaint before a court: By that provision, the only limitation to the right of a private person to initiate criminal proceedings by complaint is where it appears from the enactment on which the complaint is founded that any complaint for such offence shall be made by a particular person or class or persons. There are a number of such provisions in the statute books: Section 98C 2 of the Criminal Code which provides that no proceedings for an offence under Sections 98, 98A or 98B summarily dealing with offence of official corruption shall be instituted against a judicial officer except on a complaint or information signed by or on behalf of the Attorney General of the Federation or by or on behalf of the Attorney General of the State in which the offence is alleged to have been committed. Section 52 2 of the

Criminal Code which provides that a person shall not be prosecuted for an offence under section 51 dealing with the offence of sedition without the written consent of the Attorney General of the Federation or of the State concerned. Section 1 of the Criminal Procedure Code which provides that no court shall take cognizance of an offence falling under Chapter XXI or Chapter XXIII of the Penal Code or under Sections to of the same code, except upon a complaint made by some person aggrieved by that offence, but where the person so aggrieved is a woman who according to the customs and manners of the country ought not to be compelled to appear in public or where the person is under the age of eighteen or is an idiot or lunatic or is suffering from sickness or infirmity unable to make a complaint, some other person may, with the leave of the court, make a complaint on his behalf or her behalf. Additionally, section of the ACJA and Section of the Administration of Criminal Justice Repeal and Re-enactment Law, of Lagos State make provision for the right of a private person to institute criminal proceedings and prescribes the conditions to be fulfilled when a private person wants to file private information. By those provisions, a private person may commence criminal proceedings by way of information upon fulfillment of the following conditions: Section 2 of the ACJA , states that where an application for consent to prosecute is made to the Attorney General of the Federation by a private legal practitioner and the Attorney General declines to grant such consent, he shall give his reasons for doing so in writing within Fifteen 15 working days from the date of the receipt of the application. Section of the ACJA provides that upon the fulfillment of the conditions above, a private person may sign the information and prosecute same. There is no equivalent provision in Lagos State, but Section 77 1 b ii of the Administration of Criminal Justice Repeal and Re-enactment Law, of Lagos State provides that criminal proceedings may be instituted in the High Court on information, filed by a private prosecutor pursuant to Section It is instructive to note that the law does not give the Attorney General discretion to endorse or not to endorse private information. Accordingly, where the Attorney General refuses to endorse a private information or charge, he may be compelled by an order of mandamus: Lastly, under the Criminal Procedure Code, Section c authorizes institution of criminal proceedings by private persons and this is done by the court taking cognizance of an offence from information received from persons other than a police officer such as private persons , if the court has reason to believe or suspect that an offence has been committed. Take Notice that the Criminal Procedure Code does not specify the requirement of a recognizance or surety by the private person or any deposit in lieu thereof. Special Prosecutors Subject to the new Administration of Criminal Justice Act , this is another class of persons who can commence and prosecute criminal cases. The phrase special prosecutor normally refers to any person be he a lawyer or not whose ordinary job is not public prosecution. The term is used to show that his role in that instant is a special assignment. In Nigeria, a special prosecutor is not so called because the statute or instrument of appointment refers to him as such. Furthermore, where a statute specifies a special prosecutor, no other person except the Attorney General can validly institute criminal proceedings in respect of a violation of the provisions of that statute. Also, in Nigeria, unlike what obtains elsewhere, a special prosecutor so mentioned by a statute need not be a lawyer. For example, under Section 98 of the Federal Capital Territory, Abuja, High Court Act, we have administrative officer and other person duly authorized in that behalf by or on behalf of the Attorney General or in revenue cases, authorized by Head of the Department concerned. However, this is subject to the new Administration of Criminal Justice Act Again, Section 66 1 of the Factories Act Cap FI LFN, provides that any inspector of factories may, although he is not a legal practitioner, prosecute, conduct or defend before a court any charge, information, complaint or other proceedings arising under the Act or in the discharge of his duty as an inspector. Excepts and links may be used, provided that full and clear credit is given to Onyekachi Duru Esq and www.

Chapter 2 : Essay criminal procedure code pakistan mcqs

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Judicial officers such as judges and magistrates have discretion to decide on cases they wish to handle however they are limited to Jurisdiction. Firstly, in accordance to territorial jurisdiction, section 4 1 of the penal code cap lays down the extent of the jurisdiction of the courts of Uganda. It should be noted that the general rule under this section is simply that the jurisdiction of Ugandan courts is confined to crimes committed within the territory of Uganda. Section 4 2 provides exceptions stipulated in s. Such as Treason, acts intended to annoy the person of the President, concealment of treason, terrorism, promoting of war on chiefs and many others. It should be noted however that under international law, there is no restriction on the competence of the court to prosecute its own nationals for crimes committed outside its territorial jurisdiction if this right to national jurisdiction is conferred by statute. The prosecution alleged that the accused while in the republic of Zaire obtained shs. It was held that s. The general rule is that every offence must be tried by a court within the local limits of the jurisdiction where it was committed under s. Should the accused be found outside the area in which the offence was committed, the court in whose local limits of jurisdiction he is found will have him brought before it and cause him to be removed, in custody, to the court having jurisdiction to hear the case under s. However where the offence is committed partly within and partly without the Local limits of jurisdiction, any court having jurisdiction in either the two places may hear the case with reference to s. Thirdly on jurisdiction, the power to try cases, where an offence is committed in Uganda within the territorial boundaries and is committed within the local limits of jurisdiction of a particular magisterial area, the judicial officer handling the case will still have to ask himself whether he has the power to try the case, or whether the court he presides over , has jurisdiction to hear the case. For instance the Anti Terrorism Act No 14 of section 6, provides thus; The offence of terrorism and any other offence punishable by more than ten years imprisonment under this act are triable only by the high court and bail in respect of those offences may be granted only by the High court. Only the High court has powers to try the offence of terrorism under the Anti terrorism Act. A chief magistrate may try any offence other than an offence in respect of which the maximum penalty is death. Example of these are murders, treason, rape, aggravated robbery, etc. However, a chief magistrate may pass any sentence authorized by law under section 1 a MCA. This means that he can pass a maximum sentence of imprisonment for life and can impose a fine of any amount. A magistrate grade 1 may try any offence other than an offence in respect of which the maximum penalty is death or imprisonment for life. In *Uganda vs Nicholas Okello HCB 22*, The charge in this case was for attempted defilement contrary to section 3 PCA cap of which the maximum sentence was 18 years imprisonment. The magistrate 1 tried this offence and sentenced the accused to 18 years imprisonment. He appealed against sentence and conviction. It was held that the magistrate had no powers to try such offence and therefore the trial was a nullity. A magistrate grade 2 may try any offence under any written law other than the offences and punishments specified in the first schedule of the MCA. Section 1 c MCA. The sentencing powers of a magistrate grade 2 are limited to imprisonment for a period not exceeding three years or a fine not exceeding half a million shillings S. In the *Uganda vs c. Kiwanuka [] HCB* , In this case the magistrate grade 2 tried the accused of the offence brought under the fire arms Act, which was an offence stipulated under the first schedule to the MCA to which a magistrate grade 2 had no powers to try. It was held that the conviction of the accused and sentence imposed on him by the magistrate grade 2 in disregard of the provisions of the first schedule was illegal. Article of the constitution gives a list of the courts of judicature in Uganda such as, the Supreme court which is a superior court of record and a final court but does not have original jurisdiction like high court but has appellate jurisdiction. With reference to article 2 of the constitution of Uganda provides that it hears appeals from the Court of appeal. The court of appeal has appellate jurisdiction and hears decisions of the high court with reference to article 2 of the constitution, also has powers to hear cases or petitions regarding any questions as to the interpretation of the constitution according to article , Constitutional court. According to

article 1 of the constitution, confers High court unlimited original jurisdiction in all matters with such appellate and other jurisdiction as may be conferred on it by the court or any other law. Section 1 of the T. A cap 23 provides that the high court has unlimited jurisdiction to try any offence under any written law and may pass any sentence authorized by law. Except that no criminal case can be brought under the cognizance of the high court for trial unless the accused person has been committed for trial to the high court in accordance with the M. Section 2 of the T. A provides the sentencing powers of the high court whereby it may pass any lawful sentence combining any of the sentences which it is authorized by law to pass. High court hears decisions of the Chief magistrate and magistrate grade 1 as provided in section 1 a of M. According to the law in Uganda, judicial officers are not entitled or empowered to make any phone calls to the accused to appear before court. There is a clear procedure on the issuing of summons. With reference to the Blacks law dictionary summon refers to a writ or process commencing the plaintiffs action and requiring the plaintiffs to appear and answer. A criminal summon is a simple court document that contains a number of facts justifying an inquiry into a complaint against an accused person and requiring him to attend the inquiry. It is a document issued by court to be served on the person addressed in it requiring that person to appear before court on the date specified in the document to answer charges brought against him or her. Most importantly every summon must be in writing, prepared in duplicate, signed and sealed by the magistrate or such other officer as the chief justice may from time to time direct with reference to section 44 2 of the M. Every summon must be directed to the person summoned and shall require him or her to appear at a place, date, time indicated therein before the court having jurisdiction to inquire into and deal with the complaint or charge as provided in section 44 2. In section 44 3 , a summon must also state shortly the offence with which the person against whom it is issued is charged. This is basically for purposes of letting the accused know and prepare for the charge he is being compelled to answer. Service of summons to accused is supposed to be in person. According to section 45 1 of MCA every summon must be served by a police officer or an officer of the court issuing it or any public servant but in practice, a summons is served by a police officer or an officer of the court called a process server. A summons must be served on to the persons to whom it is addressed personally but the section states, if practicable. The summons is served on the accused by giving him a duplicate of the summons and in practice he must sign the original copy of the summons. Section 45 2 of the MCA provides that every person on whom a summons is so served, shall if so required by the serving officer, sign a receipt of it on the back of the original summons. The person with whom the summons is left, if so required by the process server, must sign receipt of it on the back of the original summons. The procedure when service cannot be effected is provided in section 47 of the MCA, the process serving officer shall affix the duplicate of the summons to some conspicuous part of the house or homestead in which the person summoned ordinarily resides and thereupon the summons shall be deemed to have been duly served. Where the person summoned is in the active service of the Government or of the East African Community, the court issuing the summons shall ordinarily send it in duplicate to the head of the office in which that person is employed, and the head shall thereupon cause the summons to be served in the manner provided by section 45, and shall return it to the court under his or her signature with the endorsement required by that section. That signature shall be evidence of the service as provided by section 48 of the MCA. A summon can too be issued to a company with reference to section 49 of the MCA, that provides that service of summons on an incorporated company or other body corporate may be effected by serving it on the secretary, local manager or other principal officer of the corporation or by registered letter addressed to the chief officer of corporation or by a registered letter addressed to the chief officer of the corporation at the registered office of the company or body corporate in Uganda. Service of criminal summons on a body corporate can be done by sending the summons by registered mail addressed to the chief officer of the company, secretary, local manager or other principal officer of the company. These officers of a company are deemed competent to plead on behalf of the company. In showing proof that service was effected, section 50 provides where a summon can be served, that is at any place in Uganda. But before the court does so, it will be necessary to show by evidence that the accused was served and had deliberately refused to obey the summons. According to section 51 of the MCA, ordinarily proof of service of summons shall be given by calling the process server to give evidence on oath that service was

effected. But where the officer is not present or the summons was served outside the local limits of the jurisdiction of the issuing magistrate, proof may be effected by the person with whom the summons was left, swearing an affidavit before a magistrate and presenting the original summons duly endorsed in the manner described above. Even if the original summons is not endorsed, the affidavit shall be admissible in evidence if the court is satisfied from the statements made in it that service of the summons has been effected properly with reference to section 51 2 of MCA.

Chapter 3 : LAW RELATING TO INSTITUTION OF CRIMINAL PROCEEDINGS IN NIGERIA

OSTIEN, Philip, "Nigeria's Sharia Criminal Procedure Codes", in Philip Ostien, compiled and edited by, Sharia Implementation in Northern Nigeria A Sourcebook, Ibadan, Nigeria: Spectrum Books, , in vol. 4, The Sharia penal and criminal procedures codes, chapter 5, pp. , ISBN: (v.

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Chapter 4 : Criminal procedure - New York Essays

Criminal law and procedure essay: In recent years, criminal procedure place the weight of evidence for the prosecution, meaning it is the work of the prosecution side to attest that the defendant is accountable over any rational uncertainty.

An act or omission which renders the person doing the act or making the omission liable to punishment under this code, or under any Act, or Law, is called an offence. Offences are of three kinds, namely, felonies, misdemeanours, and simple offence. A felony is any offence which is declared by law to be a felony, or is punishable, without proof of previous conviction, with death or with imprisonment for three years or more. A misdemeanour is any offence which is declared by law to be a misdemeanour, or is punishable by imprisonment for not less than six months, but less than three years. All offences, other than felonies and misdemeanours, are simple offences. When a person, intending to commit an offence, begins to put his intention into execution by means adapted to its fulfilment, and manifests his intention by some overt act, but does not fulfil his intention to such an extent as to commit the offence, he is said to attempt to commit the offence. It is immaterial, except so far as regards punishment, whether the offender does all that is necessary on his part for completing the Commission of the offence, or whether the complete fulfilment of his intention is prevented by circumstances independent of his will, or whether he desists of his own motion from the further Prosecution of his intention. It is immaterial that by reason of circumstances not known to the offender it is impossible in fact to commit the offence. The same facts may constitute one offence and an attempt to commit another offence. The expression "the offender may be arrested without warrant" means that the provisions of this code relating to the arrest of offenders or suspected offenders without warrant are applicable to the offence in question, either generally or subject to such conditions, if any, as to time, place, or circumstance, or as to the person authorised to make the arrest, as, are specified in the particular case. Except when otherwise stated, the fact that an offence is within the definition of a felony as set forth in this code imports that the offender may be arrested without warrant. The expression "the offender cannot be arrested without warrant" means that the provisions of this code relating to the arrest of offenders or suspected offenders without warrant are not applicable to the offence in question, except subject to such conditions, if any, as to time, place, or circumstance, or as to the person authorised to make the arrest, as are specified in the particular case. When the term "carnal knowledge" or the term "carnal connection" is used in defining an offence, it is implied that the offence, so far as regards that element of it, is complete upon penetration.

Chapter 2 Parties to Offences 7. When an offence is committed, each of the following persons is deemed to have taken part in committing the offence and to be guilty of the offence, and may be charged with actually committing it, that is to say- a every person who actually does the act or makes the omission which constitutes the offence; b every person who does or omits to do any act for the purpose of enabling or aiding another person to commit the offence; c every person who aids another person in committing the offence; d any person who counsels or procures any other person to commit the offence. In the fourth case he may be charged either with himself committing the offence or with counselling or procuring its commission. A conviction of counselling or procuring the commission of an offence entails the same consequences in all respects as a conviction of committing the offence. Any person who procures another to do or omit to do any act of such a nature that, if he had himself done the act or made the omission, the act or omission would have constituted an offence on his part, is guilty of an offence of the same kind, and is liable to the same punishment, as if he had himself done the act or made the omission; and he may be charged with himself doing the act or making the omission. When two or more persons form a common intention to prosecute an unlawful purpose in conjunction with one another, and in the prosecution of such purpose an offence is committed of such a nature that its commission was a probable consequence of the prosecution of such purpose, each of them is deemed to have committed the offence. When a person counsels another to commit an offence, and an offence is actually committed after such counsel by the person to whom it is given, it is immaterial whether the offence actually committed is the same as that counselled or a different one, or whether the offence is committed in the way counselled or in a different way, provided in either case that the facts constituting the offence actually

committed are a probable consequence of carrying out the counsel. In either case the person who gave the counsel is deemed to have counselled the other person to commit the offence actually committed by him. A person who receives or assists another who is, to his knowledge guilty of an offence, in order to enable him to escape punishment, is said to become an accessory after the fact to the offence. In this section the terms "wife" and "husband" mean respectively the wife and husband of a Christian marriage. Chapter 3 Application of Criminal Law 10A. A person shall not be punished for doing or omitting to do an act of unless the act or omission constituted an offence under the law in force when it occurred. Where by the provisions of any Federal law the doing of any act or the making of any omission is constituted an offence those provisions shall apply to every person who is in Nigeria at the time of his doing the act or making the omission. But in any such case it is a defence to the charge to prove that the accused person did not intend that the act or omission should have effect in Nigeria. This section does not extend to a case in which the only material event that occurs in Nigeria is the death in Nigeria of a person whose death is caused by an act, done or omitted to be done, at a place not in Nigeria and at a time when he was not in Nigeria. But in any such case it is a defence to the charge to prove that the Focused person did not intend that the act or omission should have effect in the State. This subsection does not extend to a case in which the only material event that occurs in the State is the death in the State of a person whose death is caused by an act, done or omitted to be done, at a place not in the State and at a time when he was not in the State. Any person who, having while out of Nigeria counselled or procured the commission of an offence which is actually committed in Nigeria, afterwards comes into Nigeria, is by such coming into Nigeria guilty of an offence of the same kind, and is liable to the same punishment, as if he had been in Nigeria when the offence was committed. The provisions of section 13 shall apply in relation to Offences against a law of the State as they apply in relation to offences against a Federal law but as if references to Nigeria were references to the State. Any person who while in Nigeria procures another to do an act or make an omission at a place not in Nigeria of such a nature that, if he had himself done the act or made the omission in Nigeria, he would have been guilty of an offence, and that, if he had himself done the act or made the omission, he would have been guilty of an offence under the laws in force in the place where the act or omission is done or made, is guilty of an offence of the same kind, and is liable to the same punishment, as if the act had been done or the omission had been made in Nigeria. Any person who while in a State procures another to do an act or make an omission at a place not in the State of such a nature that if he had himself done the act or made the omission in the State he would have been himself guilty of an offence against a law of the State, and that, if he had done the act or made the omission he would have been guilty of an offence under the laws of the place where the act or omission is done or made, is guilty of an offence of the same kind, and is liable to the same punishment, as if the act had been done or the omission had been made in the State. Members of the armed forces and of the police forces of Nigeria are subject to the special laws relating to the forces to which they respectively belong, but are not exempt from the provisions of this code. Chapter 4 Punishments Subject to the provisions of any other written law, the punishments which may be inflicted under this code are death, imprisonment, caning, fine and forfeiture. Whenever a male person who in the opinion of the court has not attained seventeen years of age has been found guilty of any offence the court may, in its discretion, order him to be caned in addition to or in substitution for any other punishments to which he is liable. When any person is convicted of an offence under section 98, 98A, 98B, 99, , , , or , the court may, in addition to or in lieu of any penalty which may be imposed, order the forfeiture to the State of any property which has passed in connection with the commission of the offence or if such property cannot be forfeited or cannot be found of such sum as the court shall assess as the value of such property, and any property or sum so forfeited shall he dealt with in such manner as the Governor may direct. Payment of any sum so ordered to be forfeited may be enforced in the same manner and subject to the same incidents as in the case of the payment of a fine. When any person is convicted of an offence under section , , , or , the court may, in the addition to or in lieu of any penalty which may be imposed, order the forfeiture of any personal property which has been used in the commission of the offence or in respect of which the offence has been committed and may order such property to be destroyed or otherwise dealt with as to it may seem fit. Nothing in this code affects the prerogative of mercy where of exercised in accordance with the Constitution of the Federation. Chapter 5

Criminal Responsibility Ignorance of the law does not afford any excuse for any act or omission which would otherwise constitute an offence, unless knowledge of the law by the offender is expressly declared to be an element of the offence. A person is not criminally responsible, as for an offence relating to property, for an act done or omitted to be done by him with respect to any property in the exercise of an honest claim of right and without intention to defraud. Subject to the express provisions of this code relating to negligent acts and omissions, a person is not criminally responsible for an act or omission, which occurs independently of the exercise of his will, or for an event which occurs by accident. A person who does or omits to do an act under an honest and reasonable, but mistaken, belief in the existence of any state of things is not criminally responsible for the act or omission to any greater extent than if the real state of things had been such as he believed to exist. The operation of this rule may be excluded by the express or implied provisions of the law relating to the subject. Subject to the express provisions of this code relating to acts done upon compulsion or provocation or in self-defence, a person is not criminally responsible for an act done or omission made under such circumstances of sudden or extraordinary emergency that an ordinary person possessing ordinary power of self-control could not reasonably be expected to act otherwise. Every person is presumed to be of sound mind, and to have been of sound mind at any time which comes in question, until the contrary is proved. A person is not criminally responsible for an act or omission if at the time of doing the act or making the omission he is in such a state of mental disease or natural mental infirmity as to deprive him of capacity to understand what he is doing, or of capacity to control his actions, or of capacity to know that he ought not to do the act or make the omission. A person whose mind, at the time of his doing or omitting to do an act, is affected by delusions on some specific matter or matters, but who is not otherwise entitled to the benefit of the foregoing provisions of this section, is criminally responsible for the act or omission to the same extent as if the real state of things had been such as he was induced by the delusions to believe to exist. A person under the age of seven years is not criminally responsible for any act or omission. A person under the age of twelve years is not criminally responsible for an act or omission, unless it is proved that at the time of doing the act or making the omission he had capacity to know that he ought not to do the act or make the omission. A male person under the age of twelve years is presumed to be incapable of having carnal knowledge. Except as expressly provided by this code, a judicial officer is not criminally responsible for anything done or omitted to be done by him in the exercise of his judicial functions, although the act done is in excess of his judicial authority or although he is bound to do the act omitted to be done. A person is not criminally responsible for an act or omission if he does or omits to do the act under any of the following circumstances- 1 in execution of the law; 2 in obedience of the order of a competent authority which he is bound by law to obey, unless the order is manifestly unlawful; 3 when the act is reasonably necessary in order to resist actual and unlawful violence threatened to him, or to another person in his presence; 4 when he does or omits to do the act in order to save himself from immediate death or grievous harm threatened to be inflicted upon him by some person actually present and in a position to execute the threats, and believing himself to be unable otherwise to escape the carrying of the threats into execution: Whether an order is or is not manifestly unlawful is a question of law. A married woman is not free from criminal responsibility for doing or omitting to do an act merely because the act or omission takes place in the presence of her husband. But a wife of a Christian marriage is not criminally responsible for doing or omitting to do an act which she is actually compelled by her husband to do or omit to do, and which is done or omitted to be done in his presence, except in the case of an act or omission which would constitute an offence punishable with death, or an offence of which grievous harm to the person of another, or an intention to cause such harm, is an element, in which case the presence of her husband is immaterial. A husband and wife of Christian marriage are not criminally responsible for a conspiracy between themselves alone. A person who, being a member of a co-partnership, corporation, or joint stock company, does or omits to do any act with respect to the property of the co-partnership, corporation, or company, which, if he were not a member of the co-partnership, corporation or company, would constitute an offence, is criminally responsible to the same extent as if he were not such member. When a husband and wife of a Christian marriage are living together, neither of them incurs any criminal responsibility for doing or omitting to do any act with respect to the property of the other, except in the case of an act or omission of

which an intention to injure or defraud some other person is an element, and except in the case of an act done by either of them when leaving or deserting, or when about to leave or desert, the other. Subject to the foregoing provisions a husband and wife are, each of them, criminally responsible for any act done by him or her with respect to the property of the other, which would be an offence if they were not husband and wife, and to the same extent as if they were not husband and wife. But in the case of a Christian marriage neither of them can institute criminal proceedings against the other while they are living together. In this section, the term "property" used with respect to a wife means her separate property. Part 2 Chapter 6 Treason and certain other Offences Provided that nothing in this section shall prevent any act from being treason which is so by the law of England as in form in Nigeria. Any person who instigates any foreigner to invade Nigeria with an armed force is guilty of treason, and is liable to the punishment of death. Any person who- 1 becomes an accessory after the fact to treason; or 2 knowing that any person intends to commit treason, does not give information thereof with all reasonable despatch to the President or the Governor of the State or a peace officer, or use other reasonable endeavours to prevent the commission of the offence; is guilty of a felony, and is liable to imprisonment for life. Any person who forms an intention to effect any of the following purposes, that is to say- a to remove during his term of office otherwise than by constitutional means the President as Head of State of the Federation and Commander-in-Chief of the armed forces thereof; or b to likewise remove during his term of office the Governor of a State; or c to levy war against Nigeria in order by force or constraint to compel the President to change his measures or counsels, or in order to put any force or constraint upon, or in order to intimidate or overawe any House of the National Assembly or any other Legislature or legislative authority; or d to instigate any foreigner to make any armed invasion of Nigeria or of any of the territories thereof; and manifests such intention by an overt act, is guilty of a felony and is liable to imprisonment for life. A person charged with any of the felonies defined in this section is not entitled to be acquitted on the ground that any act proved to have been committed by him constitutes the offence of treason; but a person who has been tried, and convicted or acquitted, on a charge of any such offence cannot be afterwards prosecuted for treason in respect of the same facts. Any person who, without lawful authority, carries on, or makes preparation for carrying on, or aids in or advises the carrying on of, or preparation for, any war or warlike undertaking with, for, by, or against, any traditional chief, or with, for, by, or against any band of citizens, is guilty of a felony, and is liable to imprisonment for life. A person cannot be tried for treason, or for any of the felonies defined in the three last preceding sections, unless the prosecution is commenced within two years after the offence is committed. Any person who advisedly attempts to effect any of the following purposes, that is to say- a to seduce any person serving in any of the armed forces of Nigeria or any member of the police force from his duty and allegiance; or b to incite any such persons to commit an act of mutiny or any traitorous or mutinous act; or c to incite any such persons to make or endeavour to make a mutinous assembly; is guilty of a felony, and is liable to imprisonment for life. Any person who- a aids, abets, or is accessory to, any act of mutiny by; or b incites to sedition or to disobedience to any lawful order given by a superior officer, any warrant or other officer below commissioned rank and others inferior in rank to them and by whatever name described in any of the armed forces of Nigeria or any police officer, is guilty of a misdemeanour, and is liable to imprisonment for two years and to a fine of four hundred naira. Any person who, by any means whatever, directly or indirectly- a procures or persuades or attempts to procure or persuade to desert; or b aids, abets, or is accessory to the desertion of; or c having reason to believe he is a deserter, harbours or aids in concealing any warrant or other officer below commissioned rank and others inferior in rank to them and by whatever name described in any of the said armed forces, or any police officer, is guilty of a misdemeanour, and is liable to imprisonment for six months and to a fine of one hundred naira.

Chapter 5 : National Laws on Blasphemy: Nigeria

*Criminal Procedure Policy James Knight CJA/ October 17, David Klein * * Criminal Procedure Policy * The criminal procedure policy is initiated with a crime committed by a perpetrator. This process for the criminal can end at any of the various steps of the criminal process.*

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Chapter 6 : Criminal Law - Nigeria - Bibliography

Criminal procedure states the rule under which criminal cases are conducted. It involves investigation, prosecution, adjudication and the punishment of the crimes. A regular criminal proceeding, in the Continental legal system, is divided into three main parts: the investigating phase, the examining phase and the trial.

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Chapter 7 : Nigeria: Criminal Code Act (Chapter 77)

it applies to pre-trial criminal process, namely, report and investigation of complaints, arraignment and trial in a court of law, legal advice from the Ministry of Justice, judgment and execution of same.