PRIVATE PROSECUTION IN
Nigeria:
Recent Developments and Some Proposals

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Introduction

In most modern legal systems the prosecution of offenders is conducted by government employed or appointed officials on behalf of the state. Nevertheless, it is generally recognized that private individuals also have an important role to play in this process. Recent developments in Nigeria, particularly the inauguration of the legal profession, have seen a surge of interest in the role which has for the most part been largely ignored.

This paper traces from a historical perspective the role of the private prosecutor in the criminal justice system which characterized Nigeria in the present day legal system, and in Nigerian traditional society. An analysis is then made of the present and possible role of the private prosecutor today, in order to stress the importance of the role and in order to identify and suggest the changes that may be needed to preserve the rights of the citizen to seek the legal service of a private prosecutor when otherwise there would be none.

Private prosecution in the sense used in this paper, refers to prosecution initiated by any person who is not a public official, whether by the complainant himself or by a private legal practitioner engaged by him; it does not refer to the situation whereby a prosecution, although initiated by the Attorney-General, is conducted by a private legal practitioner with the consent of the Attorney-General.

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Introduction
In most modern legal systems the prosecution of offences is conducted by government employed or appointed officials on behalf of the state. Nevertheless, it is generally recognised that private individuals also have an important, if somewhat diminished, role to play in this process. Recent legislation introduced into one of the 21 states of Nigeria has, however, partially abolished the right of private prosecution except in relation to the offence of perjury. This, and the additional controversy surrounding one man’s attempts to prosecute two government security agents for the murder of his friend, has generated a surge of interest in a topic which has for the most part been largely ignored.

This paper traces from a historical perspective the role of the private prosecutor in the criminal justice system both in England, which bequeathed Nigeria its present day legal system, and in Nigerian traditional society. An attempt is then made to examine the powers and obligations of the private prosecutor in Nigeria today, to assess the importance of that role in modern times and to identify and suggest the checks and balances that are needed to preserve the right of the citizen to seek judicial redress by private prosecution when otherwise justice would be denied.

Private prosecution in the sense used in this paper, refers to prosecution initiated by any person who is not a public official, conducted either by the complainant himself or by a private legal practitioner engaged by him. It does not refer to the situation whereby a prosecution, although instituted by the state, is conducted by a private legal practitioner with the fiat of the Attorney-General.¹

¹. By virtue of the powers of control over criminal proceedings vested in the Attorney-General by the Nigerian Constitution, that official may instruct a private legal practitioner to conduct such proceedings on his behalf, Director of Public Prosecutions v. Akozo (1962) 1 All N.L.R.235.