



An exploration of murder trials under the administration of criminal justice in Nigeria

Dr. Adekunbi Imosemi¹, Elizabeth Ejigbo²

¹ Senior Lecturer, Department of Jurisprudence and Public Law, School of Law and Security Studies, Babcock University, Ilishan-Remo, Ogun State, Nigeria

² School of Law and Security Studies, Babcock University, Ilishan-Remo, Ogun State, Nigeria

Abstract

Murder is a grievous offence which is frowned at by the law and the society. The two Codes in Nigeria have provided for it as an offence. In Nigeria, such crime is punishable by death and there are certain process and procedures for the trial. There are lot of problems which has made the trial of murder cases in Nigeria ineffective and lead to pervasion of justice. The whole essence of trying murder cases in court is to do justice to both the deceased person and to the defendant. In this paper, laws, statutes, cases, materials and processes was used to indict how murder cases are tried in Nigeria. After considering the legal framework of murder and the process and trial of murder cases in Nigeria. This study focuses on the inadequacies of such trial of murder cases and provide recommendations for an effective trial of murder cases in Nigeria in order for justice to be done to the general public.

Keywords: murder, grievous, recommendations, general public

Introduction

One of the most committed crimes in the society is Murder. It is morally and lawfully viewed as most heinous or culpable killing in any society^[1]. According to statistics, the official global murder rate per annum is rising toward one million^[2], and as a result of these, the lives of people around the world are in danger. In the words of Doyle, "There's scarlet thread of murder running through the colorless skein of life, and our duty is to unravel it and isolate it and expose every inch of it^[3]. There is a duty imposed on the judiciary system and members of the society to treat the cases of murder with utmost seriousness in order to promote deterrence, reproof, and correction and for the aim of justice for the accused. Also a nation can only strive when the lives of the citizens are protected. It would only be proper to carefully analyze the issues in murder cases, how it affects the territorial boundary of Nigeria and its citizens and the way forward in the prosecution of such crime.

In Nigeria, the willful termination of a person's life by another is frowned at by the society and even by the almighty God because of the importance of life. Murder has been and still is a societal epidemic, it is seen as a grievous offence which deserves a grievous penalty. People kill people based on many reasons, it could either be social, economic, religious, international violence, political, conflict, psychopath, psychology etc^[4], however this act is not justified. Murder denotes the act of a man unlawfully taking the life of another man, this act is associated with the

state of nature, which every society tries to prevent because it is a hideous crime which has to be curbed in order to ensure the continuous existence of humanity where there is a sense of security^[5]. The sociological perspective will be used in this research to determine the effect of murder on the society because sociology leans on the society, how murder affects the society whether positively or negatively. This literary work will be based on the story of human in a social community as regards to the aspect of murder.

In ancient times, a man was penalized for murder regardless of whether or not the death was as a result of his action or failure to act^[6] but nowadays this offence is carefully prosecuted in court to help distinguish between guilt and innocence and between murder and manslaughter based on the element of 'intention'^[7].

The effectiveness of the Nigerian criminal system is dependent on meeting the goals of deterrence and corrective measures. However, can we say that these goals have been met? Also considering the number of outrageous number of inmates awaiting trial in prisons, innocent persons who have been convicted for the offence of murder, guilty persons acquitted due to the inability of the prosecution to prove the offence of murder, the slow trial of murder cases in Nigeria due to the inadequacies of the law and system, inadequate infrastructures, corrupt judges and lawyers etc. has called to question the effectiveness of the trial of murder cases in

¹ Scott Phillips and Jamie Richardson, 'The Worst of the Worst: Heinous Crimes and Erroneous Evidence' (2016) 45 Hofstra Law Review 417.

² Peter Morrall, *Murder and Society* (Wiley 2006).

³ Arthur Conan Doyle, *A Study of Scarlet* (Ward Locke & Co 1887) 65.; Dennis J. Baker, Textbook on Criminal Law (Sweet & Maxwell and estate of Glanville Williams, 3rd edition, 2012) 363.

⁴ Khalid Sohali (*Eacpe.org*, 2019)

<<https://eacpe.org/content/uploads/2014/04/SEVEN-REASONS-TO-KILL.pdf>> accessed 14 January 2019.

⁵ Ethelbert Okey Lawrence, 'Nigerian and the Incidences of Homicide' (2015) 4/5 American International Journal of Social Science Volume 105 <http://www.aijssnet.com/journals/Vol_4_No_5_October_2015/11.pdf> Accessed 19 December 2018.

⁶ Olamide Olarenwaju, 'The Crime of Murder' (*djetlawyer*, 31 March 2016) <<https://djetlawyer.com/crime-of-murder/>> accessed 19 November 2018.

⁷ Law Reform Commission, Homicide: Murder and Involuntary Manslaughter (LRC No 87, 2008) paras 1.01.

Nigeria^[8]. Thus, from all that has been stated above, it is important for us to examine the provisions that are necessary for the establishment of murder, its legal framework with that of other jurisdictions, and providing probable recommendations.

Methodology

The research method to be employed in this project is a combination of doctrinal research and comparative research method. The reason for adopting the doctrinal approach is because of the provision of laws concerning the subject murder, legal preposition and doctrines. It is a research into law, legal concepts with the use of cases, statutes and rules. The comparative method is employed for the purpose of comparing the trial of murder cases in Nigerian and other foreign jurisdiction for example America. Primary and secondary sources of information shall be employed. The primary source shall include law reports, statutes and judicial precedents, while the secondary source shall include internet sources, articles, journals and textbooks. Focus will be directed on the materials that fall within the scope on this work.

Conceptual Framework: What is Murder?

The classic and most comprehensive definition of murder was given by Edward Coke who said: "Murder is when a man unlawfully killeth any reasonable creature in rerum natura under the king's peace, with malice aforethought either express by the party or implied by law so as the party wounded or hurt etc. die of the wound or hurt etc. within a year and a day after the same"^[9].

In analyzing his definition of murder, Edward believed that the criteria for a person to be murdered is when a person's life must have been taken unlawfully Coke also identified that only a reasonable creature can be murdered, and as such a victim must be a real person that is a human being^[10].

According to Chukkol, a person cannot be convicted for the death of an unborn child but could be held guilty for other offences^[11]. Medical experts have stated that once a person takes his first breath or at the beating of the heart such person will be deemed living^[12]. This view is supported by Section 5(2) of the Penal Code and Section 307 of the Criminal Code which provides^[13]. In Nigeria, the act of abortion is not considered as murder but a felony under the law which is punishable by a jail term of 14 years imprisonment since it is a criminal and an illegal act^[14].

Black's law dictionary defined murder as: "the crime committed where a person of sound mind and discretion (that is, of sufficient age to form and execute a criminal design and not legally "insane") kills any human creature in being (excluding quick but unborn children) and in the

peace of the state or nation (including all persons except the military forces of the public enemy in time of war or battle) without any warrant, justification, or excuse in law. With malice aforethought, express or implied, that is, with a deliberate purpose or a design or determination distinctly formed in the mind before the commission of the act, provided that death results from the injury inflicted within one year and a day after its infliction"^[15].

Theories and rationale for killing people

In considering the theories of murder, the discussion of crime, violence, the state and condition of the victim or victims, how murder can be heterogeneous, the social and cultural perspective of the killer, examine basic elements of murder that is the act of killing and the intention of the offender^[16].

Pathological & individual based theory: This theory is of the opinion that people commit crimes as a result of sickness or illness. This theory generally shares the same view with the pathological theory that crimes result from the fact that the individual has an abnormal condition^[17]. This idea is rooted in the tradition of western human sciences^[18]. In Pathological approach, the desire to commit crime is inherent (e.g. in the mind, brain, hormones, genetic makeup). Criminality is seen to be from within an individual^[19].

Another essential point in the pathological approach is the positivism in criminology. Where it is assumed that the procedure of natural science be used in order to the study criminality of the defendant. The basis of the result is dependent on examination and investigations on the objective, experimentation, measurement, qualitative and quantitative approach should be carried out. The positivist criminology started in the late 19th century where social problems were viewed through science^[20].

In order to explain a crime (act of murder), the body, the mind and the soul, psychological and biological factors are taken into consideration. It is safe to say that the Nigerian law provides that the mental element of the accused/defendant must be determined before an individual can be convicted for murder is actually considered in this theory^[21]. In the United States case, *Madison v Alabama*, Madison was not executed for the offence of murder which he was guilty of based on his mental illness^[22]. Positivists view human conduct to be determined by psychological, biological and psychiatric factors.

Social learning theory: There are many factors that

⁸ John Agbonika & Musa Alewo, 'Delay in the Administration of Criminal Justice in Nigeria: Issues from a Nigeria Viewpoint' (2014) 26 JLPJ 130.

⁹ Edward Coke, 'Murder' in *Institutes of Lawes of England* (1st edn, OCLC 1797) 47

¹⁰ Ibid in All Answers Ltd, 'Murder Cases | Unlawful Killing' (Lawteacher.net, December 2018)

<<https://www.lawteacher.net/cases/murder.php?vref=1>> accessed 21 December 2019.

¹¹ Kharisu Chukkol, *The Law of Crimes in Nigeria* (Revised edn, ABU Press Limited 2010) 284

¹² Ibid 285.

¹³ Penal Code, Cap 89, Laws of Northern Nigeria (1963) S.5(2); The Criminal Code, Caps 38, Laws of the Federation of Nigeria (2004) S.307.

¹⁴ The Criminal Code, Caps 38, Laws of the Federation of Nigeria (2004) S.228.

¹⁵ Black's Law Dictionary, 'What Is MURDER? Definition of MURDER' (*The Law Dictionary*, 2018) <<https://thelawdictionary.org/murder/>> accessed 11 October 2018.

¹⁶ Jay Corzine, 'Theories of Homicide' (2011) 15/4 SAGE 315 <<https://journals.sagepub.com/doi/abs/10.1177/1088767911424540>> accessed 20 December 2018.

¹⁷ Heidi Rimke, *The Pathological Approach to Crime: Individually Based Theories* (2010) 82

http://www.academia.edu/369087/The_Pathological_Approach_to_Crime_Individually_Based_Theories accessed 29 December 2018.

¹⁸ Ibid.

¹⁹ Heidi Rimke, *The Pathological Approach to Crime: Individually Based Theories* (2010) 82

http://www.academia.edu/369087/The_Pathological_Approach_to_Crime_Individually_Based_Theories accessed 29 December 2018.

²⁰ Ibid.

²¹ The Criminal Code, Caps 38, Law of the Federation of Nigeria (2004) S.316.

²² *Maidson v Alabama* (2019) U.S. 586.

determine why people commit murder. A social learning theory consider these factors but argues that such factors are not really sufficient justifications for committing such crime as murder ^[23]. Looking at the social learning theory a lot of factors are considered. They include:

The Learning of Aggression: We learn about aggression through the violence that happens around us e.g. through films, television, continual existence of violence in the family and living in a society full of violence. As a result of aggression everywhere which we consciously or unconsciously learn, it can evidently lead an individual to commit murder.

Childhood Experiences of Punishment: the physical punishment of a child from a parent can lead to assault which can have adverse effect on that child. The child may become very angry or go into depression. The research conducted by Palmers showed that murderers during their childhood have been frustrated much in their childhood both physically and psychological than those who did not commit murder ^[24].

In this theory, the conscience is considered and simply means a set of learned conditions as a result of punishment for misdeeds ^[25], and it can be said that the murderer failed to develop a well-conditioned conscience which would have prevented him from committing such act.

Economic Theory: This theory is of the view that people commit crimes and kill for money. People enter into contract for killing where parties enter into a contract for the sole purpose of killing a person for money. In the view of an economist, the act of paid killing is not an act of crime of passion but an act of commoditized choice. In such contract the parties are known as the hirer and a hiree but such contracts be legally binding based on the doctrine of *ex turpi causa non oritur actio* because it is an illegal act to kill someone ^[26]. In such contract the parties to such contract i.e. the hirer and the hiree are at risk and such risk includes detention and punishment for carrying out such contract to kill. Some other form of risk that comes as a result of such contracts includes blackmail, failed performance and all forms of exploitation. In Nigeria, the high rate of ritual killings, yahoo plus which have claimed the lives of young girls all in the name of making money is an evident reason why people kill ^[27].

This theory focused on the fact that people killed because of money. I support this view because even the bible says that money is the root of all evil ^[28] and the act of killing is regarded as evil.

Bio Psychological theory: This theory believes that people commit crime or tend to kill based on the abnormality of the offender or that he is sick. This has to be proved by

²³ *ibid*.

²⁴ David Lester, 'A Social learning Theory of Murder' (1987) 33 CSP 234 <https://www.researchgate.net/publication/320702816> accessed 21 December 2018

²⁵ *ibid*.

²⁶ Heidi Rimke, 'The Pathological Approach to Crime: Individually Based Theories' in *The Rise of Criminological Thought: The Legacy of the 17th, 18th, 19th and 20th Centuries*, University of Winnipeg (2010) 87 <http://www.academia.edu/369087/The_Pathological_Approach_to_Crime_Individually_Based_Theories> accessed 26 December 2018.

²⁷ Ebon Sessou & Others, 'What is Your Take on Rate of Ritual Killings, Yahoo Plus among Youths?' *Vanguard Newspapers* <https://www.vanguardngr.com/2018/12/what-is-your-take-on-rate-of-ritual-killings-yahoo-plus-among-youths/> accessed 27 December 2018.

²⁸ The Holy Bible, 1 Timothy 6:10 New International Version (NIV) (2011). Colorado Springs: Biblia Inc p.812.

medicine that the person is in need of treatment and cure. One aspect of criminality is that it can be proved by science and such approach is deterministic. In considering the legal responsibility of a person under the law, for a person to commit murder, that individual must have done such act through his free will and not determinism that defines the positivist approach ^[29].

The issue of the responsibility and criminality of those who have been scientifically classified as sick (insane persons) dates back in time. This has brought about the insanity defense to the crime of murder which was established as the M'Naghten Rules. Psychiatrists were of the opinion that punishing an individual who is not in the right state of mind or someone who is considered to be insane will be unfair, unjust and cruel ^[30]. Those who disagreed with this theory were of the opinion that disapprovals to the doctrine concerned charges is that it subverted the view of discretion and by extension the cherished classical liberal discourses of ethical responsibility, answerability, rationality and calculability in short, the delegacy of the topic. The weakness of the psychiatrists' theory is that not all persons convicted for the crime of murder has mental issues, psychopaths or sociopathic, however the focus has been on the individual offender rather than the crime using individualism ^[31].

Legal Framework on Murder in Nigeria

The relevant legitimate statutes in Nigeria legal frame work which provides for Murder as an offence is the Criminal Code and Penal Code. The statutes will be used to address the issues of murder in Nigeria, the legal framework will be considered for the offence of murder which is under the Nigeria Criminal Justice System. The Nigerian point of view of murder was established based on the laws gotten from the Britain during colonization and from that time till now, we still use those laws to determine the provisions and the offence of murder. The legal framework of Nigeria will be discussed below.

The provisions of the criminal code

Section 316 of the Criminal code defines murder while Section 319 of the criminal code provides that murder is an offence. By virtue of section 316 of the Criminal Code provides that, "except as hereinafter set forth, a person who unlawfully kills another under any of the following circumstances that is to say:-

"If the offender intends to cause the death of the person killed, or that of some other person; If the offender intends to do to the person killed or some other person some grievous harm; If death is caused by means of an act done in the prosecution of an unlawful purpose which act is of such a nature as to be likely to endanger human life; If the offender intends to do grievous harm to some person for the purpose of facilitating the commission of an offence which

²⁹ Heidi Rimke, 'The Pathological Approach to Crime: Individually Based Theories' in *The Rise of Criminological Thought: The Legacy of the 17th, 18th, 19th and 20th Centuries*, University of Winnipeg (2010) 87 <http://www.academia.edu/369087/The_Pathological_Approach_to_Crime_Individually_Based_Theories> accessed 26 December 2018.

³⁰ Heidi Rimke, 'The Pathological Approach to Crime: Individually Based Theories' in *The Rise of Criminological Thought: The Legacy of the 17th, 18th, 19th and 20th Centuries*, University of Winnipeg (2010) 88 <http://www.academia.edu/369087/The_Pathological_Approach_to_Crime_Individually_Based_Theories> accessed 26 December 2018.

³¹ *ibid*.

offence which is such that the offender may be arrested without warrant, or for the purpose of facilitating the flight of the offender who has committed or attempted to commit such offence; If death is caused by administering any stupefying or overpowering things for either of the purpose last aforesaid; If death is caused by wilfully stopping the breath of any person or either of such purposes; is guilty of murder”^[32].

In the first instance as provided for by the criminal code, once it can be established that the offender had the intention to cause the death of the victim who was killed then the individual will be guilty of murder. And it also means that when the defendant has the will to kill any other individual, in such circumstances will be liable for murder^[33].

In the second provision, when the offender has the motive to cause harm to either the person killed or any other individual will be said to have unlawfully killed a person in such a circumstance. It is immaterial that the offender did not purposely hurt that particular person who was killed. The fact is that he had the intention to cause grievous harm to the victim or another person.

Looking at the provisions of Section 316(1) and 316(2) of the criminal code, for murder to be committed, the offender must have intended to kill the victim who was killed or any other individual or cause any of them grievous body harm^[34]. It is irrelevant whether the motive for killing relates to the deceased but as far as there was an intention to kill or cause serious harm to the body. It is however important to note that though these circumstances explained above will constitute what murder is in our criminal code, in Section 320 of the criminal code, where there is a charge of attempted murder, the prosecution must prove beyond reasonable doubt that such intention of the defendant to kill or to cause grievous bodily harm but this won't be enough to sustain such charge^[35].

In the third case as provided for under Section 316(3) of the criminal code once the act done is probably going to jeopardize the life of a person when it is for the purpose of doing an illegal thing or for a reason which is not permitted or authorized by law, which will make such act detrimental, then the death that will emanates from such act will be considered as murder. It is trite law that such risky act which will bring about causing death and such unlawfully reason are the same^[36]. An example of this was in the case of decided case of *R v Gould* where D in an offer to obtain abortion for a lady presented a poisonous substance created from a blend of glycerin, Dettol and surf and the equivalent caused a corruption of the uterine divider room which resulted to death, D was indicted for murder on the basis of section 316(3) of the code^[37].

Also in the case of *R v Nicholas* the court held that the act of setting fire on the hotel which caused the death of the deceased was for an illegal purpose and therefore the performer of the act will be guilty of murder^[38]. Therefore it is not necessary whether the offender intended to hurt any

individual.

The fourth fifth and the sixth provisions envisage situations where the offender willfully does any serious harm to another person, that will help the commission of an illicit act or to promote flight of the offender who carried out or seek to carry out such offence, where the offender persistently gives or disperse any substance which can numb or overwhelm such injured individual or cease the breath of the individual in question, in the cause of allowing the doing of an illegal act or to help the flight of the offender who endeavored to carry out such crime, the offender will be guilty of murder and it won't be significant if he had intention to cause death or he did not realize that death might be the outcome^[39].

Section 316(5) of the criminal code initiates, an example is in the case of *Osadiaye v The state* where this provision was used that in the situation where the accused person administers anything to the victim which will render him numb or make him stupid for the purpose of doing an illegal act he will be guilty of murder if such victim dies as result of that^[40]. In the case of *D.P.P v Beard* the provision of Section 316(6) of the Criminal Code was reinstated where the accused in order to facilitate the commission of rape on the victim, grabbed her throat, he was guilty of the offence of murder^[41].

The Penal Code

Section 220 of the Penal Code provides for Culpable murder as^[42]; whoever causes death “by doing an act with the intention of causing death or such bodily injury as is likely to cause death; or by doing an act with the knowledge that he is likely by such act to cause death; or by doing a rash or negligent act, commits the offence of culpable homicide.”

Also Section 223 provides for Culpable homicide by causing death of person other than person whose death was intended; “if a person by doing anything which he intends or knows to be likely to cause death commits culpable homicide by causing the death of any person whose death he never intends nor knows himself likely to cause, the culpable homicide committed by the offender is of the description of which it would have been if he had caused the death of the person whose death he intended or knew himself to be likely to cause^[43].”

The penal code refers to murder as culpable homicide and under Section 220 of the Penal Code, culpable homicide was defined as when a person causes death when he or she does an act or cause injury to another person's body with the purpose of causing death or doing an act, with understanding that such action can likely cause the death of a person and by doing an hasty or careless act will be guilty of Culpable homicide^[44]. Looking at Section 220(a) of the Penal Code, it provides for intention of a person when doing an act which can result to murder. Intention can be associated with a lot of challenges as mentioned above, therefore for Intention to known, the defendant may in a murder case admits that he committed the crime of culpable homicide and also the court is allowed to infer intention

³² The Criminal Code, Caps 38, Laws of the Federation of Nigeria (2004) S.316.

³³ Cyprian Okonkwo, *Okonkwo and Naish : Criminal Law in Nigeria* (Second Edition, Spectrum Books Limited 2009) 231.

³⁴ The Criminal Code, Caps 38, Law of the Federation of Nigeria (2004) S.316.

³⁵ Ibid Section 320.

³⁶ *R v Nicholas* (1958) Qd W.N.46; *R v Hughes* (1952) 84 C.L.R.

³⁷ *R v Gould* (1960) Qd.R.283.

³⁸ *R v Nicholas* (1958) Qd W.N.46.

³⁹ The Criminal Code, Caps 38, Law of the Federation of Nigeria (2004) S.316.

⁴⁰ *Osadiaye v The State* (1977) 4 FSC 105.

⁴¹ *DPP v Beard* (1920) AC 479.

⁴² Penal Code, Cap 89, Laws of Northern Nigeria (1963) S.220.

⁴³ *ibid* S.223.

⁴⁴ *ibid* S.220.

from the situation that emanates from the action of the defendant ^[45]. A person would be seen to have intention to cause death if he deliberately smashes the head of the deceased with a machet and that was what caused the death of the deceased. From this scenario, it is safe for the court to imply that the defendant did not only anticipate the death of the deceased but wanted it ^[46].

Under the Penal Code, a number of murder cases are tried under Section 221(b) which says that “if the doer of the act knew or had reason to know that death would be the probable and not only a likely consequence of the act or of any bodily injury which act was intended to cause” ^[47]. Looking at this Section it is important to know what probable and likely consequence means. Section 19 of the Penal Code. Section 19(1) of the Penal Code provides that an act will refer to be a likely consequence if the happening of that consequence will cause no shock to a reasonable man. While Section 19(2) of the Penal Code defines what probable means, it provides that an act will refer to a probable consequence if the happening of that consequence is considered by a reasonable to be the natural and normal effect of the act ^[48]. Furthermore, according to Section 222(b) of the penal code, it is important to note that a person can only be liable for probable consequence and not likely consequence.

Recommendations

Review of Some of the Provisions on Murder

The provisions of murder has not been reviewed since the adoption of the criminal and penal code after colonization. This author recommends that the provision of murder be divided into two degrees in order of gravity and the liability of killing to classify such murder as first degree murder or second degree murder. The provisions of first degree murder should include deliberate killings and killing with the purpose of causing grievous wound with the knowledge that such act might cause death, while Second degree murder should include other forms of killing with intention.

Rehabilitation of the Nigerian Police and Prosecuting Agencies.

The entire police system needs to be reformed. The government should organize a lot of trainings for the police like once in every two months where they learn how to apprehend criminals, how to use information communication technology, the use of surveillance system and forensic evidence to procure sufficient evidence which can be tendered in court to prove their case, how to present murder matters in courts, how to effectively keep records etc. They can organize seminars where police officers in developed countries can train the Nigerian police officers.

The Use of surveillance system in investigating murder cases

The use of surveillance security system should be provided and encouraged by the government to carry out investigations on murder cases. It involves the use of cameras known as CCTV, monitoring of phone calls and internet use, tracking of location with the use of IPS. This

has been seen as effective in investigation so as to determine the guilt or innocence of a person suspected to have committed murder. Nigeria can adopt how the surveillance system is used in countries like United States to investigate and get evidence which can be used to try a murder cases in court.

The Adequate Use of Forensic Evidence

The use of full forensic evidence should be adopted for the effective trial of murder cases in Nigeria as it has been embraced by some criminal justice systems of the world like the United States, Canada etc. The trial of murder cases in Nigeria is mostly based on witness evidence, circumstantial evidence, and examination of documents whether it corresponds to the claim of the accused etc.

Reformation of the Nigeria Criminal Justice System

Encouraging a faster and more effective trial of murder cases in Nigeria criminal justice system. By promoting effective communications with the parties necessary in such trial, by preventing unnecessary adjournment of murder trials. Also, training of staffs who work in courts by organizing seminars at least five times in a year where they are trained on how to effectively carryout their duties and use electronic devices to record murder trials and carryout other functions which would affect the trial of murder cases in Nigeria. Provision of e-infrastructures by the government which will aid the trial of murder cases, recording of court process electronically. The holding charge provision should be removed etc.

Conclusion

The trial of murder cases is very crucial to any criminal justice system in the world. Therefore, the process and trial of murder cases should be taken with the utmost seriousness it deserves. In Nigeria, one of the main reasons why it can be said that we have an ineffective trial of murder system can be attributed to our ineffective criminal justice system. Most of the institutions and organs that make up the criminal justice system who are involved in the process and trial of murder cases in Nigeria have one problem or the other. Starting from slow and awaiting trial of murder cases in Nigeria, most of the people in prisons are those who are awaiting trial of their cases, which can be attributed to lack of enough evidence, the courts relying heavily on documentary and circumstantial evidence with little or no use of forensic evidence and surveillance system etc. If we want to effectively try murder in Nigeria, then we have to address the defects in our criminal justice system and place more focus on the judicial system, which is the hope of justice to an average person.

References

Books

1. Baker D, Textbook on Criminal Law (Sweet & Maxwell and estate of Glanville williams, 3rd edition, 2012, 363.
2. Bamgbose O, Akinbiyi S, Criminal law in Nigeria Evans Brothers, Ibadan, 2015, 1
3. Buss D, The Murderer Next Door: Why the Mind is Designed to Kill New York Penguin Press, 2005.
4. Chukkol K, The Law of Crimes in Nigeria, Revised edn, ABU Press Limited, 2010, 284.
5. Coke E, Murder in Institutes of Lawes of England, 1ST

⁴⁵ Kharisu Chukkol, *The Law of Crimes in Nigeria* (Revised edn, ABU Press Limited 2010) 297.

⁴⁶ *ibid*.

⁴⁷ Penal Code, Cap 89, Laws of Northern Nigeria (1963) S221 (b).

⁴⁸ *ibid* S.19(2).

- edn, OCLC, 1797, 47.
6. Doyle A, *A Study of Scarlet*, Ward Locke & Co, 1887, 65.
 7. Morrall P *Murder and Society*, Wiley, 2006.
 8. New International Version (NIV), *The Holy Bible*, Colorado Springs: Biblicia Inc, 2011.
 9. Okonkwo C, *Criminal Law in Nigeria*, Second Edition, Spectrum Books Limited, 2009, 130.
 10. Ormerod D, *Smith and Hogan Criminal law*, 11th edn, OUP, 2005, 435.
 11. Adebayo AA, Social Factors Affecting Effective Crime Prevention and Control in Nigeria, 3 *International Journal of Applied Sociology*, 2013, 74.
 12. Agbonika J, Alewo M, Delay in the Administration of Criminal Justice in Nigeria: Issues from a Nigeria Viewpoint, 2014, 26 *JLPG* 130.
 13. Cameron S, Killing for Money and the Economic Theory of Crime, 72 *RSE* 10 <<https://www.tandfonline.com/doi/pdf/10.1080/00346764.2013.845336> > accessed 21 December, 2018.
 14. Chijioke C, Crime and Criminal Investigation in Nigeria: A Study of Police Criminal Investigation in Enugu State, *International Journal of African and Asian Studies*, 2013, 69.
 15. Idem UJ, Udofia NE, Sentencing and Administration of Criminal Justice in Nigeria, 4 *Donnish Journal Law and Conflict Resolution*, 2018, 001.
 16. Ukwayi J, Okpa J, Critical Assessment of Nigeria Criminal Justice System and the Perennial Problem of Awaiting Trial in Port Harcourt Maximum Prison Rivers State, 16 *Global Journal of Social Sciences*, 2017, 17.
 17. Jay Corzine, *Theories of Homicide*. 15/4 *SAGE Journals*, 2011, 315. <<https://journals.sagepub.com/doi/abs/10.1177/1088767911424540> > accessed 20 December 2018
 18. Lawrence EO, Nigerian and the Incidences of Homicide. 4/5 *American International Journal of Social Science* Volume, 2015, 105. <http://www.aijssnet.com/journals/Vol_4_No_5_October_2015/11.pdf>
 19. Mitchell B, Distinguishing between Murder and Manslaughter in Practice. 71/4 *SAGE Journals*, 2007, 318.
 20. Mohanty R, David Lyon, *Surveillance Studies: An Overview*, Polity: Cambridge, 26/2 *SAGE Journals*, 2011, 284.
 21. Morrall P, *Murder and Society: Why Commit Murder?* (2006) 69 *CJM* 36 2018 <<https://doi.org/10.1080/09627250608553401>> accessed 21 December, 2018.
 22. Paul Bourne and others, The Effects of Homicides and Economics on Human and Social Biology: A Mental Health Challenge for A Society? 17/2 *International Journal of Emergency Mental Health Resilience*, 2015, 498.
 23. Phillips S, Richardson J, the Worst of the Worst: Heinous Crimes and Erroneous Evidence, 45 *Hofstra Law Review*, 2016, 417.
 24. Adebuyi E, the Rights of an Accused Person under The Constitution (3), (*The Legal Diary*, 1999-2018. <<http://www.thelegaldiary.com/the-rights-of-an-accused-person-under-the-1999-constitution-3/>> accessed 9 March 2019.
 25. Adeyeye M, The Problem of Drugs/Substance Abuse in Nigeria: A Symposium (NAFDAC, 2018) <<https://www.nafdac.gov.ng/the-problem-of-drugs-substance-abuse-in-nigeria-a-symposium-by-professor-mojisola-christianah-adeyeye-director-general-nafdac-at-the-university-of-benin-benin-city/>> accessed 17 January 2019.
 26. All Answers Ltd, Actus Reus Lecture (Lawteacher. net, March 2019) <<https://www.lawteacher.net/modules/criminal-law/committing-an-offence/actus-reus/lecture.php?vref=1>> accessed 9 March 2019.
 27. All Answers Ltd, 'Murder Cases | Unlawful Killing' (Lawteacher.net, December 2018) <<https://www.lawteacher.net/cases/murder.php?vref=1>> accessed 21 December 2019
 28. Bethel AP, The Ingredients of Murder under the Nigerian Criminal Code (Lexadvocatus, 11 December 2016) <<http://www.lexadvocatus.com/2016/12/the-ingredients-of-murder-under.html>> accessed, 2019.
 29. Blinn KW, First Degree Murder—A Workable Definition, 1950. *JCLC* <<https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=3734&context=jclc> accessed, 2018.
 30. Bonn A, 'Malice Aforethought: Legal Definition & Examples' (Study Com, 2017) <<https://study.com/academy/lesson/malice-aforethought-legal-definition-examples.html>> accessed 23 December 2018
 31. Civil society on Police Reforms in Nigeria Report, (2012), <<http://www.noprin.org/CSO%20Panel%20Final%20Report.pdf>> accessed 21 January 2019.
 32. Cook D, 'Boko Haram Escalates Attacks on Christian in Northern Nigeria' (2012) 5/4 Volume 5, Issue 4 *CTC* <<https://ctc.usma.edu/boko-haram-escalates-attacks-on-christians-in-northern-nigeria/>> accessed 26 January 2019
 33. Council on Foreign Relations 'Boko Haram in Nigeria' (Council on Foreign Relations Inc., 2019) <https://www.cfr.org/interactives/global-conflict-tracker?marker-7#!/conflict/boko-haram-in-nigeria___> accessed 26 January 2019
 34. Elsner M, 'How to Reduce Homicide by 50% in the Next 30 Years' (2015) 6 *Violence Research Centre at the Institute of Criminology* <https://igarape.org.br/wp-content/uploads/2015/07/Homicide-Dispatch_1_EN.pdf> accessed 3 February 2019.
 35. Free Advice Staff 'What are the degrees of murder?' <https://criminal-law.freeadvice.com/criminal-law/violent_crimes/degrees.murder.htm> accessed 21 December 2018
 36. Frese S, 'Murder' (Crime Museum, 4 November 2015) <<https://www.crimemuseum.org/2015/11/04/murder/>> accessed, 2018.
 37. Goodman R. The Different Types of Murder : Explained – Criminal' (Goodman Law,) <<https://rossegoodman.com/criminal-defense-blog/the-different-types-of-murder-explained/>> accessed 19 December 2018
 38. Holmes L, 'Why Do Young People Commit Murder' (

- Verywell mind, 9 July 2018) <<https://www.verywellmind.com/why-do-young-people-murder-2330565>> accessed 13 January 2019
39. Jailman L, 'The Cost of Murder in Latin America and the Caribbean' (IDB Blog, 14 June 2017) <<https://blogs.iadb.org/ideas-matter/en/cost-murder-latin-america-caribbean/>> accessed 30 December 2018
 40. Leintz R, 'Forensic Evidence: Types, Definitions & Cases' (Study.com, 17 January 2019) <<https://study.com/academy/lesson/forensic-evidence-types-definition-cases.html>> accessed 21 January 2019.
 41. Lester D, 'A Social learning Theory of Murder' (1987) 33 CSP 234 <https://www.researchgate.net/publication/320702816> accessed 21 December 2018.
 42. Olarenwaju O, 'The Crime of Murder' (*djetlawyer*, 31 March 2016) < <https://djetlawyer.com/crime-of-murder/>> accessed 19 November 2018.
 43. Rimke H, 'The Pathological Approach to Crime: Individually Based Theories' (2010) 82 http://www.academia.edu/369087/The_Pathological_Approach_to_Crime_Individually_Based_Theories accessed 29 December 2018
 44. Simpson M, 'What Are The Causes of Murder?' (Quora, 2018) <<https://www.quora.com/What-are-the-causes-of-murder>> accessed 13 January 2019
 45. Sohali K. (*Eacpe.org*, 2019) <<https://eacpe.org/content/uploads/2014/04/SEVEN-REASONS-TO-KILL.pdf>> accessed 14 January 2019.
 46. US Legal, 'Forensic Evidence Law and Legal Definition | Uslegal, Inc.' (*Definitions.uslegal.com*, 2019) <<https://definitions.uslegal.com/f/forensic-evidence/>> accessed 24 February 2019.
 47. 'What Is MURDER? Definition of MURDER (Black's Law Dictionary)' (*The Law Dictionary*, 2018) <<https://thelawdictionary.org/murder/>> accessed 11 October 2018.
 48. Corrupt Dictionary, 'Corrupt Meaning In The Cambridge English Dictionary' (*Dictionary.cambridge.org*, 2015) <<http://dictionary.cambridge.org/dictionary/english/corrupt?q=corruption>> accessed 26 December 2018
 49. HarperCollins, 'Definition of Murder' (English Dictionary, 2018) <<https://www.collinsdictionary.com/dictionary/english/murder> > accessed 15 December 2018
 50. Black's Law Dictionary 'What Is TRIAL? Definition of MURDER' (*The Law Dictionary*, 2018) <https://thelawdictionary.org/murder/> accessed 1 November 2018.
 51. Agary K, 'The Defence of Provocation (1)' *Punch Newspapers* (15 May 2016) <<https://punchng.com/defence-provocation-1/>> accessed 15 January 2019.
 52. Altaher N & Ors, 'Saudi Prosecutors Seek Death Penalty as Khashoggi Murder Trial Opens' *CNN* (Middle East, 3 January 2019) <<https://edition.cnn.com/2019/01/03/middleeast/khashoggi-murder-trial-starts-intl/index.html>> accessed 15 February 2019
 53. Betram Nwannekanma, 'Agberos, A City's Untamed Monster' (*The Guardian Newspapers*, 4 March 2015) <https://guardian.ng/news/nigeria/metro/agberos-a-city-s-untamed-monster/> accessed 28 December 2018
 54. Bulusson D, 'The Pandora's Box of Awaiting Trial in Nigeria', *Daily Trust* (9 October 2018) [https://www.dailytrust.com.ng/the-pandoras-box-of-awaiting-trial-](https://www.dailytrust.com.ng/the-pandoras-box-of-awaiting-trial-in-nigeria.html)
[in-nigeria.html](https://www.dailytrust.com.ng/the-pandoras-box-of-awaiting-trial-in-nigeria.html) accessed 23 February 2019
 55. El-Rufai N, 'The Cost of Justice' *This Day Newspaper* (24 June 2011) 28.
 56. Ewere N, 'Beyond Reasonable Doubt' *Thetide News* (Port-harcourt, 22 October 2014) <http://www.thetidenewsonline.com/2014/10/22/beyond-reasonable-doubt/> accessed 24 January 2019.
 57. Fapohunda O, 'The State of Administration of Justice in Nigeria after 365 Days of the Buhari's Administration'
 58. Iriekpen D, 'A Failed Criminal Justice System', *THISDAY* (6 February 2018) <<https://www.pressreader.com/nigeria/thisday/20180206/282226601175126>> accessed 23 February 2019
 59. Malani A, 'Does the Felony-Murder Rule Deter Crime? Evidence from FBI Crime Data' (*Nytimes*, January 2002) <<http://www.nytimes.com/packages/pdf/national/malani.pdf> > accessed 20 December 2018
 60. Sessou E & Others, 'What is Your Take on Rate of Ritual Killings, Yahoo Plus among Youths?' *Vanguard Newspapers* <https://www.vanguardngr.com/2018/12/what-is-your-take-on-rate-of-ritual-killings-yahoo-plus-among-youths/> accessed 27 December 2018
 61. Smith L, 'NYT: Saudi Crown Prince Said He Would Use 'A Bullet' on Khashoggi' *CNN* (Middle East, 8 2019) < <https://edition.cnn.com/2019/02/08/middleeast/jamal-khashoggi-saudi-us-intl/index.html>> accessed 15 February 2019
 62. *THISDAY Newspaper*, Editorial; WHEN JUSTICE IS DELAYED.... Tuesday, June 7TH 2016, P15.
 63. Vanguard, 'Over 80 per cent of Prisoners in Nigeria are Awaiting Trial – PRAWA' *Vanguard Newspapers* (March 2018) <<https://www.vanguardngr.com/2018/03/80-per-cent-prisoners-nigeria-awaiting-trial-prawa/>> accessed 21 January 2019.
 64. HC Deb 28 November 2006, Vol 302, cols 28-36
 65. Law Reform Commission, Homicide: Murder and Involuntary Manslaughter (LRC No 87, 2008) paras 1.01