

HUMAN RIGHTS IN THE ADMINISTRATION OF CRIMINAL JUSTICE IN INDIA AND NIGERIA: A FAIR TRIAL

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Abstract: The principles of fair hearing, fair trial and the rights of an accused person has been defined by many international instruments such as the Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, European Convention on Human Rights and Canadian Charter of Rights and Freedoms.

This research study the twin principles of fair hearing and fair trial as integral rights in the administration of criminal justice in the light of the international conventions and domestic laws of India and Nigeria using doctrinal research methodology. The research found out that the provisions of the Universal Declaration of Human Rights has been domesticated in India and Nigeria, the two countries share the same legal system, and have similar constitutional provisions with regards to human rights and criminal justice delivery but the two countries are facing serious challenges on the delay in disposition of criminal cases with India having more delays than Nigeria.

Keywords: Fair Hearing, Fair Trial, Criminal Justice, Accused person, Constitution.

Introduction: The concept of fair trial is based on the basic ideology that State and its agencies have the duty to bring the offenders before the law. In their battle against crime and delinquency, State and its officers cannot on any account forsake the decency of State behavior and have recourse to extra-legal methods for the sake of detection of crime and even criminals. For how can they insist on good behavior from other when their own behavior is blameworthy, unjust and illegal? Therefore the procedure adopted by the State must be just, fair and reasonable. Both Indian and Nigerian courts have recognized that the primary object of criminal procedure is to ensure a fair trial of accused persons.

in *Ezechukwu v. Onwuka*,¹ the Court of Appeal of Nigeria pointed out that:

“Fair hearing is a hearing which is fair to all parties to the suit, whether the plaintiff, defendant, the prosecutor, or the defense. It is a doctrine of substance and the question is not whether injustice has been done because of lack of fair hearing, rather... whether a party entitled to be heard has been given an opportunity of being heard....Fair hearing entails doing during the course of a trial all that will make an impartial observer to believe that the trial has been balanced... to both sides....”

In *Zahira Habibullah Sheikh and ors v. State of Gujarat and ors*² the Supreme Court of India observed *“each one has an inbuilt right to be dealt with fairly in a criminal trial. Denial of a fair trial is as much injustice to the accused as it is to the victim and to society. Fair trial obviously would mean a trial before an impartial judge, a fair prosecutor and an atmosphere of judicial calm. Fair trial means a trial in which bias or prejudice for or against the accused, the witness or the cause which is being tried, is eliminated.”*

The right to a fair trial is a fundamental safeguard to ensure that individuals are protected from unlawful or arbitrary deprivation of their human rights and freedoms, most importantly of the right to liberty and security of person.

Adversary Trial System of Criminal Justice and the Presumption of Innocence: The system adopted by the Indian criminal justice is the adversary system based on the accusatorial method.³ In adversarial system responsibility for the production of evidence is placed on the prosecution with the judge acting as a neutral referee. This system of criminal trial assumes that the state, on one hand, by using its investigative agencies and government counsels will prosecute the wrongdoer who, on the other hand, will also take recourse of best counsels to challenge and counter the evidences of the prosecution.

Supreme Court has observed “if a Criminal Court is to be an effective instrument in dispensing justice, the presiding judge must cease to be a spectator and a mere recording machine. He must become a participant in the trial by evincing intelligent active interest.”⁴

In *Himanshu Singh Sabharwa v. State of M.P. and Ors*⁵ the apex court observed that if fair trial envisaged under the Code is not imparted to the parties and court has reasons to believe that prosecuting agency or prosecutor is not acting in the requisite manner the court can exercise its power under section 311 of the Code or under section 165 of the Indian Evidence Act, 1872 to call in for the material witness and procure the relevant documents so as to sub serve the cause of justice.

Enforcement of criminal law remains primarily a function of federal and state governments in Nigeria. The criminal justice system of Nigeria is adversarial or accusatorial system in which an accused is presumed to be innocent till proven guilty.⁶ Every criminal trial begins with the presumption of innocence in favor of the accused. The burden of proving the guilt of the accused is upon the prosecution and unless it relieves itself of that burden, the courts cannot record a finding of the guilt of the accused. This presumption is seen to flow from the Latin legal principle *ei incumbit probatio qui dicit, non qui negat*, that is, the burden of proof rests on who asserts, not on who denies. This principle of Nigerian law is in *pari materia* with Indian law.

In *State of U.P. v. Naresh and Ors*.⁷ the Supreme Court observed “every accused is presumed to be innocent unless his guilt is proved. The presumption of innocence is a human right subject to the statutory exceptions. The said principle forms the basis of criminal jurisprudence in India.”

In *Kali Ram v. State of H.P*.⁸ the Supreme Court observed “it is no doubt that wrongful acquittals are undesirable and shake the confidence of the people in the judicial system, much worse; however is the wrongful conviction of an innocent person. The consequences of the conviction of an innocent person are far more serious and its reverberations cannot be felt in a civilized society.”

It is the duty of the prosecutor and defense counsel as well as all public authorities involved in a case to maintain the presumption of innocence by refraining from pre-judging the outcome of the trial.

Independent, Impartial and Competent Judges: The basic principle of the right to a fair trial is that proceedings in any criminal case are to be conducted by a competent, independent and impartial court. In a criminal trial, as the state is the prosecuting party and the police is also an agency of the state, it is important that the judiciary is unchained of all suspicion of executive influence and control, direct or indirect. The whole burden of fair and impartial trial thus rests on the shoulders of the judiciary in India.

The primary principle is that no man shall be judge in his own cause. Section 479 of the Code, prohibits trial of a case by a judge or magistrate in which he is a party or otherwise personally interested. This disqualification can be removed by obtaining the permission of the appellate court.

In *Shyam Singh v. State of Rajasthan*,⁹ the court observed that the question is not whether a bias has actually affected the judgement. The real test is whether there exists a circumstance according to which a litigant could reasonably apprehend that a bias attributable to a judicial officer must have operated against him in the final decision of the case.

In this regard section 6 of the Code is relevant which separates courts of Executive Magistrates from the courts of Judicial Magistrates. Article 50 of the Indian Constitution also imposes similar duty on the state to take steps to separate the judiciary from the executive.

Right against Double Jeopardy: A defendant may plead *autrefois acquit* or *autrefois convict* to a charge read out against him. These pleas are provided for in section 36 (9) of the Constitution of Nigeria. According to the constitutional provision, no person who proves that he has been tried by any court of competent jurisdiction or tribunal for any criminal offence and had either been convicted or acquitted shall again be tried for that offence or for a similar offence having the same elements as the previous offence shall be made to undergo a second trial.

This doctrine has been substantially incorporated in the article 20(2) of the Constitution of India and is also embodied in section 300 of the Cr. P.C.

In *Kolla Veera Raghav Rao vs Gorantla Venkateswara Rao*⁹ the Supreme Court observed that Section 300(1) of Cr.P.C. is wider than Article 20(2) of the Constitution. While, Article 20(2) of the Constitution only states that 'no one can be prosecuted and punished for the same offence more than once', Section 300(1) of Cr.P.C. states that no one can be tried and convicted for the same offence or even for a different offence but on the same facts. In the present case, although the offences are different but the facts are the same, hence, Section 300(1) of Cr.P.C. applies. Consequently, the prosecution under Section 420, IPC was barred by Section 300(1) of Cr.P.C. The impugned judgment of the High Court was set aside.

Knowledge of the Accusation: Fair trial requires that the accused person is given adequate opportunity to defend himself. But this opportunity will have no meaning if the accused person is not informed of the accusation against him. The Code therefore provides in section 228, 240, 246, 251 in plain words that when an accused person is brought before the court for trial, the particulars of the offence of which he is accused shall be stated to him.

In case of serious offences, the court is required to frame in writing a formal charge and then read and explain the charge to the accused person. A charge is not an accusation in abstract, but a concrete accusation of an offence alleged to have been committed by a person. The right to have precise and specific accusation is contained in section 211, Cr. P.C.

Right to Open Trial: Fair trial also requires public hearing in an open court. The right to a public hearing means that the hearing should as a rule be conducted orally and publicly, without a specific request by the parties to that effect. A judgment is considered to have been made public either when it was orally pronounced in court or when it was published, or when it was made public by a combination of those methods.

Section 327 of the Code makes provision for open courts for public hearing but it also gives discretion to the presiding judge or magistrate that if he thinks fit, he can deny the access of the public generally or any particular person to the court during disclosure of indecent matter or when there is likelihood of a disturbance or for any other reasonable cause.

Under section 36(4) of the Constitution of the Federal Republic of Nigeria, 1999 (as Amended), whenever any person is charged with a criminal offence, he shall unless the charge is withdrawn be entitled to a fair hearing in public. In other words, the room or place in which any trial is to be conducted shall be an open court to which the public may have access as far as it can conveniently contain them.¹⁰ The expression, "the public," however, precludes infants (other than an infant in arms) and children. They are not permitted in court during trials except such an infant or child is the person charged with the alleged criminal offence or is required as a witness. Where an infant or child is the person charged he could only remain in court for as long as his presence is necessary.¹¹

The proviso 6 to sub-section (4) of section 36 of the 1999 Constitution further classifies certain instances when the public may not be permitted during a criminal trial. These situations include:

- a) In the interest of defense, public safety, public order and public morality;¹²
- b) For the welfare of persons who have not attained the age of eighteen years;
- c) To protect the private lives of the parties to the proceedings;
- d) Upon the satisfaction of the court by a Minister of Government of the Federation or a Commissioner of a State that it would not be in the public interest for any matter to be publicly disclosed, the court may hear such evidence in camera;¹
- e) During the trials of juveniles; and
- f) When an enactment expressly requires that a trial shall be held in camera.

In all these circumstances when proceedings are being heard in camera, except the court expressly stated otherwise, *bona fide* representatives of mass media, court officials and legal practitioners appearing in the case are permitted in the court room.

In the case of *Naresh Sridhar Mirajkar v. State of Maharashtra*¹³ the Supreme Court of India observed that the right to open trial must not be denied except in exceptional circumstances. High court has inherent jurisdiction to hold trials or part of a trial *in camera* or to prohibit publication of a part of its proceedings.

In *State of Punjab v. Gurmit*¹⁴ the court held that the undue publicity is evidently harmful to the unfortunate women victims of rape and such other sexual offences. Such publicity would mar their future in many ways and may make their life miserable in society. Section 327(2) provide that the inquiry into and trial of rape or an offence under Section 376, 376-A, 376-B, 376-C or 376-D of the Indian Penal Code shall be conducted *in camera*.

Right to Counsel: The requirement of fair trial involves two things: a) an opportunity to the accused to secure a counsel of his own choice, and b) the duty of the state to provide a counsel to the accused in certain cases.

It is a cardinal principle in the administration of criminal justice that a party to a suit ought to have a legal practitioner to defend his interest in any case or matter. This right is constitutionally fortified by provision of section 36(6)(c) of the 1999 Constitution which boldly declares that an accused person shall be entitled to defend himself in person or by a legal practitioner of his own choice. Similarly, under the Administration of Criminal Justice Act 2015 both the complainant and the defendant are entitled to be represented in court by counsel of their own choices.¹⁵

Where the defendant chooses to defend himself in person, the law still requires the court to inform the defendant of his statutory and constitutional right to be defended by learned counsel and the consequences of his election not to be defended by such a legally trained person.¹⁶ A defendant who takes the risk of defending himself in person would be deemed to have waived his right and cannot be heard to contend that he was denied fair trial. Nonetheless, a defendant charged with a capital offence or an offence punishable with life imprisonment shall not be allowed to represent and defend himself in person, as the court is empowered to assign him a counsel.¹⁷

In the other hand, the Law Commission of India in its 14th Report has mentioned that free legal aid to persons of limited means is a service which a Welfare State owes to its citizens.

In India, right to counsel is recognized as fundamental right of an arrested person under article 22(1) which provides, inter alia, no person shall be denied the right to consult, and to be defended by, a legal practitioner of his choice. Sections 303 and 304 of the Code are manifestation of this constitutional mandate.

In *Khatri v. State of Bihar*¹⁸ the court held that the accused is entitled to free legal services not only at the stage of trial but also when first produced before the Magistrate and also when remanded. Further, article 39-A was also inserted in the Constitution as per 42nd Amendment, 1976, which requires that the state should pass suitable legislations for promoting and providing free legal aid. To fulfill this Parliament enacted Legal Services Authorities Act, 1987. Section 12 of the Act provides legal services to the persons specified in it.

In *Suk Das and Ors. v. Union Territory of Arunachal Pradesh*¹⁹, the court strengthen the need for legal aid and held that “free legal assistance at state cost is a fundamental right of a person accused of an offence which may involve jeopardy to his life or personal liberty. The exercise of this fundamental right is not conditional upon the accused applying for free legal assistance so that if he does not make an application for free legal assistance the trial may lawfully proceed without adequate legal representation being afforded to him. On the other hand the Magistrate or the Sessions Judge before whom the accused appears is under an obligation to inform the accused that if he is unable to engage the services of a lawyer on account of poverty is entitled to obtain free legal services at the cost of the State.

In *Mohd. Hussain @ Julfikar Ali Vs. The State (Govt. of NCT) Delhi*²⁰ the appellant an illiterate foreign national was tried, convicted and sentenced to death by the trial court without assignment of counsel for his defence. Such a result is confirmed by the High Court. The convict, is charged, convicted and sentenced under Sections 302/307 of Indian Penal Code and also under Section 3 of The Explosive Substances Act, 1908. Fifty six witnesses and investigating officer were examined without appellant having a counsel and none were cross-examined by appellant. Only one witness cross-examined to complete the formality.

Therefore it was held that every person has a right to have a fair trial. A person accused of serious charges must not be denied of this valuable right. Appellant was provided with legal aid/counsel at the last stage which amounted to denial of effective and substantial aid. Hence appellant’s conviction and sentence was set aside. Section 304 does not confer any right upon the accused to have a pleader of his own choice for his defence at State expenses. If, however, He objects to the lawyer assigned to him, he must be left to defend himself at his own expense.

Protection against Illegal Arrest: Section 50 provides that any person arrested without warrant shall immediately be informed of the grounds of his arrest. The duty of the police when they arrest without warrant is to be quick to see the possibility of crime, but they ought to be anxious to avoid mistaking the innocent for the guilty. The burden is on the police officer to satisfy the court before which the arrest is challenged that he had reasonable grounds of suspicion.

In *Pranab Chatterjee v. State of Bihar*²¹ the court held that Section 50 is mandatory. If particulars of offence are not communicated to an arrested person, his arrest and detention are illegal. The grounds can be communicated orally or even impliedly by conduct.

Section 57 of Cr.P.C. and Article 22(2) of Constitution provides that a person arrested must be produced before a Judicial Magistrate within 24 hours of arrest. In *State of Punjab v. Ajaib Singh*²² the court held that arrest without warrant call for greater protection and production within 24 hours ensures the immediate application of judicial mind to the legality of the arrest.

The decisions of the Supreme Court of India in *Joginder Kumar v. State of Uttar Pradesh*²³ and *D.K. Basu v. State of West Bengal*²⁴ made an observation making it obligatory on the part of the police officer to inform the friend or relative of the arrested person about his arrest and also to make an entry in the register maintained by the police. This was done to ensure transparency and accountability in arrest. Sec.160 of Cr. P.C provides that investigation by any police officer of any male below 15 years or any woman can be made only at the place of their residence. Section 46(4) provides that no woman shall be arrested after sunset and before sunrise, save in exceptional circumstances and where such exceptional circumstances exist, the woman police officer shall, by making a written report, obtain

the prior permission of the Judicial Magistrate of the first class within whose local jurisdiction the offence is committed or the arrest is to be made.

Proceedings in the Presence of the Accused: For the conduct of a fair trial, it is necessary that all proceedings related to the case should take place in the presence of the accused or his counsel. The underlying principle behind this is that in a criminal trial the court should not proceed *ex parte* against the accused person. It is also necessary for the reason that it facilitates the accused to understand properly the prosecution case and to know the witnesses against him so that he can prepare his defence. The Code does not explicitly provide for mandatory presence of the accused in the trial as section 317 provides that a magistrate may dispense with the attendance and proceed with the trial if personal presence of the accused is not necessary in the interests of justice or that the accused persistently disturbs the proceedings in court. The courts should insist upon the appearance of the accused only when it is in his interest to appear or when the court feels that his presence is necessary for effective disposal of the case. Court should see that undue harassment is not caused to the accused appearing before them. Section 273 of the Code provides that all evidence taken in the course of the trial shall be taken in the presence of the accused or if the personal attendance of the accused is dispensed with then the evidence shall be taken in the presence of his pleader.

For fair trial, the accused person has to be given full opportunity to defend himself. This is possible only when he should be supplied with the copies of the charge sheet, all necessary documents pertaining to the investigation and the statements of the witnesses called by the police during investigation. Section 238 makes it obligatory on the Magistrate to supply copies of these documents to the accused free of cost.

Article 14 of the Constitution of India ensures that the parties be equally treated with respect to the introduction of evidences by means of interrogation of witnesses. The prosecution must inform the defence of the witnesses it intends to call at trial within a reasonable time prior to the trial so that the defendant may have sufficient time to prepare his/her defence. In fairness to the accused, he or his counsel must be given full opportunity to cross-examine the prosecution witness.

In *Mohd. Hussain Julfikar Ali Vs. The State (Govt. of NCT) Delhi*²⁵ it was held that every person has a right to have a fair trial. A person accused of serious charges must not be denied of this valuable right. Appellant was not provided an opportunity to cross examine the fifty six witnesses. Only one witness was cross-examined to complete the formality. Hence appellant's conviction and sentence was set aside. In *Badri v. State of Rajasthan*²⁶, the court held that where a prosecution witness was not allowed to be cross examined by the defence on a material point with reference to his earlier statement made before the police, his evidence stands untested by cross-examination and cannot be accepted as corroborating his previous statement.

Right against Self-Incrimination: Clause (3) of Article 20 provides: "No person accused of any offence shall be compelled to be a witness against himself." This Clause is based on the maxim *nemo tenetur prodere accusare seipsum*, which means that "no man is bound to accuse himself."

In *State of Bombay vs. Kathi Kalu*²⁷, the Supreme Court held that "to be a witness" is not equivalent to "furnishing evidence". Self-incrimination must mean conveying information based upon the personal knowledge of the person giving the information and cannot include merely the mechanical process of producing documents in Court which may throw a light on any of the points in the controversy, but which do not contain any statement of the accused based on his personal knowledge. Compulsion means duress which includes threatening, beating or imprisoning the wife, parent or child of a person. Thus where the accused makes a confession without any inducement, threat or promise article 20(3) does not apply.

The Supreme Court of India in *Selvi v. State of Karnataka*²⁸ drew following conclusions:

- The taking and retention of DNA samples which are in the nature of physical evidence, does not face constitutional hurdles in the Indian context.

- Subjecting person to narco- analysis, Polygraphy and Brain fingerprinting tests involuntarily, amounts to forcible interference with person's mental processes, and hence violates the right of privacy as well as Article 20(3).
- A person administered the narco-analysis technique is encouraged to speak in a drug-induced State and there is no reason why such an act should be treated any differently from verbal answers during an ordinary interrogation.

In *Dinesh Dalmia v. State of Madras*,²⁹ the court held that the scientific tests resorted to by the investigating does not amount to testimonial compulsion. Hence, the petition was dismissed.

Delay in the Administration of Criminal Justice in India and Nigeria: Delay in the dispensation of justice affects fair trial and in most cases fair hearing, a case of armed robbery, homicide or even ordinary cases of two fighting, burglary and house breaking is lasting between three to five years or even more. (Okogbule, 2005) argue that number of circumstances could give rise to this delay: lawyers writing letters of adjournment of cases, inability of judges and magistrates to deliver judgments on time, failure of the police or prison authorities to produce accused persons in court for trial, the rule that once a magistrate or judge is transferred and a new one takes over a case, it has to start *de novo*, etc.³⁰

This is in spite of the fact that speedy trial is guaranteed by section 36 (1) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) which provides that:

"In the determination of his civil rights and obligations, including any question or determination by or against any government or authority, a person shall be entitled to a fair hearing within a reasonable time by a court or other tribunal established by law and constituted in such manner as to secure its independence and impartiality".

This provision has received judicial interpretation and application in several cases. See for example, *Ifeanyi Nwankwu and Another v. Oraegbunam Aniето, Esq.*³¹; *Governor of Ekiti State and 4 Others v. Prince James A. Osayomi and 2 Others.*³²

In the same vein, section 36 (4) of the Constitution provides that whenever any person is charged with a criminal offense, he shall be entitled to a fair hearing within a reasonable time by a court or tribunal.

Unfortunately, the Constitution of Nigeria does not define the meaning of the expression "within a reasonable time" as used in these subsections. The Supreme Court however had cause to define this phrase in the case of *Gozie Okeke v. State*³³ In his judgment, Justice Ogundare held that:

The word "reasonable" in its ordinary meaning means moderate, tolerable or not excessive. What is reasonable in relation to the question whether an accused has a fair trial within a reasonable time depends on the circumstances of each particular case, including the place or country where the trial took place, the resources and infrastructures available to the appropriate organs in the country. It is, therefore, misleading to use the standard or the situation of things in one or a particular country to determine the question whether trials of criminal cases in another country involves an unreasonable delay ... A demand for a speedy trial, which has no regard to the conditions and circumstances in this country, will be unrealistic and be worse than unreasonable delay in trial itself.

His Lordship went further to state that in ascertaining whether the trial of an accused person was held within a reasonable time, the following four factors are to be considered, namely, *"the length of the delay, the reasons given by the prosecution for the delay, the responsibility of the accused for asserting his rights and the prejudice to which the accused may be exposed"*.

The concept of speedy trial is an integral part of article 21 of the Constitution of India. The right to speedy trial begins with actual restraint imposed by arrest and consequent incarceration, and continues at all stages namely, the stage of investigation, inquiry, trial, appeal and revision.

Section 309(1) provides "in every inquiry or trial, the proceedings shall be held as expeditiously as possible, and in particular, when the examination of witnesses has once begun, the same shall be continued from day to day until all the witnesses in attendance have been examined, unless the Court

finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded.”³⁴

In *Hussainara Khatoon (IV) v. State of Bihar*³⁵ the Supreme Court declared that speedy trial is an essential ingredient of ‘reasonable just and fair’ procedure guaranteed by article 21 and it is the constitutional obligation of the state to set up such a procedure as would ensure speedy trial to the accused. The state cannot avoid its constitutional obligation by pleading financial or administrative inadequacy.

The Supreme Court in *A.R. Antulay v. R.S. Nayak*³⁶ issued guidelines for the time period during which different classes of cases are to be concluded. It was held “it is neither advisable nor feasible to draw or prescribe an outer time limit for conclusion of all criminal proceedings. While determining the alleged delay, the court has to decide each case on its facts having regard to all attending circumstances including nature of offence, number of accused and witnesses, the workload of the court concerned, prevailing local conditions etc.- what is called systematic delay.” The aforesaid decision came up for consideration in the case of *P. Ramachandra Rao*³⁷ and was upheld and reaffirmed.

In *Ranjan Dwivedi vs C.B.I Tr. Director General*[xx] the accused was tried for the assassination of Shri. L.N. Mishra, the then Union Railway Minister. The trial was pending for the past 37 years. In view of delay in completion of trial for more than 37 years from date of the trial the Petitioners presented Writ Petitions praying for quashing of the charges and trial. But it was held that the trial cannot be terminated merely on the ground of delay without considering the reasons thereof. Hence the petition was dismissed.

Universal Declaration of Human Rights, 1946 has been signed and domesticated by both India and Nigeria, the Declaration consists of 30 articles affirming an individual's rights which, although not legally binding in themselves, have been elaborated in subsequent international treaties, economic transfers, regional human rights instruments, national constitutions, and other laws. Articles 5 to 11 of the declaration adequately provides for the rights that if guaranteed in every criminal trial, the twin rights to fair trial and fair hearing is complied with.

Conclusion: The research found out that the provisions of the Universal Declaration of Human Rights has been domesticated in India and Nigeria but the two countries are facing serious challenges on the delay in disposition of criminal cases. The research found out that both India and Nigeria have adequate legislations that can promote and protect human rights in the administration of criminal justice which will correspondingly ensure fair trial and fair hearing. The two countries share similar legal system and have same constitutional provisions with regards to dispensation of criminal cases.

References:

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2. (2006) 3 SCC 374 at 395
3. Criminal Procedure Code, 1973
4. *Ram Chander v. State of Haryana*, (1981) 3 SCC 191
5. MANU/SC/1193/2008
6. Section 36(5) of the Constitution of the Federal republic of Nigeria, 1999 (as amended)
7. (2001) 4 SCC 324
8. (1973) 2 SCC 808
9. 1973 Cri LJ 441, 443, (Raj.)
10. (2011) 2 SCC 703
11. See also Administration of Criminal Justice Act 2015, section 494, which defines the term, “open court,” to mean “a room or place in which a court sits to hear and determine a matter within its jurisdiction and to which room or place the public may have access so far as the room or space can conveniently contain them.”

12. See Administration of Criminal Justice Act 2015, section 262. In addition, the law requires that where a child is alleged to have committed a crime, the provisions of the Child's Rights Act 2003 shall apply. See Administration of Criminal Justice Act, *ibid*, section 452(1). A similar provision was recognised under the repealed Criminal Procedure Act Cap. C41, *Laws of the Federation of Nigeria* 2004, section 206. See Administration of Criminal Justice Act *Ibid*, section 493, which repealed the Criminal Procedure Act, Criminal Procedure (Northern States) Act Cap C42, *Laws of the Federation of Nigeria* 2004 and the Administration of Justice Commission Act, Cap. A3, *Laws of the Federation of Nigeria* 2004.
13. Constitution of the Federal Republic of Nigeria, 1999, section 36(4)(a); Administration of Criminal Justice Act 2015, section 260
14. AIR 1967 SC 1
15. (1996) 2 SCC (Cri) 316
16. Section 267(1)
17. Administration of Criminal Justice Act 2015, section 267 (3)
18. Section 349 which makes elaborate provisions for non-appearance and non-representation of legal practitioner.
19. (1981) 2 SCC 493
20. (1986) SCC 401
21. Criminal Appeal No. 1091 of 2006
22. (1970) 3 SCC 926
23. AIR 1953 SC 10
24. 1994 SCC (4) 260
25. 1997 (1) SCC 416
26. Criminal Appeal No. 1091 of 2006
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28. AIR 1961 SC 1808
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33. (2005) 2 NWLR 67 at ratios, 71-72
34. (2003) 15 NWLR pt. 842 p. 25
35. Section 309(1) of the Criminal Procedure Code, 1973
36. (1980) 1 SCC 98 at 107
37. AIR 1992 SC 1701
38. (2002) 4 SCC 578
