

MIRANDA RIGHTS IN NIGERIAN CRIMINAL JURISPRUDENCE

Abstract

This research paper explores the caution given by a law enforcement officer before the interrogation of the suspect. It examines statute laws and judicial precedents on the subject vis-a-vis the current practice of law enforcement agencies in Nigeria. It further explains the benefits and detriments involved in cautioning the suspect prior to interrogation. Its main purpose is to determine the answer to the controversial question of whether cautioning the suspect is optional or mandatory in Nigerian Criminal Jurisprudence.

Introduction

The right of a suspect to remain silent and to have a counsel present is a caution giving by a law enforcement officer before interrogation of a suspect. These words of caution are popular on television which has caused a global notoriety as it is usually heard from characters playing the role of fictitious law enforcement officers conducting an arrest of an individual. In Nigeria, suspects are not sure on whether they have the right to be cautioned before interrogation. Thus, this paper reveals findings and answers the question of whether it is mandatory or optional for the suspect to be cautioned before interrogation. It does this by examining laws and judicial precedence on the subject.

The doctrine of Miranda is a right of a suspect to be informed prior to interrogation, of his right to remain silent or avoid answering any question, until after consultation with a counsel or any other person of his choice. This doctrine was birthed by the United States of America's landmark case of *Ernesto Miranda V Arizona*. Ernesto Miranda who was arrested in 1963 and charged with rape, kidnapping and robbery was not cautioned or informed of his right to remain silent or have a counsel present prior to custodial interrogation by the police. However, Miranda had confessed to committing the crimes, in which he was later convicted based on his confessional statement and sentenced to 20 to 30 years imprisonment. He appealed to the Arizona Supreme Court, with a grouse that the police had unconstitutionally obtained the confession; the court however upheld the conviction. Peeved and piqued by the appellate court's decision, he further appealed to the U.S Supreme Court which heard the appeal in 1966. In a 5-4 decision, the court ruled in favor of Miranda and posited that suspects must be informed of their Fifth Amendment right against self-incrimination and Sixth Amendment right to an attorney before they are questioned. Earl Warren CJ in his ruling had said

'...the person in custody must prior to interrogation, be clearly informed that he has a right to remain silent, and that anything he says will be used against him in court; he

*must be clearly informed that he has a right to consult with a lawyer and to have the lawyer with him during interrogation, and that, if he is indigent, a lawyer will be appointed to represent him*¹.

This decision changed law enforcement practice, as Chief Justice Earl Warren directed police departments across the country to inform suspects about their right to an attorney and against self-incrimination before questioning. Earl Warren CJ, who wrote the majority opinion in this case, had served as a county district attorney and a state attorney general which gave him an insight into the relationship between law enforcement and criminal defendants². To add to this, Justice Hugo Black who gave a concurrence was formerly a captain in the United States Army³. Observers opine that these Justices who ruled in favor of Miranda, had during their years of affiliation with law enforcement witnessed the acrimonious and virulent methodology used in extracting a confession during the custodial interrogation of suspects in custody. To support this succinct observation, Earl Warren CJ ruling in favor of Miranda said

‘An understanding of the nature and setting of this in-custody interrogation is essential to our decisions today. The difficulty in depicting what transpires at such interrogation stems from the fact that in this country they have largely taken place incommunicado’.

This doctrine tends to protect the suspect against self-incrimination during interrogation.

1. History of Protection against Self incrimination

The protection against self-incrimination arose from the public outcry against the social and political oppression occasioned in the arbitrary proceedings of the English court of Star Chamber that wielded enormous powers. In this draconian court, the accused was made to take an oath ex officio⁴ and swear he would answer truthfully to all questions asked by the court of star chambers. The accused if guilty would be trapped in a tripartite predicament where he may be culpable of perjury if he told a lie, self-incrimination if he told the truth and contempt of court if he stayed silent. This was called the Cruel Trilemma, a really difficult situation for an accused to be in. The public outcry against this process initiated the maxim “*nemo tenetur seipsum accusare*” which means ‘no man is bound to accuse himself’ and this led to the right to not incriminate

¹ (1966) 384 U.S 436

² Brian P. Smentkowski “Britannica.com” <<https://www.britannica.com/biography/Earl-Warren>>

³ Brian P. Smentkowski “Britannica.com” <<https://www.britannica.com/biography/Hugo-L-Black>>

⁴ Oath Ex officio is an oath made by an accused prior to questioning by the Star Chamber to answer truthfully all questions that might be asked.

oneself being established in the common law, which Nigerian legal system is deeply rooted in.

2. Miranda in the Nigerian Criminal Jurisprudence

The guarantee of Miranda rights in Nigerian criminal law is still a controversial issue today. With the provisions of the relevant laws and inconsistent court judgments on this issue, it is not clear whether the suspect must be cautioned of his right to remain silent and to have a counsel present during interrogation. However, below are the relevant laws that provides for miranda;

2.1 The Constitution of the Federal Republic of Nigeria 1999 (as amended)

Miranda rights are provided by virtue of **section 35(2)** of the Constitution of the Federal Republic of Nigeria 1999 which states

‘Any person who is arrested or detained shall have the right to remain silent or avoid answering any question until after consultation with a legal practitioner of his own choice’.

Prior to the enactment of the Administration of Criminal Justice Law of Lagos State (ACJL) 2011 and Administration of Criminal Justice Act (ACJA) 2015, the courts in Nigeria had based the admissibility of confession on the common law Judges Rules and the Evidence Act of Nigeria 2011 without linking it to the constitutionally guaranteed right to silence or having counsel present during interrogation.

The Supreme Court in *Akinmoju V State*⁵ recognized that the dominant position of the Nigerian courts is that confession is not inadmissible because there was no Miranda caution or warning prior to the taking of such confession regardless of **section 35(2)** of the Constitution of the Federal Republic of Nigeria 1999. In *Fatai Olayinka V State*⁶, another case which reached the supreme court, the appellant’s counsel had argued that the landmark decision in *Miranda V Arizona* be ratified in the Nigerian criminal jurisprudence before obtaining a confession. Regardless of this succinct argument made by counsel, the Supreme Court in its lead judgment did not refer to this logic, rather Tobi JSC in his concurrence referred to the argument but ruled *per incuriam* that

⁵ (2000) 6 NWLR (Pt 662) 608.

⁶ (2007) 9 NWLR (Pt 1040) 561.

‘Guarantee to silence is second fiddle to statutes and courts decision in admissibility of confessions’.

It is submitted that these judgments completely flies in the face of the Nigerian constitution⁷ which guarantees the right to remain silent and to have counsel present during interrogation. Thus, Esa O Onoja Esq, of the Nigerian Law School hit the nail on the head in this regard when he said⁸

‘The Legislature and the Courts in Nigeria unwittingly water the ground for the systematic torture of suspects to obtain confession practiced by the police’.

2.2 The Evidence Act of Nigeria 2011(Evidence Act)

The Evidence Act of Nigeria 2011 does not provide Miranda caution to be issued to the suspect before interrogation or obtaining a confession. It however provides grounds on which a confession would be admissible or inadmissible. **Section 28** of the Evidence Act defines a confession as an admission of guilt made at any time by a person charged with a crime, stating or suggesting the inference that he committed that crime. Confession has been referred to as the best of evidence of guilt by the Nigerian Supreme Court in a plethora of cases.

Section 29 (2) of the Evidence act provides that when a confession seems to have been obtained by oppression of the person who made it or in consequence of anything said or done which was likely in the circumstances that exists simultaneously to render the confession made by a suspect, such confession would be inadmissible except the prosecution beyond reasonable doubt proves that the confession was not obtained in a manner contrary to the provisions of this section. **Section 29(5)** of the Evidence act defines oppression as torture, inhuman or degrading treatment, the use of violence and threat.

During trial of the accused, *lis pendens*⁹, when the accused objects to the admissibility of the confessional statement on the grounds that it was not obtained voluntarily or the accused did not make it all¹⁰, the trial would be put on hold for a trial within trial or a *voir dire* to be conducted to ascertain the voluntariness and the circumstance the confession was made¹¹. By virtue of **Section 14** of the Evidence Act a court may exclude improperly obtained evidence where the court is of the view that the desirability of admitting the evidence is outweighed by the undesirability of the manner in which the evidence was obtained. The factors that the court may consider in the determination of

⁷ Section 35(2) Constitution of the Federal Republic of Nigeria 1999 (as amended).

⁸ Esa .O. 2013 “The relationship between the constitutional right to silence and confessions in Nigeria”(2013) 6 African Journal of Legal Studies 189-211.

⁹ *Lis pendens* means a pending legal action.

¹⁰ This is called Retraction.

¹¹ (1988) 3 NWLR (pt 81).

the desirability or undesirability are provided by virtue of **Section 15** of the Evidence Act which states as follows:

- (a) The probative value of the evidence;
- (b) The importance of the evidence in the proceeding;
- (c) The nature of the relevant offence;
- (d) The gravity of the impropriety or contravention;
- (e) Whether the impropriety or contravention was deliberate or reckless;
- (f) Whether any other proceeding (whether or not in a court) has been or is likely to be taken in relation to the impropriety or contravention; and
- (g) The difficulty, if any, of obtaining the evidence without impropriety or contravention of law

It is surprising that the evidence act does not provide for the right to remain silent or have counsel present during interrogation of a suspect. This is in the light of the fact that the draftsman of the Evidence Act had borrowed provisions from the Police and Criminal Evidence Act of England and Wales which included these Miranda rights¹². The draftsman of the Nigerian Evidence Act had left out the sections of the Police and Criminal Evidence Act which provides for Miranda caution, making it vague on whether the suspect had the right to remain silent and to have a counsel present during interrogation.

2.3 Judges Rules

Judges Rules is a cautionary code of conduct that is applicable to Nigerian law enforcement agencies. The code was developed by English judges to guide the police during interrogation of witnesses and suspects¹³. The aim of the code is to guide the police in taking confessional statements from suspects. The code is administrative and not mandatory in nature. In *R V Anya Ugwuoga*¹⁴, it was held that the rules apply *mutatis mutandis*¹⁵ in Nigeria so far as is possible. Failure to observe these rules would not *ipso facto*¹⁶ render the statement inadmissible. In *State V Edekere*¹⁷, the accused made a confessional statement to the police and raised an objection to its admissibility in evidence in the course of the trial contending that he had not been cautioned. He

¹² Section 58 Police and Criminal Evidence Act of England and Wales.

¹³ Peter Murphy, *Evidence and Advocacy* (2nd ed., Blackstone Press Limited, United Kingdom 1986) 71.

¹⁴ (1943) WACA 73.

¹⁵ *Mutatis Mutandis* means to make necessary changes without affecting the main point at issue.

¹⁶ *Ipsa facto* means "by that very fact".

¹⁷ (1981) 2 NCR 335.

argued that because he was not cautioned as provided by Judges Rules, the confessional statement was therefore inadmissible. The court overruled the objection and held that even though he was not cautioned, the breach does not make the statement inadmissible.

Ekanem JCA in a ruling referring to the non-obligatory nature of the rules stated that

‘...the rules say that when an accused person makes a confessional statement before a junior police officer, the accused should be taken before a superior police officer for confirmation. Where the practice is not followed, the statement would not be rejected in evidence on that account nor would it necessarily be viewed with suspicion’¹⁸.

The rules provides that if the police officer has evidence which gives reasonable grounds to believe that a person has committed a crime, he shall caution that person or cause him to be cautioned before putting to him any questions relating to that offence as follows:

‘You are not obliged to say anything unless you wish to do so but what you may say may be put into writing and given as evidence’.

The non-obligatory nature of Judges Rules left the suspect at the mercy of the law enforcement agents.

2.4 Administration of Criminal Justice Law of Lagos State (ACJL) 2011

The Administration of Criminal Justice law of Lagos state (2011) revolutionized Criminal Jurisprudence in the state of Lagos. By virtue of the relevant provisions of the ACJL, certain additional conditions were added to toughen the test of a confessional statement.

The act unequivocally and categorically guarantees the Miranda rights of criminal suspects by making it mandatory for the suspect to be informed of his right to remain silent and to have counsel present during interrogation, which is in pari materia¹⁹ with **section 35(2)** of the Constitution of the Federal Republic of Nigeria.

By virtue of **section 3(2)** of ACJL 2011, it provides that the Police Officer or person making an arrest shall inform the person arrested of his rights to:

(a) Remain silent or avoid answering any question until after consultation with a legal practitioner or any other person of his own choice;

¹⁸ (2018) 13 NWLR (Pt 1635) CA 50.

¹⁹ Pari materia means “dealing with the same matter or subject”.

(b) Consult a counsel of his choice before making or writing any statement; or answering any question put to him after arrest;

(c) Refuse to answer any question or make or endorse any statement.

Section 3(3) of the ACJL further provides that the arrestee shall be informed of his right to apply for free legal representation from the Office of the Public Defender, Legal Aid Council, or any such agency.

In a paradigm shift, **Section 9 (3)** of the ACJL provides as follows:

‘Where any person who is arrested with or without a warrant volunteers to make a Confessional Statement, the Police Officer shall ensure that the making and taking of such statement is recorded on video...’

In *Joseph Zhiya V The People of Lagos State*²⁰, the Court of Appeal ruled that failure to comply with the relevant sections of the ACJL renders confessional statements inadmissible.

2.5 The Administration of Criminal Justice Act 2015 (ACJA)

The ACJA was signed into law in 2015 in a bid to revolutionize the administration of criminal justice in Nigeria. It repealed the Criminal Procedure Act (CPA) of Southern Nigeria and Criminal Procedure Code (CPC) of Northern Nigeria. The act vaguely provides for a mandatory Miranda caution before interrogation of the suspect. **Section 17 (2) ACJA** on obtaining a confessional statement provides that

‘...such statement may be taken in the presence of a legal practitioner of his choice, or where he has no legal practitioner of his choice, in the presence of an officer of the Legal Aid council of Nigeria or an official of a civil society organization or a Justice of the peace or any other person of his choice...’

The inclusion of the word “may” generally has the effect of making the provision seem optional and not mandatory. It has been the view of the Nigerian courts that the use of the word “may” prima facie implies that the authority which has power to do such an act has an option either to do it or not to do it. Regardless of this apparent optional effect, the court of appeal in *Charles V Federal Republic of Nigeria*²¹ has ruled that the court would interpret the word “may” as mandatory wherever it is used to impose a duty upon a public functionary to be carried out in a particular form or way for the benefit of a

²⁰ (2016) LPELR 40562 (CA).

²¹ Supra.

private citizen. To add to this, the Supreme Court of Nigeria, which has binding authority ruled in *Edewor V Uwegba* that

‘It has been conceded that the word may acquire a mandatory meaning from the context in which it is used’²².

The implication of this provision of the act confers a suspect with the right to have counsel present during interrogation. It is submitted that this interpretation is good law for the reason that when the meaning of a statute provision is ambiguous, the meaning that favors the accused should be implied. This is in line with the rule of lenity, which is a principle of criminal statutory interpretation that requires a court to apply any unclear or ambiguous law in the manner most favorable to the defendant. In regards to this fact, Oputa JSC who has been referred to as the ‘Socrates of the Nigerian Supreme Court’ once said

*‘...while it is desirable in the interest of the community that investigation into crimes should not be unduly cramped, it is equally desirable in the interest of Justice that as against the accused, every rule in his favor should be observed and that no rule be broken so as to prejudice the chances of the Court fairly trying the issues’*²³.

Upholding this logic, the Court of Appeal in *Nnaji for V The Federal Republic of Nigeria* ruled that the Economic and Financial Crimes Commission (EFCC) had a duty to inform the suspect of his Miranda right prior to interrogation, by virtue of **section 17(2)** of this Act.

3. Abuse of the Suspect’s Right in the Nigerian Criminal Jurisprudence

The abuse of Miranda and the use of the third degree²⁴ on suspects is not unusual in Nigeria, as there is a plethora of cases evidencing these conducts to obtain a confession. It is reported that majority of criminals in Nigeria have little or no education, so they are easily cajoled by law enforcement officers to write inculpatory statements²⁵. This is not in consonance with the golden rule of criminal law that implies an accused being innocent until proven guilty.

In *George v. State*²⁶ the appellant had been tortured for a number of days before he was taken from the cell with other suspects at night to a segregated area. In this place, the other suspects were shot dead by the police. The appellant roused by the fear of being

²²(1987) 1 NWLR (Pt 50) 313.

²³ (1972) 2 East Central State Law Report (Part 2) 623.

²⁴ Third degree is a euphemism for inflicting physical or mental pain.

²⁵ (2015) 15 NWLR (Pt1483) 557.

²⁶ (2009) 1 NWLR (Part 1122) 325.

killed agreed to sign a confession specially prepared by the police. The trial judge however held that the details of the confession in the post admission phase corroborated with the other peculiar circumstances only a person who committed the act would have known. The confessional statement was admitted in evidence and the appellant was convicted of murder and sentenced to death. The Court of Appeal however reversed the decision on appeal.

In *Ahamba v. State*²⁷, during the interrogation of the suspect, the police shot him in the head. When he was admitted to a hospital, he signed a confessional statement while recovering from the bullet injury to his head. The trial court held that the statement was voluntary because at the time he signed the statement the effects of the torture had worn off. The trial court admitted the statement in evidence. The appellant was convicted and sentenced to death but the Court of Appeal reversed the decision on appeal.

In some instances, the lawyers of the suspect are told to wait until after the interrogation before they can see the suspect, while in other instances, the lawyers are not allowed to see the suspect at all, as some police officer would say “this is my office, the court is your own office”. Afterwards, the police officer would then use different forms of coercion, tricks and deception to obtain confession which may eventually be a false confession. An innocent suspect in custody may choose to render a false confession as he may see his case as hopeless due to the avalanche of deception and tricks inundated by the interrogator. The suspect may yield falsely also because of the vitriolic and pernicious atmosphere that has been created by the form of accusatorial interrogation employed by law enforcement agents in Nigeria.

4. Benefits of Miranda in Nigerian Criminal Jurisprudence

4.1 Ensuring fair play during interrogation

A counsel present during custodial interrogation of a suspect would have an oversight responsibility in ensuring fairness in the process. This would amount to a fair trial of the accused when due process is followed. Respectively, Rhodes Vivour JSC in *Owhoruke V Commissioner of Police (2015)* opined that

‘A fair trial presupposes that police investigations of crime for which the accused person stands trial was transparent. In that regard, it is time for safeguards to be put in place to guarantee transparency’.²⁸

A counsel watching interrogative proceedings would have the effect of reducing the large amount of reported cases of coerced and forced confessions during custodial

²⁷ (1992) 5 NWLR (Part 242) 450.

²⁸ Supra.

interrogation in Nigeria. The presence of a counsel may aid a suspect to communicate effectively with the interrogator without duress or fear. When this happens, the interrogator would be able to obtain more information from the suspect, which would lead to a fair and candid investigation

4.2 Protection against Self incrimination

Self-incrimination is when a person is being forced or coerced in testifying against himself. The privilege against self-incrimination exempts a person from being compelled to answer questions or provide information that may tend to incriminate him or expose him to criminal charges. The rule against self-incrimination serves to protect the innocent who may be ensnared by ambiguous circumstances during interrogation. For this reason, Robert H Jackson in *Watts V Indiana* advised that

‘Any lawyer worth his salt will tell the suspect, in no uncertain terms, to make no statement to the police under any circumstances’²⁹.

With the guarantee of Miranda in the Nigerian Constitution³⁰, it aims to cure the mischief of self-incrimination in favor of the innocent suspect. This is in line with the maxim ‘*nemo tenetur seipsum accusare*’ which means ‘no man is bound to accuse himself’. In this regard, William Blackstone³¹ once expressed that it is better that ten guilty persons escape than that one innocent suffer.

4.3 To ensure a speedy trial

A voluntarily confessions made in the presence of a counsel eliminates the need for a trial within trial. The counsel may not need to object to the admissibility of the confessional statement, as it is ascertained that such confession was made voluntarily. This would provide the judge with more time to ascertain the substance of the case, and also reduce the time spent in conducting trial. This why the Administration of Criminal Justice Act 2015 was created as *section 1 (1)* provides that

‘The purpose of this act is to ensure that the system of administration of criminal justice in Nigeria promotes efficient management of criminal justice in Nigeria, speedy dispensation of Justice...’

²⁹ (1949)338 U.S 49.

³⁰ Section 35(2) CFRN 1999 as amended.

³¹ William Blackstone was an English Jurist known for the commentaries on English Laws.

4.4 To ensure police professionalism

Professionalism refers to the conduct and qualities that characterize a particular profession. Miranda creates a duty on the part of the police to inform the suspect of his right before interrogation. This is a sacrosanct duty of accountability and legitimacy of the police to the suspect. This has an effect of improving the conduct and behavior of the police towards the citizens it protects. The presence of a counsel would ensure the police follow due process of the law during custodial interrogation. In this manner, law enforcement agents would also be protected from false accusations of coercion in taking statements from suspects, because the counsel would have witnessed the presumably fair interrogation.

4.5 Providing legal advice to suspects

A suspect would have the benefit of seeking legal advice from counsel during questioning in order to protect his interest. A counsel has the sacrosanct duty to provide his client with the advice within the ambit of the law that would best serve his client's interest. In counsel's relation with a client, Rule 14 (1) of the Rules of Professional Conduct provides that

'It is the duty of a lawyer to devote his attention, energy and expertise to the service of his clients and subject to any rule of law, to act in a manner consistent with the best interest of his client'.

5. Demerits of Miranda

A major disadvantage in which critics of Miranda has made a mantra is that the suspect may choose not to communicate during interrogation as he feels it is his right to remain silent, as doing so would be incriminating him. The end result of this may lead to no conviction of a guilty suspect. Paul Cassell, who is a professor of law in the University of Utah in an interview with C-span expressed that Miranda truly handcuffs the cops.

Some are of the opinion that Miranda has the impact of letting guilty criminals escape the justice system. Justice Bryon White, in his rancorous dissent in *Miranda V Arizona*, opined

'...I have no desire whatsoever to share the responsibility for any such impact on the present criminal process. In some unknown number of cases, the court's rule will return a killer, a rapist or other criminal to the streets and to the environment which produced

him to repeat his crime whenever it pleases him. As a consequence there will not be a gain, but a loss in human dignity'³².

Another demerit which is plausible is the fact that there may exist circumstances where obtaining crucial information expeditiously would be in the interest of the public at large, for example where there is urgent need to obtain information from a suspected member of Boko Haram who planted a bomb in an area, and there is an urgent need for the law enforcement to obtain information about the bomb. In this regard, it is submitted that as no right is absolute, Miranda may be disregarded for public safety reasons. Therefore the suspect should be questioned without being cautioned in exigent situations. This was the reasoning of the United States Supreme Court in *New York V Quarles* ³³, which would presumably have persuasive effect in Nigerian Legal Jurisprudence³⁴.

6. Conclusion

Miranda rights are the rights of criminal suspects to be informed by law enforcement officials before questioning that he has the right to remain silent and have an attorney present during interrogation. These rights of the suspect are important before obtaining a confessional statement in which a conviction may be based solely upon. A confession has been referred to as the best evidence of guilt³⁵. In regards to this fact, it must be voluntarily and freely rendered by the suspect. The rationale behind a confession being the best evidence is that it is an evidence of guilt which is made freely and voluntarily by the suspect. Circumstances that tend to show that it was not voluntarily made or it was induced by threat, coercion, or promise impedes the rational of it being the best inculpatory evidence.

Over the past years in Nigeria, it is observed that the rights of the suspect has been abruptly trampled upon by the feet of the law enforcement agents during interrogation, as there are overwhelming reports of coercion during custodial interrogation of the suspect. However, the ACJL and ACJA admonishes law enforcement agents to inform the suspect prior to questioning that he has the right to remain silent and to have counsel present during interrogation, but there are still reported cases of law enforcement agencies concealing this inalienable right from the public³⁶. While the Court of Appeal in its rulings in recent cases has urged the law enforcement agencies to

³² Supra.

³³ 467 US 649 (1984).

³⁴ (1977) NCLR 135.

³⁵ (2017) LPELR 42259 (SC).

³⁶ Ojobo Nathaniel "The firma law practice" Published on 21 May 2019 on the firmaadvisory.com/new-blog/2019/5/21/what-you-should-know-about-a-confessional-statement%3fformat=amp.

caution and inform the suspect of his Miranda rights, there is no binding ruling of the Supreme Court which would become the law of the land to this effect. However, the Supreme Court in *Owhoruke V Commissioner of Police* (2015)³⁷ remarked as an obiter that the suspect should have a lawyer present during interrogation. An obiter dictum does not bind the Supreme Court and lower courts in Nigeria, as it only yields a persuasive effect³⁸. This makes a suspect's right to be cautioned of his Miranda right malleable as it is not specifically and categorically contained in the constitution of Nigeria. It is submitted that our Supreme Court should make this issue a top priority in the scale of preference to galvanize laws and rulings that would make it mandatory for the suspect to be cautioned and informed of his right to remain silent and have counsel present during custodial interrogation in all the states of the country for the sake of the innocent suspect.

³⁷ Supra.

³⁸ LPELR 40360.