

TERRITORIAL JURISDICTION IN NIGERIAN CRIMINAL LAW

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Before the year 1967, Nigeria was a country which comprised of four regions: the Northern Region, the Western Regions, the Eastern Region and the Mid-Western Region. This number increased to 12 states in 1967. In the year 1976, the number increased to 19 states. It became 21 states in the year 1988, 30 states in 1991 and finally 36 states in 1996.

Furthermore, Nigeria practices a system of two codes of Criminal Law: the Penal Code and the Criminal Code. By the provision of **S.3(1) of the Penal Code** it is applicable in the Northern States while by the provision of **S.1A of the Criminal Code** it is applicable in the Southern States.

S.4 of the Penal Code establishes the territorial jurisdiction of the Penal Code. It provides that the provisions of the Penal Code shall apply to every person in Northern Nigeria at the time of doing the act or omission.

The practise of two codes for criminal law in the same country brings along with it the inherent problem of jurisdiction. In the case of ***Singh vs Fasi Okotie (1894) AC***, the presiding Justice observed:

“Territorial jurisdiction attaches to with special exception upon all persons permanently or temporarily resident within the territory. It does not follow after they have withdrawn from it and when they are living in another independent country. It exists always with the land within the territory.”

This means that if a law is restricted by territory, that law cannot be applied outside that territory.

However, if an offence is committed outside Nigeria but part of the offence is committed in Nigeria, the courts would acquire jurisdiction to try the case in Nigeria. In the case of ***R vs Osoba (1961) Vol 1 ANLR***, the appellant was convicted on charges of theft. He had by virtue of his position as Managing Director of a company directed, via a telegram in Lagos, that a particular sum of money be paid out from the company to a bank account in London.

On appeal, it was contended for the appellants that the trial court did not have the jurisdiction to try the case. The appellate court in dismissing the appeal held that the trial court had the jurisdiction since the initial element of the offence was carried out in Nigeria.

Thus, by the combined provision of **S.4 of the Penal Code and S.12A of the Criminal Code**, it is important to know which code would have jurisdiction in respect of criminal offences that occur within both jurisdictions. If a crime is one with multiple elements, with the initial and subsequent elements happening in different states, the position of the law is that each state has a right to try the offender and punish him as if all the elements of the offence was carried out in that state.

By the provisions of **S.12A(2)(b) of the Criminal Code**, if part of an offence was carried out in a state, and other parts of the offence were committed in another state. If the offender later comes into the initial state, he would be held liable as if he committed the whole offence in that state.

This was posited by the courts in the case of ***Sunday Okoro vs AG Western Nigeria (1966) NMLR***. In this case, the accused posted a letter in Port Harcourt which induced the fraud of certain people in Ibadan. The court held that the former Western region had the jurisdiction to try the case since an element of the offence occurred in its territory. See also ***Hanna vs State 1972 SC***.

The above provisions could raise some confusion as to whether or not the entry into the territory where the crime is concluded should be voluntary or by arrest. This was laid to rest by the court in the case of ***Patrick Njovens vs State (1973) NMLR*** where the court stated:

“we are satisfied that to construe the word “enter” in the subsection as meaning voluntary entry would be completely ridiculous since in that circumstance no criminal will ever enter a state when he knows that such entry may make him liable by the laws of the state.”

Thus, this means that entry into the territory in which the crime was concluded could be effected by arrest and is not necessarily voluntary.

However, this provision would not apply in a situation in which the only event that happens in the particular territory is the death of a person whose death was caused outside the territory: **S.12A(2) Criminal Code**. For example, if a person is wounded in a fight while in the southern region but he dies from the injury while in the Northern region, the code to be applied would be the Criminal Code.

SOURCES

1. Lecture delivered by Dr Mrs. M.A. Abdulraheem Mustapha
2. Okonkwo and Naish: Criminal Law in Nigeria
3. The Nigerian criminal Code
4. The Nigerian Penal Code