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DUE PROCESS IN NIGERIA'S ADMINISTRATIVE LAW SYSTEM: HISTORY, CURRENT STATUS AND FUTURE by Oneyebuchi T.

Uwakah. Maryland: University Press of America, 1997. 236 pp. Cloth: ISBN 0-7618-0764-0.

Reviewed by Gerald J. Russello, New York, New York.

The subject of this book is potentially of great interest. Nigeria has had a stormy history since gaining independence from the United Kingdom in 1960, suffering from a brutal civil war, several periods of martial law and five military coups in the three decades prior to 1996. However, its size and economic resources make Nigeria a strong presence in African affairs and of continued interest to the international political and business communities. As a result of this history as a colony and as a struggling new nation, the Nigerian legal system is similarly complex. Islamic law and the customary law of the indigenous peoples have places alongside the British common law system inherited from the colonial period as tools available to Nigerian judges for governing disputes. The Nigerian legal profession has also been influenced, in the areas of due process and civil rights, by the practice of American constitutional law. Further, the country is just now making a transition to what hopefully will be a more democratic system based on the rule of law.

However, in grappling with such a large subject, this review of the history and future of due process in Nigeria attempts to do both too much and too little. Uwakah begins with a broad overview of the medieval English background to the concept of due process (6), as well as a summary of the American Administrative Procedures Act of 1946 (13). While perhaps helpful to a Nigerian audience, the discussion is too abbreviated to be satisfactory to scholars more familiar with these subjects. More seriously, Uwakah does not connect these sections to the later narrative. We are not told, for example, whether Nigeria has adopted a version of the APA or what influence, if any, that statute has had upon Nigerian administrative law. Indeed, there is not much discussion of Nigerian administrative law at all. Uwakah prefers to concentrate on issues that raise more fundamental due process concerns, such as criminal procedure rights. While understandable, given the treatment of these rights by successive Nigerian governments, this focus does not fulfill the promise of the title.

The remaining chapters are presumably aimed more at a non-Nigerian audience. Uwakah devotes a chapter each to Nigerian customary law, Islamic law, the common law and martial law, "Nigeria and Civil War," and the Nigerian economy, including a discussion of rates of oil production. Uwakah also includes a chapter of "Case Studies," which are

that respects due process within a martial law state. His recommendations for restoring due process include a call to restructure the tribunal system, allowing review by a civilian court (208), but the exact contours of such a system, and their differences from the civilian system already in place, he leaves to "statesmanship of a high order" (125).

Other parts of DUE PROCESS are more valuable. There is a useful overview of the Nigerian court system, displayed as well in an appendix in graphic form. His examination of the indigenous legal systems is informative, as is his explanation of the interplay between these structures and what remains of the British system. His discussion of the process of resolving the conflicts that arise among the multiple Nigerian systems may be the best part of the book. Every Nigerian court can enforce a native law or custom, even if unwritten, and statutory provisions govern the method of deciding which native law or custom should apply, or whether the adopted common law rule should apply in preference to native laws or customs (98-99). The Islamic courts are almost completely separate from other Nigerian courts, and govern a range of disputes, such as marriage, divorce, and certain property disputes, in the largely Moslem northern areas. The body of law developed by the Nigerian courts to resolve the many issues that arise when different systems may apply, some of which Uwakah addresses, could be a resource for other countries confronted with similarly pluralistic circumstances.

Uwakah finds serious due process problems with the current arrangements for resolving conflicts, insofar as a party may feel at a disadvantage because of an unfamiliar or unexpected law being applied to the party's case. Uwakah concludes that "it would be better and fairer to weigh the two conflicting customary-law systems on a scale of equality, and to apply the one whose substance, in terms of justice, equity, and good conscience, outweighs the other" (108). Unfortunately, Uwakah does not discuss the standards by which a Nigerian court would be able to weigh the justice or equity of competing systems. As for the application of British law to controversies between Nigerians, Uwakah seems to suggest that it be discarded, as "only the Nigerian customary law system, administered by Nigerians, could effectively protect the due-process rights of Nigerians" (109). He comes to this conclusion despite his earlier statement that the protections provided by customary law and British law i.e., notice and a hearing, were similar (55-56), and despite his conclusion that a "mix" of systems would be the best alternative for Nigeria (210).

Uwakah has provided a handbook of current problems in the application and stability of due process in Nigerian law. While flawed, those who have little background knowledge of the Nigerian system may find the book of use, though additional reading may be needed to supplement Uwakah's account.

REFERENCES

Okonkwo, Okechukwu 1997. "Lawyers in Chains: Restrictions on Human Rights Advocacy Under Nigeria's Military Regimes." HARVARD HUMAN RIGHTS.

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