NAME: Bob-Manuel, Jaeingor Mia

MATRIC NO: 18/LAW01/058

COURSE CODE: LPI 204

DATE: 14/04/2020

1. Criminal procedure is the process (commencing, conducting and concluding) by which a criminal case is prosecuted in court. It is also the process of administration of criminal justice in Nigeria where the body of laws and rules are used. Its sources include:
2. **Criminal Procedure Act**
3. **Criminal Procedure Code**
4. **Criminal Code**
5. **Penal Code**
6. **The Constitution**
7. **Magistrate Court Laws**
8. **High Court Laws**
9. **Police Act**

The High Court is a court of first instance for criminal matters as it has original jurisdiction. It has a comprehensive criminal procedure which fairly represents criminal procedure. Criminal Procedure exists in two stages: **pre-trial stage and court process.** The criminal procedure at a High Court is as follows:

1. **What is an indictment**
2. **Proofs of evidence**
3. **Arraignment and plea**
4. **Plea of guilty**
5. **Plea of not guilty**
6. **Prosecution**
7. **Submission of “No case to answer”**
8. **Defence**
9. **Closing address**
10. **Judgement**
11. **Discharge**
12. **Finding of guilt and sentence**

But for the purpose of this assignment, we shall outline the process from the arraignment stage.

 In the case of **Kajubo V State (1988)**, arraignment meant calling an accused person formally before the court by name at the beginning of criminal proceedings, to read to him the indictment or information brought against him and to ask him whether he pleads guilty or not guilty. An accused person may plead as follows:8888888[

1. Guilty
2. Not guilty
3. Guilty to a lesser offence
4. He may stand mute
5. Autrefois acquit: this means a plea that has been tried for the same offence before and has been acquitted. It is a fundamental right under the fair hearing provisions of the Nigerian Constitution.
6. Autrefois convict: this means a plea that he has been tried and convicted for the same offence on a previous occasion. He cannot be tried again. This is also an application of the rule against double jeopardy.

 However, a plea of not guilty kick-starts a trial. The counsel for prosecution always opens a criminal proceeding by calling evidence for the prosecution. He calls witnesses and examines each in chief and tenders any exhibit they may have. The witnesses are in turn cross-examined by the defence counsel and re-examined by the prosecuting counsel as may be necessary and the case for the prosecution closes. There may be plea bargaining. This is a situation in which there is negotiating and agreement for an accused to plead guilty to a lesser crime in exchange for the dismissal of the serious criminal charge brought against him and for a quick disposal of the entire criminal proceedings.

 At the end of the case for the prosecution, the defence counsel may submit that the prosecution has not produced sufficient evidence. Thus the accused has no case to answer and therefore the case should not proceed further. The defence makes the submission by addressing the court. The judge then makes ruling on this submission. The judge may accept the submission and make a ruling that the counsel has no case to answer. This ruling is a verdict of not guilty and the court may thereupon discharge and acquit the accused on merit or discharge but not acquit the accused if the submission succeeded just on a technicality and not on merit. However, where the judge rejects the submission, the trial proceeds and the accused has to state his case by giving evidence in his defence. After the close of the case for the defence, the counsel for both sides then make closing speeches by addressing the court from their filed written addresses. Both counsels try their best to push their arguments to make the most sense and get a ruling in their favour.

 After the closing addresses, the judge fixes a judgement for a date provided that it is not a summary trial. On the adjourned date, the court resumes sitting. The case is called and the judge begins to deliver his judgement. However, when it’s a summary trial, the judge may pronounce judgement there and then. In the judgement, the judge sums up, weighs or reviews the evidence for both sides. He states his reason for believing and accepting the case for either side and his reason for disbelieving the other. In essence, the judge may find the accused guilty or not guilty as the case may be. Where an accused has not been found guilty, on merit, the judge will dismiss the information or charges accordingly and discharge and acquit the accused person as provided under the criminal procedure law. on the other hand, if the prosecution failed on a technicality, then the court will usually discharge the accused but not acquit him.

 Where an accused is found guilty, before passing sentences, an allocutus, plea for mercy or leniency is usually made by the counsel for the defence. After the leniency plea, the judge passes sentence on the accused.

Sentences may include:

1. Imprisonment usually with hard labour
2. Fine
3. Death sentence
4. Caning
5. Deportation.

b. A criminal defendant has limited opportunities to challenge a conviction or sentence:

1. **Direct criminal appeal:** these are not like trial proceedings; they are completely different, even though they arise out of the same conviction. At the appeal stage, the goal is to convince the appellate court that an error at the trial court made the conviction or sentence unfair or contrary to law, warranting a different outcome.

2. **Clemency:** this is a form of relief that may reduce or alter a sentence but does not affect the conviction.

3. **Pardon:** a pardon is a type of post-conviction relief that the president or governor can give an individual serving time in prison or facing other criminal consequences that essentially forgives the remainder of the sentence.

 Other remedies include sentence modification, remission, respite, modification of term of imprisonment, suspended sentence/ probation etc.

1. In a High Court, civil proceedings may be commenced by a counsel filing one or a combination of the following papers or originating processes in court:
2. Writ of summons or originating summons together with a statement of claim.
3. Ex parte motion, with or without a writ of summons and a statement of claim, this may be filed later.
4. Petition, as may be necessary, such as, in a matrimonial proceeding for divorce and so forth or winding up of a company for its inability to pay its debts in a Federal High Court and so forth.

 A writ of summons when filed is sealed or stamped with the courts name on it for service by a bailiff on the defendant to give him notice of the claim made against him and requiring him to acknowledge service and to defend it if he does not defend the claim. A statement of claim may be filed along with the writ or later on within 14 days of the service of the writ on the defendant. In Lagos state, the writ of summons or originating process shall be accompanied by the statement of claim, list of witnesses, written statements, copies of every document to be relied on at the trial, written address in support of the action, and so forth, otherwise, it will not be accepted for filing at the registry.

 A writ or other originating process usually contains the following information:

1. The name of the plaintiff or claimant and his address
2. Name of the defendant and his address
3. Name of the plaintiffs solicitor and his business address for service of court process.

An indorsement of the claim against the defendant: a writ is required to be served on the defendant personally. The life of a writ is usually 12 months. In Lagos, it is 6 months within which time it has to be served, although its life may be renewed before it expires, to enable it be served. Where an action is commenced by any other originating process, such as a motion or a petition, it must also contain above mentioned particulars/ information.

REFERENCES

1. THE NIGERIAN LEGL SYSTERM- ESE MALEMI
2. [WWW.WIKIPEDIA.COM](http://WWW.WIKIPEDIA.COM) – what is arraignment