HUMAN RIGHTS ABUSES IN THE NIGERIAN PRISON SYSTEM: A CASE STUDY OF NIGER STATE PRISON

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DECLARATION

I solemnly declare that this research work is the product of my personal endeavour. The information derived from the literature has been duly acknowledged in the text and a list of references provided. No part of this thesis was previously presented for another degree at any university.

_____ _____

Aliyu Kutigi Mohammed Date

CERTIFICATION

This thesis, entitled "Human Rights Abuses in the Nigerian Prison System: A Case Study of Niger State Prisons," by Aliyu Kutigi Mohammed, meets the regulations governing the award of Masters Degree in Law - LLM of Ahmadu Bello University, Zaria, and is approved for its contribution to knowledge and literary presentation.

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DEDICATION

To the blessed memory of my late father, Barr. M. K. Mohammed, my Grandfather, Alh. Mohammed S. Kutigi and my father-in-law, Alh. Abdulsalam B. Muhammad; also, to Late Alh. Zubairu Mahmud, Yakubu Zubairu and Mamman K. K. Abdulaziz. May Allah grant them all eternal bliss.

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ABSTRACT

Prisoners in Nigeria are often perceived and categorized as "outcast". The belief of many is that, once you are a prisoner, you are automatically a "bad egg" in the society. There is an ill-conceived notion that prison inmates have no rights within the general population. The importance of this research work cannot be over emphasised as it seeks to enlighten the reader of the fact that though there are rights available and at the disposal of prisoners under the Nigerian laws, majority of prisoners, due to one cog or another are unable to have access to and make adequate use of those rights; they are even in most cases unaware of the existence of such rights. This research work shows that there are other abuses going on in our prisons apart from the congestion problem. Such relates to feeding, clothing, bedding, access to health facilities, communication etc. These rights as well as those guaranteed by the Constitution of the Federal Republic of Nigeria, 1999 are very much alive and available to prisoners in Nigeria. The rights may be limited; but prisoners do have a degree of human and civil rights also guaranteed by international conventions and the UN Declarations. Most especially the Standard Minimum Rules for the protection of prisoners. Therefore, prisoners cannot and should not be subjected to cruel and unusual punishment; they are to have full access to due process and equal protection and should not be discriminated against. So this research work, with particular reference to Niger State, to a great extent has been able to: (i) ascertain the extent of prisoners' rights abuses and its effects on their lives in prisons in Niger State; (ii) determine the factors responsible for the abuses; (iii) examine the measures that need to be taken to incisively and concisely address all problems of prisoners rights abuses. All these have been achieved through thorough research and findings and accordingly, adequate recommendations have been proffered. The doctrinal and empirical methods of research i.e. books, journals and articles as well as administering of questionnaires was adopted to achieve the desired goal of addressing the pervasive violations of prisoners' rights.

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Uzodinma V Commissioner of Police (1982) 1 NCL 27

TABLE OF ABBREVIATIONS

A.I.G.P	-	Assistant Inspector General of Police
Art.	-	Article
Cap	-	Chapter
C.O.P	-	Commissioner of Police
CPA	-	Criminal Procedure Act
CPC	-	Criminal Procedure Code
HIV	-	Human Immunodeficiency Virus
Ibid.	-	Ibidem
ICCPR	-	International Covenant on Civil and Political Rights
LFN	-	Laws of Federation of Nigeria
NCE	-	National Certificate of Education
NHRC	-	National Human Rights Commission
Op. Cit.	-	Opere Citato
P	-	Page
PP.	-	Pages
SMR	-	Standard Minimum Rules
U.N	-	United Nations
UDHR	-	Universal Declaration of Human Rights
Vol.	-	Volume

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CHAPTER ONE

GENERAL INTRODUCTION

1.1 BACKGROUND OF THE STUDY

The Prison system is one of the key components of Criminal Justice Administration as it the correctional institution where prisoners and convicts are kept after undergoing the processes of police investigation and trial by a court of law. The prison is responsible for the custody of the convicts and other inmates. The prison system entails putting in place measures to prevent escapes, such as erecting high walls or chain-link fence, placing armed guards, constant checks of cells, providing system of passes for movements with the prison, constant surveillance, and other measures to prevent escapes, riots, and so on[1].

The Constitution of the Federal Republic of Nigeria (1999) (as amended) vests in the Federal Government the control and administration of prisons[2]. This power is generally exercisable by statutory instrument of the National Assembly. However, the Prisons Act and subsidiary legislations vests in the President of Nigeria power over the control, administration, security and welfare of prisoners.

Section 15 (a) of the Prisons Act provides that the President may wave regulations with respect to the organization and administration of prison. However, the Nigerian Prisons Legislation and Practice are generally perceived to be 'anti – prisoner'. They tend to completely take away all rights and self respect of prisoners. This is unlike the general prison practice and legislation in the advanced Nations. For instance in the United Kingdom, Rule 10 of the Prison Rules

[1] Dambazau, A.B (2007). Criminology and Criminal Jusitice. Spectrum Books Ltd, Ibadan, p.197.
[2] Item No.48 of The Exclusive Legislative List of the Second Schedule to the Constitution; A – G., Abia State V. A.G – Federation, (2002) 6 NWLR p.763, p.264, at pp.385 – 386.

(1999) S1 1999/78 provides that every prisoner must be provided as soon as possible after his inception into prison and in any case within 24 hours, with information in writing about those provisions of the Prison Rules and other matters which are necessary for him/her to know, including his earnings, privileges and the proper method of making requests and complaints. This is not so under the Nigerian Prison Legislation.

There is an ill-conceived notion that prison inmates have no rights within the general population. Their rights may be limited; but they have a degree of human and civil rights that is guaranteed by the Constitution, by international conventions and the UN Declarations. For instance, the UN General Assembly adopted what it called the Basic Principles for the Treatment of Prisoners, on December 14, 1990. Therefore, prisoners cannot and should not be subjected to cruel and unusual punishment; they are to have full access to due process and equal protection and should not be discriminated against. Furthermore, they are entitled to adequate medical and psychiatric care. And their physical safety must also be assured at all times. But is this the case in Nigeria?

A prisoner in Nigeria is often perceived and categorized as "outcast". The belief of many Nigerians is that, once you are a prisoner, you are automatically a "bad egg" in the society"[3]. However, in the recent past, events have shown that some of the so called prisoners actually became one, due to no fault of theirs but by mistake of identity or by some miscarriage of justice or because they lack the fund to engage the service of a lawyer to represent their case.

[3] Olooba, S.M and Ademola, O.N. An overview of the rights of prisoners under Nigerian law. *Conference journal of jurisprudence and international law*, department of jurisprudence and international law, faculty of law, Kogi State University, Anyigba, p.135

Even though there are rights at the disposal of prisoners under the Nigerian laws, however, it is disheartening to note that majority of the prisoners due to one cog or another are unable to make adequate use of those rights[4]; Hence the abuse of rights of prisoners in Nigeria with a particular reference to Niger State.

1.2 STATEMENT OF THE PROBLEM

The Prison Act[5] clearly provides certain rights and privileges relating to feeding, clothing, bedding, visits, treatments and communication. However, to what extent are these Rights being granted to the prisoners? It is again clear that the abuses of prisoners Rights have not been seriously addressed in Nigeria and so, makes rehabilitation of the prisoners difficult to be achieved. According to a report of a workshop held by the non-governmental Commonwealth Human Rights Initiative, "Prisons were described as providing fertile ground for persistent and all pervasive violations of human rights"[6].

Nevertheless, available body of literature on Nigerian prisons hardly examines all abuses of prisoners Rights. Most literatures only talk about overcrowding in Nigerian Prisons. For example, This Day Newspaper of Wednesday August 18th 2004 reported a discovery in Mutun Biyu satellite prison in Taraba State, of 52 prisoners being accommodated in Cargo containers due to lack of space congestion in the available cells. Since other abuses of prisoners rights are hardly reported, this constitutes the point of departure in this research work. The power of any society exercised over any individual must be subjected to limits. The questions then are where and how these limits should be set? Imprisonment does not involve

[4] Ibid., p.138
[5] Cap P29, Laws of the Federation of Nigeria (LFN), 2004
[6] This Day newspaper - Opinions (Lagos) August 12, 2003.

the extinction of a prisoner's legal personality or his formal degradation[7]. This calls for the need to look more closely at the justification for the recognition of the prisoner's rights in order to see how penal policy should be shaped.

1.3 AIM AND OBJECTIVES OF THE STUDY

This research work seeks to achieve the following objectives:

i. To ascertain the extent of prisoners rights abuses and its effects on their lives both in Minna and New Bussa prisons in Niger State.

ii. To determine the factors responsible for the abuses.

iii. To examine the measures that need to be taken to incisively and concisely address all problems of prisoners rights abuses.

1.4 SCOPE OF RESEARCH

It may be difficult to conduct this research in all the prisons in Nigeria. Neither will it be convenient to study all the prisoners' right abuses in Nigeria since the advent of the modern prison. The area of coverage (scope) of this study is therefore delimited to Human Rights abuses of prisoners in some prisons in Niger State. Niger prisons are situated in Minna, Bida, Suleja and New Bussa respectively. But for the purpose of this research, it is limited to Minna being the capital city of the State and New Bussa prisons because of its proximity to the Western part of the country; and as well due to certain limitations in the area of data acquisition. The findings therein will be considered a reflection of human Rights abuses in Nigeria prisons, particularly, in Niger (Minna and New Bussa) in the period under study. The study equally chooses from 2005 to date because this period makes another phase in

[7] Freeman Op. Cit. p.106

our democratic experience where the protection of Human Rights is within the democratic tenets.

1.5 RESEARCH METHODOLOGY

This explains for the method and the materials used in data collection, presentation, analyses and interpretation. The methodology adopted for this study is both doctrinal and empirical. Reference made to text books, statutes, decided cases, reports, periodicals/journals and articles from the internet fall under doctrinal. This study also made use of descriptive survey design by administering research questionnaire to selected respondents drawn from the staff and inmates of Minna and New Bussa prisons. The researcher combined simple random sampling and stratified sampling techniques. The choice of simple random sampling was to ensure that every member of the population had an equal and independent chance of being selected in the sample studied while the stratified sampling allow the researchers to categorize and classified data in their respective groups.

1.6 JUSTIFICATION

Imprisonment does not involve the extinction of a prisoner's legal personality or his human rights as this is the mind set of an average man and even the prisoner. This work seeks to expose readers to the fact that prisoners have some degree of civil/human rights by virtue of their incarceration and that the period of incarceration is a time in which a prisoner is re-oriented to the lawful ways. This work is significant as it will create awareness amongst prisoners about their Fundamental Human Rights, other rights accruable to

them while in prison custody. It will as well create general awareness to the society by giving them a different outlook in perceiving the position of prisoners.

1.7 LITERATURE REVIEW

There is abundant literature in the area of human rights generally, few of which relate to prisoners and inmates. In other words, only a few focus on the rights of prisoners. The 1999 Constitution of the Federal Republic of Nigeria has provided for some fundamental rights such as right to life, right to dignity of human person, right to personal liberty, right to fair hearing, right to private and family life etc. These rights are sacrosanct but not in the case of a prisoner. As such, in every criminal proceeding, a suspect/accused is entitled to some of these rights as enshrined in the Constitution, especially since the rights are meant to safeguard the citizens against the arbitrary use of power by the state or its agencies.

The work of Ladan[8] titled "Material and cases on Public International Law focus on human rights as a whole. The work discusses the concept of international human rights law. This includes the development and scope of international human right law. Accordingly, it may be said that the legal regime for the protection of rights of prisoners can be traced to the emergence and adoption of the UN Charter.

Ladan looks at the protection of rights in armed conflicts. The rights include right to life, right to personal liberty, right to dignity of human person, right to fair trial, and right to freedom of religion. Although these rights have been explained to be available to persons involved in

[8] Ladan, M.T. (2007). *Materials and Cases on Public International Law.* A.B.U. Press, Zaria,

armed conflict, they are not different from those rights now provided in our legislations for the protection of prisoners.

He further discusses the rights of women in the administration of the criminal justice system. The author stated that there is no single international instrument dealing with the prevention and detection of crime, nor with the gender aspects of this law enforcement function. Therefore, rights and responsibilities in this area must be gleaned from human rights instruments.

The major contribution of the work of Ladan to this research is the discussion on the rights of women in detention. According to him, human rights of prisoners are more frequently violated than those of persons at liberty. Therefore, specific safeguards have been established to protect detainees from ill-treatment and abuse of power, to safeguard against damage to health caused by inadequate conditions of detention and to guarantee that the basic rights of detainees as human beings are respected.

This work by the erudite scholar constitutes a rich source of material for this research, especially the discussion on the rights of women in criminal justice administration. However, this work has not dealt with the general rights of inmates as well as the abuses of the rights of the prisoners which have turned the prison system into a breeding ground for criminals instead of institution for reforming inmates.

The work of Udombana[9] published in the Nigerian Bar Journal examines the rights of prisoners and detainees in Nigeria. In the article, the author examines "who is a prisoner?". He gave various definitions of a prisoner and submits that the greater percentage of inmates in Nigeria are those awaiting trial. The author considers the practice of holding charge which has been held to be constitutional by the Supreme Court and is of the view that this practice gives serious cause for concern because, despite the merit of the holding charge, in deserving cases, its practice works unfold hardship on the suspects even when there is no evidence of any connection between them and the alleged offence.

According to the author, prisoners are guaranteed some rights such as right to life, right not to be subjected to torture or to inhuman or degrading treatment etc. The author highlighted some aspects of the right not to be subjected to inhuman and degrading treatment. These rights have been captured by the Minimum Standard Rules that have been adapted for the protection of the rights of prisoners. These rights cover areas of accommodation, bed and bedding, clothing, feeding, etc. Other areas include exercise and sports medical services, discipline and punishment and information and complaints by prisoners. The article has extensively dealt with the rights of inmates in Nigeria. More so, it has captured the rights as they are provided in the Minimum Standard Rules for the protection of prisoners. However, the author has not discussed the issues of the abuses of these rights. It is therefore imperative that the study of the extent of these abuses be carried out so as to proffer lasting solution to these problems which have become the bane of the Nigerian Criminal Justice System.

[9] Udonbana, N.J. (2010). An Examination of the Right of Prisoners and Detainees in Nigeria. *Nigeria Bar Journal*, Vol. 6, No. 1, July

The work of Dambazau[10] submitted that all theories of criminal behaviour attempt to address the question why people commit crime on the assumption that such a course of action is explicable, therefore, criminals are somehow different from the rest of society.

His argument is generally based on the criminal justice system. The work is important because it is the centre-piece of this research work. Criminal justice has been defined as a legal process which involves the procedure of processing the person accused of committing crime from arrest to the final disposal of the case. However, this literature falls short as it does not in any way touch on the abuses of the rights of prisoners.

Accordingly, the author shows that in the triangular relationship of the criminal justice system, the third leg carries the prison[11]. The prison is responsible for the custody of the final product in the criminal justice process and has been described as a "total institution". To be locked up in a physical, psychological and social sense, a situation in which there is no escape and the prison has no control, is to deny the individual the 'rudimentary choices of everyday life'.

The author highlights the classification of prisons in accordance with the types of inmates, the structural features and the extent of security arrangement. He then dealt with the key aspect of the condition of inmates in prisons – Rights and privileges of prisoners. Certain rights enjoyed by other citizens are however not given to convicted offenders serving prison terms. Obviously, the fundamental right to personal liberty is guaranteed to almost everybody except those within the prison walls. Likewise, the right to private and family life involving

[10] Dambazau, A.B. (2007) Criminology and Criminal Justice. Spectrum Books Ltd., Ibadan, 2nd Edition.
[11] Ibid

correspondence, telephone conversations, and other modes of communication, and the right to freedom of movement, cannot be guaranteed and protected in respect of those inside the prison.

However, it has been submitted that prisoners could enjoy the right to freedom of religion and the right to fair hearing, particularly for those awaiting trial. The United Nations has summed up the basic principles for the treatment of prisoners. They include; (i) All prisoners shall be treated with respect due to their inherent dignity and value as human beings. (ii) It is desirable to respect the religion beliefs and cultural precepts of the group to which prisoners belong, whenever local conditions require. (iii) Prisoners shall have access to health services available in the country without discrimination on the grounds of their legal status.

Interestingly, the author has made effort to highlight the problems of the prisoners. He stated that the first major problem in Nigerian prisons is the high number of persons awaiting trial. As at May, 2005, those awaiting trial constituted 65% of the prison population. More so, the available infrastructures are not designed to carter for this category of prisoners, and this makes prison administration extremely difficult. The congestion in the prison has been attributed to the following factors; court congestion, and lack of speedy trial, frequency of remand to prison custody, police abuse of arrest powers, poor prison infrastructures, corruption and inadequate legal aid facilities etc.

The book titled "Handbook on Person Pre-trial Detainee Law Clinic"[12] by Ernest Ojukwu deals with different essential aspects of Criminal Justice Administration. The book focused on an overview of the human rights of prisoners in Nigeria. According to the author, prisoners as

[12] Ojukwu, E. (2012) E. Et al. Handbook on Prison Pre-Trial Detainee law clinic. NULAI, Abuja

well as pre-trial detainees are entitled to human rights protection. People who are detained or imprisoned do not cease to be human beings no matter how serious the crime of which they have been accused or convicted. Persons who are detained or imprisoned retain all their rights as human beings with the exception of those that have been lost as a specific consequence of deprivation of liberty.

Thus, the author submitted that every stakeholder in the Criminal Justice System should never lose sight of the fact that prisoners are human beings. They must continually resist the temptation to regard the prisoner merely as a number rather than as a whole person. Prison staff have no right to inflict additional punishments on prisoners by treating them as lesser beings who have forfeited their rights to be respected because of what they have done or are accused of having done.

Though this book by Ojukwu has dealt with many aspects of the Criminal Justice Administration, it has not discussed the problems and challenges of the Administration of Criminal Justice System as it relates to the abuse of prisoners' rights. Thus, this research work will fill in the lacunae in this book.

Aboki in his book "History of Nigeria Prisons Service, an inside account"[13] agrees that in the triangular relationship of criminal justice system, the third leg carries the prison. To him, prison is responsible for the custody of the final product in the criminal justice process through maintenance of custody by carrying out measures to prevent escape including erecting high walls or chain link, fence, placing guards, constant checks on cell perimeter walls, surveillance

[13] Aboki, E. (2007), History of Nigeria Prisons Service, an inside account. Kaduna: Bizmak publishers.

from time to time. One can say that a prison is not expected to be exactly a bed of roses as the inmates are there for penal purposes. But neither is it also supposed to be a bed of thorns and thistles meant to stuff life out of the occupants. In fact, prisons are ideally reformative institutions[14].

For Omagbemi and Odunewu[15], prisons are established confinement for the safe keeping of those legally interned for awaiting trials. He maintained that except for those who are to be executed upon the pronouncement of death penalty on them, prisons are expected to transform and reform the interned towards the re-integration of the affected individuals into the larger society on completion of their terms. It therefore follows from their explanation that for prisons to achieve the objectives of reformation and rehabilitation, there is the need for training and retraining of inmates including exposing them to adequate and timely information. Thus, prisons apart from serving as a custodian for convicted people, doubles as a reformation and rehabilitation centre. But once an individual is confined in a correctional institution, he/she loses his/her freedom[16].

Agozino[17] has actually made the point that over the years, the provision of welfare services to inmates in Nigerian prisons have been far from satisfactory, many prisons do not meet up to the standard minimum rules for the treatment of prisoners while others violate the right to minimum feeding, allocation, accommodation, privacy, adequate lighting, medical services and

[14] Suleman, M. (2011). Guide to inspection of penal institution and prisons management. Kaduna: Kobi and Sons.
[15] Omagbemi, C.O. and Odunewu, A.O. (2008). An appraisal of Library Service Provision to prison inmates in Nigeria. Lagos: Tolu Express Republic.
[16] Okwo, R.E. (2010). Nigerian Prison Service. Owerri: I.O. Publishers.
[17] Agozino, B. (2001). Towards Good Standards, a manual for prison officers. Lagos: PRAWA publishers.

the likes as stipulated by rule thirty one (31) of the minimum standards of prison. But the author has not stated to what extent these violations are made.

This research area has benefited from enormous literature but little work has been done in the context of Niger state prisoners' Rights and the abuses thereof.

A. Reynaud[18] elaborates extensively on the domestic and international concerns for prisoners and argued that at both levels, prisoners are treated as human beings. He discusses the fundamental function of prisons. He argued that the traditional function of the prison is to protect the society by "neutralizing" offenders i.e. re-educate offenders back to the society.

Reynaud focuses on European instrument of protection of prisoner's rights and made copious references to the Universal Declaration of Human Rights. He critically analysed prison conditions and extensively argued that overcrowding is consistent to human dignity. Even though his work focuses on the European system, it offers useful hint to this debate on overcrowding and how prisoner's rights are guaranteed.

Sheldon Krants and Lynn A. Branham[19] focused mainly on American prisoners' rights jurisprudence and gave comprehensive evaluation of how the American courts have over time responded to prisoners' crimes. They critically analyse the right of access to court, prisoners' search and correspondences and argued that their rights have been variously violated by prison staff. They deal with state policy of rewarding prisoners for good behaviours, such policies like "parole", release, probation and revocation which will indirectly address overcrowding in prisons. These policies are long standing policies to avoid incarceration relevant in

[18] Reynaud A. (1994) Human Rights in Prisons; Council of European Press. Pp 21-112

[19] Sheldon K. and Lynn A. B. (1994) "The Law of Sentence, Correction and Prisoners' Rights" 4th Ed.

overcrowding debate as an input to Nigeria and to proffer solutions but differ to say that these privileges have often been abused resulting in re-arrest thus soaring prison population.

Rodely N.[20] elaborates on the various international instruments that deal with treatment of prisoners and conditions of detention. He argued that inmates are to be protected against discrimination and not to be subjected to inhuman and degrading punishment which borders on abuse of their rights. He focuses mainly on the protection of prisoners under the European system. Rodely's work provides insight to discussing specific provisions of human rights instruments addressing the abuse prisoners' rights related issues. This literature helps in making a comparison between the European and the Nigerian systems and its applicability to our system.

Michael Tonry and Joan Petersdia[21] on the other hand concentrated on American Prison System. They focused on the collateral consequences of imprisonment of children on the community and prisoners. They critically argued that overcrowding as well as abuse of certain rights accruing to prisoners cause prison suicide and coping. They elaborate extensively on the management of prisons and argued that "interpersonal violence" is as a result of the abuse of these rights and poor management of prisons and suggest unit management and effects of overcrowding in prisons. This aspect of their research on 'effective unit management' is missing in the Nigerian system as a result of which we will recommend same for Niger State.

[20] Rodely N. (2000): Treatment of Prisoners under International Law; Oxford University press. 4th Ed.
[21] Michael T. and Joan P. (1999): Prisons, Crime and Justice Review; Vol.26 University of Chicago Press, Chicago. Pp 121-275

1.8 ORGANIZATIONAL LAYOUT

This study is classified into five (5) chapters with sub-chapters to ensure a better understanding of the work. Chapter One dealt with the general introduction of the study subject stating the scope, justification, statement of problem, research method, aims and objectives of the study and significance of the research.

Chapter Two examined the history and development of prisons, its purpose/mission and objectives, its social structure, its benefits as well as types and classification of offenders. Chapter Three discussed the development of human rights and its relation to prisoners' rights. It shall also look at the various laws that establish, guide and relate with the rights of prisoners and the Commission.

Chapter Four highlighted the existing Nigerian situation of prisons with particular reference to some selected prisons in Niger State and finally, Chapter Five made up the summary, findings, recommendations and conclusion to this research study.

CHAPTER TWO

THE NIGERIAN PRISON SYSTEM

2.1 INTRODUCTION

The prison system is an integral part of the criminal justice system as a custodial as well as a correctional institution. It also serves as a fundamental instrument for the protection, scrutiny, maintenance of the rule of law and social order. Oxford dictionaries simply define prison as a building to which people are legally committed as a punishment for a crime or while awaiting trial. Implicit in the definition is the legality or lawfulness of prison. That is why globally, governments make provision for rehabilitation centre where those who violate the laws of the land will be kept for sometime or for life and given corrective measures to enable them become better citizens[22]. Though attention has been paid to issues relating to the administration of criminal justice system, the prison system is considered most important. This is because the prison system impacts on all aspects of the lives of the detainees and also defines the criminal justice system.

It is in view of the above that this chapter aims at discussing the evolution of modern prisons, structure of Nigerian Prison Service, their functions, types, and classification of offenders in Nigerian prisons. This is a necessary aspect to dive into given the subject matter of this research in particular.

[22] Oxford Advanced Learner's Dictionary (1995) Special Price Edition. England: Oxford University press.

2.2 EVOLUTION OF MODERN PRISONS

The origin of modern prisons services in Nigeria dates back to 1861 when Lagos was declared a colony. The progressive incursion of the colonial masters into the hinter land and the establishment of the British protectorate towards the end of the 19th century necessitated the establishment of prisons as the last link in the criminal justice system. Thus by' 1910, there were already prisons in Degema, Calabar, Onitsha, Benin, Ibadan, Sapele, Jebba and Lokoja[23]. The declaration protectorates over the East, West and North by 1906 effectively brought Nigeria under British rule. However, it did not mark the beginning of a unified Nigeria prisons.

Meanwhile, the colonial prison was not designed to reform anyone. There was no systematic penal policy from which directions could he brought for penal administration. Instead, prisoners were mainly used for public works and other jobs for the colonial administration. For this reasons, there was no need for the recruitment of trained officers of the prisons. Hence, colonial prisons had no trained and developed staff of their own and instead the police also performed prison duties[24]. As time went on, ex-service men were recruited to do the job.

The Nigeria-com-colonial prisons were very poorly run and the local prison conditions varied from one place to another in their disorganization, callousness and exploitation. But so long as they served the colonial interests of ensuring law and order, collecting taxes and providing labour for public works, they were left alone. The result was that the prison served the purpose of punishing those who were opposed to colonial administration while at the same time cowing those who might want to stir up trouble for the colonial set up.

[23]Orakwe, I.w. the origin of prisons in Nigeria. Available at: www.prisons, gov.ng) about/ history. Php. Accessed on 29 May, 2014 at 10:20am
[24]ibid

The Prison Regulation was published in 1917 to prescribe admission, custody, treatment and classification procedures as well as staffing, dieting, and clothing regimes for the prisons[25]. These processes were limited in so far as they were not geared towards any particular type of treatment of inmates. Instead they represent just policies of containment of those who were already in prison. Besides, they were limited in application to those who were convicted or remanded in custody by criminal courts of the colonial government. Those convicted or remanded by the nation Courts were sent to the Native Authority prisons. More so, the prison regulation also distinguished between awaiting trial and convicted inmates and stipulated the category that will be found in each prison[26].

However, the limited application of this rule to the national prison while the Native Authority prison went their own way effectively stultified the appearance if a colonial prison-goal-orientation in terms of inmate treatment. The abolition of Native Authority Prison in 1968 and the subsequent unification of the prisons service in Nigeria marked the beginning of Nigerian Prison Service as a composite reality. However, due to the vagaries of the civil war, it was not until 1971 that the government white paper on the re-organisation of the prisons was released[27]. It was followed in 1972 by Decree No. 3 of 1972 which spelt out the goals and orientation of the Nigerian Prisons Service.[28] The prison was charged with taking custody of the legally detained, identifying causes of their behavior and re-training them to become responsible and useful members of the society.

[25]ibid
[26]ibid
[27]ibid
[28]ibid

The establishment and growth of the prisons in Nigeria is backed by various statutes from the colonial period to the present. Among these statutes are the Prisons Ordinance of 1916, Laws of Nigeria (1948 and 1958) and the Prison Decree No. 9 of 1972. A Government white paper in 1971 outlined the functions of the prisons service to include; custody, diagnosis, correction, training and rehabilitation of incarcerated offenders'[29]. The Nigerian Prison Service Staff Duties Manual listed an additional function, generation of funds for the government through prison farm and industries. Similarly, the colonial Ordinance of 1916 and the Laws of Nigeria 1948 and 1958 identified the functions of prison to include the safe custody of the prisoner. A close study of the colonial and post colonial laws seem to emphasize the custodial functions of the prison while silent in correctional functions of the modern prisons[30].

The Nigerian Prisons Service which had hitherto been generally administered under one Director later had in addition to the Director, three principal divisions performing different roles to enable the prisons service execute its programs expeditiously and achieve its goal. These Divisions are Technical, Inspectorate and Welfare with each unit under Deputy Director of Prisons. The idea was that in accordance with the provision of Decree No. 9 of 1972, there was the need to introduce specialized units to take care of specific areas of the prison service[31]. The Technical Division was charged with the responsibility of general administration and the provision of logistic in addition to supervising the farms and industries. The Inspectorate Division was to oversee staff deployment, training, discipline, promotion and recruitment. The Welfare Division was to be the pivot of the new order. It was to see to treatment, training and

[29]Chukwuemeka, E.M. (2000). Institutional Reform and the Development of Nigeria Prisons Service, 1999-2007. Journal of African Studies and Development, Vol. 2 (5) P.116
[30]ibid
[31]Orakwe, I. W. Op. Cit. Accessed on 29 May, 2014 at 10:20am

rehabilitation. It also oversees the medical needs of the prisons in addition to liaising between the prisons and voluntary and humanitarian organizations that assist in the treatment and rehabilitation of the prisoners[32].

2.3 STRUCTURE OF THE NIGERIAN PRISON SERVICE

Today, the apex of the Nigeria Prisons organizational structure sits the Comptroller General of the Nigerian Prison Service. He is the chief executive officer and is responsible for the formulations and implementation of the penal policies in Nigeria. He is also responsible to the President through the Minister of Interior and the Civil Defense, Immigration and Prisons Board (CDIPB) which the minister heads. But in matters of policy, he takes direct responsibility for his policy implementation.[33] The Nigerian Prisons Service thus operates a four (4) level Command Structure with the National Headquarters in Abuja. The Structure is divided into eight (8) zones, each zone having State Commands under it. The Zones are headed by Assistant Comptroller-Generals of Prisons. The States are headed by Comptrollers of Prisons. The prison is the last unit of the structure[34].

For there was the 1986 re-organization of the prisons consequent upon the creation of Customs, Immigrations and Prisons Board and the centralization of the administrations of the Centralization Services Board. It now has these paramilitary services Board. It now has a command that boast of Eight Zonal commands, 36 states commands[35], one training school, one

[32] ibid
[33] www.prison.gov.ng/command-structure. Accessed on 29 May, 2014
[34] ibid
[35] Egu, M.A, History of the Nigerian prisons service. An insides Account 1900 p. 13

staff college and two Borstal institutions[36]. For effective execution of its mandate, the Nigerian prisons service command structure is broken down below:

1. National Headquarters, Abuja.

2. Eight Zonal Commands and

3. 36 State Commands

Below is a table showing the distribution of zones and states[37].

ZONES	**STATES**	**STATE CAPITAL**
Zone A Lagos	Lagos, Ogun	Ikeja, Abeokuta
Zone B Kaduna	Jigawa, Kano, Kaduna, Katsina	Dutse, Jalingo, Kaduna, Katsina
Zone C Bauchi	Gombe, Taraba, Adamawa, Borno, Yobe, Bauchi	Gombe, Jalingoyola Maiduguri, Damaturu, Bauchi.
Zone D Minna	Kwara, Kebbi, Zamfara, Sokoto, Niger	Ilorin, Birnin-Kebbi, Gusau, Sokoto, Minna
Zone E	Abia, Akwa-Ibom, Imo, Cross-River, Rivers, Bayelsa	Umuahia, Uyo, Calabar, Port-Hacourt, Yenagua
Zone F Ibadan	Osun, Ondo, Ekiti, Oyo	Oshegbo, Akure Ado-Ekiti, Ibadan
Zone G Benin	Anambra, Edo, Delta, Ebonyi, Enugu	Akwa Benin, Asaba, Abakaliki, Enugu

[36]

[37]ibid

Zone H Makurdi	Benue, Nasarawa, Plateau, Kogi	Makurdi, Lafiya, Jos, Lokoja

Source: Nigerian Prisons Service Annual Report[38]

2.4 THE DIRECTORATES

The Comptroller is assisted by six (6) Deputy Controllers-General (DCGs) who head the six broad administrative divisions called Directorates into which the Service is broken for efficient management. The Deputy Controllers-General who head the Directorates report to the Controller-General and constitute, together with the Controller-General, the highest decision-making body in the Administration of the Nigerian Prisons Service.

The Directorates are specialized divisions charged with the responsibility of coordinating specific areas of prison administration. They are:

1. Operations Directorate
2. Administration and Supplies
3. Health and Social Welfare
4. Finance and Budget
5. Inmates' Training and Productivity
6. Works and Logistics

2.4.1 Operations Directorate

The Operations Directorate has the responsibility of, among others:

[38] Nigerian Prisons Service Annual Report (2011) Abuja: Government press.

1. Ensuring that all prisons nation-wide are administered according to law and managed in conformity with the United Nations Standard Minimum Rules for the Treatment of Prisoners (The Mandela Rules);
2. Ensuring the maintenance of acceptable standard of activities in all prisons according to their security categorization;
3. Ensuring proper control by setting appropriate machinery in motion for effective monitoring of inmates for enhanced security management: thwarting escapes, prevention and containment of riots and generally providing secure environment for the staff and inmates in the performance of prison duties;
4. Collecting statistical data for planning and research for improved service delivery;
5. Enlightening the general public on the activities of the Service thereby enlisting their cooperation toward the reintegration of discharged inmates into the society;
6. Securing escort duty staff as well as the inmates they convey to and from courts and prisons;

2.4.2 Administration and Supplies

The Administration, and Supplies directorate is charged with the responsibility of properly articulating and implementing policy on personnel matters such as appointment, promotion, staff distribution, posting, discipline and training. This is the Directorate that sees to the recruitment and documentation of new staff. It also coordinates promotions and plans the training programmes of the various training institutions which it supervises and ensures the discipline of staff of all categories. In addition to the above, the Directorate also sees to the proper processing of staff wastages through:

1. Death
2. Voluntary retirements
3. Compulsory retirements
4. Dismissals / Terminations etc.

Through its pension unit, it ensures that retired/dead officers' entitlements are promptly and properly computed and paid. The supplies section is charged with the responsibility of:

1. Administering the prison stores.
2. Procuring and distributing the necessary stores and generally seeing to the regular provision of the stores necessary for the smooth running of the Service.

2.4.3 Inmates' Training and Productivity

The Inmates' Training and Productivity (ITP) Directorate is also charged with the responsibility of training inmates specifically in Prison Farms and Industries for the purpose of not only imparting self-sustaining skills on them but also in the process inculcating in them the positive orientation of finding dignity in labour. To that extent, this Directorate manages the Prisons workshops earlier mentioned. There are also cottage industries which train inmates in mid-range industrial production. Some of these are furniture making, soap making, toilet roll, manufacturing aluminum pots and metal works fabrications etc. These are all geared towards giving our inmates practical skills that can help them live self-sustaining lives on discharge. The other branch of this Directorate is the Agric section. This is the section that manages the Prison Farm Centres as well as the subsidiary farms and the market gardens. The fundamental objective of the section is the training of inmates in farming methods, in Animal husbandry and

other agricultural extension techniques. The purpose being to teach agricultural skills to inmates to enable them stand on their own in these vocations on discharge. Although the primary objective of the farms is essentially to train inmates as stated above, the Mechanized farm is capital intensive so much so that these farms are not only expected to generate commensurate revenue, they are expected to impact positively on the food situation in the country, by making cheap food available to the national economy.

2.4.4 Finance and Budget Directorate

The Finance and Budget Directorate is charged with the responsibility of formulating, preparing, monitoring, evaluating, appraising, disbursing and supervising approved budgetary allocations for each year. This it does in addition to preparing and defending/justifying yearly budgetary proposals. The directorate has two major sections. These are:

1. Budget
2. Finance / Accounts

2.4.5 Works and Logistics Directorate

The Works and Logistics Directorate is the infrastructural mainframe Directorate. This is the Directorate that caters for both mobile and immobile prison infrastructure. It is divided into two broad sections, namely, the Works and the Logistic sections. The Works section has the responsibility of articulating, planning, implementing, supervising/monitoring the construction of prison projects. As prison is mainly about buildings and walls, this section undertakes the construction/supervision of prison cells/walls, barracks and office as well as hospital buildings construction.

The Maintenance Unit of the section undertakes the maintenance of prison infrastructures like offices, prison walls, cells, barracks etc. The other section in the Directorate is the Logistics section. This is the section that is charged with the responsibility of maintaining the fleet of prison vehicles and plants. This means that this section is responsible for the maintenance of all departmental vehicles including farm machineries, plants and escort duty fleet.

2.4.6 Health and Social Welfare Directorate

The Health and Social Welfare (H & SW) Directorate of the Nigerian Prisons Service is an amalgam of various units that are charged with the physical, psychological and developmental well-being of the inmates and staff. The Directorate is charged with the administration of prison clinics and hospitals. With its complement of Doctors, Nurses, Pharmacists and Paramedics, the Directorate ensures all-year round rendition of medical services to inmates in all the Prison nationwide. The Directorate also develops and implements new strategies for confronting changing faces of disease control and management in the ever changing global systems.

The Directorate also sees to the maintenance of proper environment in the prisons through the Environmental Health section. This section takes care of environmental sanitation in all the prisons. Through fumigation of cells, provision of potable water, maintenance of sewage systems and general environmental orderliness in all prisons, the section helps to maintain environmental friendliness in all prison formations in the country.

Through its Welfare Section, the Directorate ensures the realization of one of the major objectives of the Prisons Service i.e. the reform and rehabilitation of convicts. Through a complicated set of mechanisms consisting among others of counseling, group work, case work session, recreational activities, religious services and adult and remedial education programmes this section tries not only to identify the causes of the inmates' anti-social behaviour but also endeavours to set them on the road to reform through induced self-rediscovery and eventual change for the better. This is also done through the provision of educational development project. This has led some inmates to obtain Degrees from the National Open University of Nigeria (NOUN) while in prison.

This is complemented by skills acquisition programme which the section conducts in conjunction with the Inmates' Training and Productivity Directorate which enables inmates acquire skills in various vocations like carpentry, tailoring, printing, building and masonry etc. in the course of serving their terms of imprisonment. Through its Aftercare Services programme, the Directorate also helps to settle successful discharging inmates in their chosen vocations. This is done through assisting them with tools, spaces and even post-discharge supervision and patronage so that they can fit properly into lawful relationship in the society. By doing so the circle of want and crime in their lives is broken for good.

The other section of this Directorate is the Catering Section. This section regulates the supply of food to the prison. It supervises the cooking of the food and implements policies that have to do with the feeding of inmates in terms of the provision of cooking utensils, the maintenance

of prison kitchens and the determination of the nutritional and calorific contents of the food of the inmates in terms of wholesomeness and health.

2.5 FUNCTION OF THE NIGERIA PRISONS SERVICE

The Nigeria Prison Service derives its powers from Cap. P. 2X, Laws of the Federation of Nigeria, 2004 to perform many functions, one of which is administering prisons across the country.[39] Other functions[40] include:

1. The safe custody of offenders and persons who are legally interned.
2. Identification of the causes of their anti-social behavior, treat and reform them to become law-abiding citizens of a free society.
3. Training of offenders towards their eventual rehabilitation on discharge.
4. Producing suspects in court as and when due.
5. Administer prisons farm and industries for the purpose and in the process generate revenue for the government.

From the above therefore, it is clear that the main aim of establishing the prison institution in all parts of the world including Nigeria is to provide a rehabilitation and correctional facility for those who have violated the rules and regulations of the society. This in itself is a form of a right.

However, the Nigeria prisons service is saddled with a lot of problem such as (i) overcrowding in prisons (ii) poor and inadequate infrastructure in prisons (iii) inadequate data due to poor

[39]Prison Act, cap. P29, laws of the federation of Nigeria, 2004.
[40]Akande, F.I. Social implications of Reforms to Criminal Justice System. In Dauda, J.B. and Adekunle, D eds). Reforming criminal Law in Nigeria. Nigeria Bar Association, 2012, pp.71-72

record keeping and file management in prisons (iv) poor prison conditions especially for pre-trial prisoners (v) inadequate vocational training and educational facilities.

Consequently, rehabilitation of prisoners, rather than their punishment should be the major aim of the prison system. Prisons are supposed to be corrective institutions and such, they are fast becoming in many parts of the world. Prisons are meant to identify the peculiar problems of inmates and fashion out ways of guiding them out of such problems of inmates. This is one of the main policy aspirations of the Nigeria prison system as contained in the white paper on the statement of the Federal Government policy on the re-organization on the prison service which is aimed at "Identifying the reasons for the anti-social behavior of offenders**,** and teaching and training them to become useful citizens in the free society"[41].

It is equally added that the rights of prisoners must always be the concern of the courts unless they are excluded by statutory provisions from entertaining jurisdiction in any given case[42]. This is important because incarceration in itself results in physical, emotional and psychological as well as economic distress from prisoners. Access to such conditions that will enhance their mental, social and material well-being should therefore be provided for them in order to ease their return to normal life after serving their terms of imprisonment.

2.6 CONCLUSION

Administration whether public or private refers to performance of functions through a collective effort. This means that administration exists whenever people cooperate to achieve a

[41] Ibid., P.7
[42] Ibid.,

given target[43]. The Nigerian Prison Service (NPS) operation under Prison Act[44] provide for regulation to achieve its goal[45]. These divisions are technical, inspectorate and welfare units. The idea was that in consonance with the stipulation of Decree No. 9 of 1972, there was need to introduce specialized units to take specific areas of the prison services. While technical division takes charge of general administration, the inspectorate sees to staff recruitment, deployment, training, discipline, promotion, punishment and dismissal. The welfare division carters for inmates' treatment, training and rehabilitation.

By virtue of the above, it is clear that prisons are expected to serve as detention centre and correctional authorities for persons found guilty. Therefore, prisons offer the prisoners some advantages. First, the incarceration of prisoners removes them from the general population and inhibits their ability to perpetuate further crimes[46]. Second, it serves as a form of revenge or retribution, and any harm or discomfort the prisoner faces is a payback for the harm caused to his/her victim[47]. Third, it offers the prisoner a chance to learn a vocation and thereby earn a legitimate living when they return to the society[48]. Thus, religious institutions also have a presence in many prisons with the goal of teaching ethics and instilling a sense of morality in the prisoners. The prisons service in Nigeria is a federal phenomenon. That is to say, the prison is exclusively a federal government concern which means no state for now has the power in law to operate or maintain prisons.

[43] Ezeali, B.O. and Edeh, J.N. (2007). Comparative Public Administration: Cases from selected countries Onitsha: Chamber Press Ltd.
[44] CAP P.29, Laws of the Federal Republic of Nigeria, 2004. (Sections 15 and 16)
[45] Aboki, E. (2007), History of Nigeria Prisons Service, an inside account. Kaduna: Bizmak publishers.
[46]Ibid p.71
[47]Ibid
[48]Ibid p.72

CHAPTER THREE

AN OVERVIEW OF PRISONERS' RIGHTS:

3.1 INTRODUCTION

The Issue of prisoners' rights has been a continuing one in the administration of criminal justice. This is because human rights abuses are some of the common features in Nigerian prisons and a serious challenge to the administration of criminal justice system. Therefore, it is imperative to examine the rights of prisoners as it is through this examination that the recurring abuses will be understood and practical solutions proffered. Simply put, if the rights are not known, the breach or violations of those rights cannot be ascertained. Thus this analysis is necessarily essential.

Therefore, the objective of this chapter is to discuss the nature and validity of prisoners' rights, international and local instruments providing for the rights of prisoners and the agencies for the protection of prisoners' rights

3.2 HUMAN RIGHTS LAW

The human rights of prisoners are in no way different from the right of other citizens. The reason is not farfetched. Citizens are human beings, and conviction or imprisonment does not divest a prisoner of certain rights. In fact, there are some specific rights available to prisoner to protect them from maltreatment emanating from the unlawful acts of prison officials and the law enforcement agencies.

The rights of prisoners are primarily geared towards enhancing their welfare. It therefore seeks to shield them from arbitrary treatment of prison officials whether convicted or held on holding charge deprivation of liberty does not mean deprivation of humanity for the prisoner. This point has been put more succinctly[49].

> Prisoners are subject to a special regime and have a special status. Nevertheless, they are not entirely denuded of all fundamental rights and liberties which are inherent in our Constitution. Thus, despite the deprivation of the general liberty a prisoner remains invested with residuary rights appertaining to the nature of his incarceration.

The realization of this aspiration must definitely give priority to the humanity and person of the prisoner as this is the basis and justification of the rights of prisoners. More so, the reason for guaranteeing the rights of prisoners is that over time, the concept of imprisonment has ceased from being solely a source of punishment, and hence an end in itself, to being regarded as a means to an end, that is reformation of the offender. Indeed, there was time when the prevailing belief was that criminal offenders having transgressed against the law had given up all claims to humanity and so deserved to be subject to such conditions of treatment that completely violate their rights as human beings[50]. However, this belief has changed significantly due to the humanitarian concern and effort towards the improvement of the situation of prisoners on humanitarian grounds.

Thus, their temporary prisoner status is now being de-emphasized and pride of place given to their status as human beings with a future after the prison term, hence, the need for reformation to equip them for a meaningful life after. This leads us to the different legal instruments available for the protection of prisoners' rights.

[49] Udombana, N.J. An Examination of Right of Prisoners and Detainees in Nigeria. Nigeria Bar Journal, Vol.6, No. 1, July, 2010, P.6
[50] Ibid., P.8

3.3 INTERNATIONAL INSTRUMENTS

International norms and standards have various legal effects depending on their sources. Thus, various levels of states legal obligations depends on whether the international standards are derived from treaty law, from customary international law or from various bodies of principles, minimum rules and declarations.

3.3.1 United Nations Charter

The primary source of authority for the promulgation of human rights standards by United Nation bodies may be found in the charter itself. The charter states one of the principal aims of the United Nations as follows; "*It reaffirms faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations, large and small…*[51]". The charter also states that "one of the purposes of the United Nations is to achieve international cooperation in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion[52]". These should not be seen merely as empty statements of principle. Rather, the charter is a legally binding treaty to which all member states are parties.

3.3.2 Universal Declaration of Human Rights

The Universal Declaration of Human Rights represents a great step forward taken by the International Community in 1948. Its persuasive moral character and political authority derive from the fact that it is agreed to be a statements of generally accepted International principles. This outline of human right objectives is drafted in broad and general terms, ad its principles

[51] 2nd Paragraph of the preamble to the UN Charter
[52] Article 1, paragraph 3 of the Charter.

have inspired more than 140 human rights instruments which, taken together, constitute International human rights standards.

Moreover, the Universal Declaration has spelled out the fundamental rights proclaimed in the charter of the United Nations, recognizing that the inherent dignity of all members of the human family is the foundation of freedom, justice and peace in the world[53]. While the Universal Declaration is not itself a binding instrument, certain provision of the Declaration are considered to have the character of customary international law. This applied to articles 3, 5, 9, 10 and 11 of the Universal Declaration, which address respectively, the right to life, liberty and security of person, the prohibition of torture and of cruel, inhuman and degrading treatment or punishment.

The prohibition of arbitrary arrest; the right to a fair trial, the right to be presumed innocent until proven guilty etc[54]. While these articles are mostly directly relevant to the administration of justice, the entire text of the Universal Declaration offers protection to of prisoners and also offers guidance to prison officials.

3.3.3 International Covenant on Economic, Social and Cultural Rights

The covenant entered into force in January 1976 and currently has 147 state parties. Article 11 stating the right of everyone to an adequate standard of living, is particularly important to the

[53] Article 1 of the UN Charter.
[54] Articles 3, 5, 9, 10 and 11 of the Universal Declaration.

rights of prisoners[55]. This covenant recognizes the fundamental right of everyone to be free from hunger.

In May 1999, the Committee on Economic, Social and Cultural rights adopted General Comment No.12 (1999) on the right to adequate food. In November, 2002, it adopted General Comment No.15 (2002) on the right to water. Both the right to adequate food and right to drinking water are relevant to condition of imprisonment and detention.

3.3.4 International Covenant on Civil and Political Rights

The International Covenant on Civil and Political Rights entered into force in March 1976. It currently has 149 states parties. In articles 6, 7, 8, 9, 10, 11, 14 and 15, the covenant details the right to life; the prohibition of torture; the prohibition of instrument for failure to fulfill contractual obligation, right to fair trial etc.

The covenant is a legally binding instrument which must be respected by governments and their institutions, including, prison authorities. The implementation of the covenant is monitored by the Human Right Committee, which was established under the terms of the covenant[56].

[55] Article 11 of the Covenant

[56] The 1st optional protocol to the International covenant on civil and political rights enables the Human Rights Committee to receive and consider communication from individual under the jurisdiction of a state party.

3.3.5 Convention Against Torture and Other Cruel or Degrading Treatment or Punishment

This convention entered into force in June, 1987 and currently has 136 states parties. The convention goes considerably further than the international covenant on Civil and Political Rights in protecting against the International crime of torture. Nigeria has been a state party since 1993. The convention defines 'torture' as[57]:

> "Any acts by which severe pain or suffering whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third has committed or is suspected of having committed or intimidating or coercing him on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of an official capacity. It does of include pain or suffering arising only from inherent to lawful sanctions".

The convention defines other cruel, inhuman or degrading treatment as[58]

> "Other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article 1, when such acts are committed by or at the instigation of or with the consent of acquiescence of a public officials or other person activity in an official capacity….."

Of particular relevance to this work are article 10, 11, 12 and 13 of the convention, which apply to the acts defined in both articles 1 and 16. Article 10 details the necessity to include education and information regarding the prohibition of torture in the training of any persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment. Article 11 emphasized that states parties shall keep under systematic review all procedures pertaining to the arrest, detention or imprisonment of individuals with a view to preventing torture. Articles 12 and 13 ensure that states parties

[57] Article 1, paragraph 1 of the Convention.
[58] Article 16, Paragraph 1 of the Convention.

conduct an impartial investigation whenever there are reasons bale grounds to believe than an act of torture has been committed and guarantee victims of torture a right to complain and to have their case promptly and impartially examined by competent authorities, protecting all witnesses and complaints from ill-treatment or intimidation.

Additionally, under article 2, 3, 14 and 15 of the convention, states parties are obliged to provide effective legislative, administrative, judicial or other measures to prevent acts of torture; to commit to the r principle of non-refoulement when there are grounds to suspect that a returned person will be tortured, to compensate victims and their dependents and exclude evidence or statements obtained through torture.

3.3.6 The Convention on the Right of the Child

The Convention on the Right of the child entered into force in September, 1990 and currently has 191 states parties. It provides for certain special rights for juvenile offenders, in recognition of their special vulnerability and society's interest in rehabilitating them. The convention also sets out a prohibition on life imprisonment of juveniles, as well protecting them against capital punishment[59]. Imprisonment of juvenile must be a measure of last resort and when imposed, must be for the shortest appropriate period of time article 37 further requires states parties to ensure that no child is subjected to torture or other cruel, inhuman or degrading treatment or punishment. In every case, article 37 requires that juveniles in conflict with the law be treated with humanity and respect for the dignity of the human person and in a manner which takes into account their age. In this regard, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so.

[59] Article 37 of the convention

Detained children shall also have the right to maintain contact with their family through correspondence on visits, save in exceptional circumstances. The convention underlines the desirability of promoting a child's integration and assuming a constructive role in society[60]. Nigeria ratified same on 19th April, 1991.

3.3.7 The African Charter on Human and People's Rights

The Africa Charter came into force on 21 October, 1986 and this marked the point of departure of the African regional human rights system. Same was ratified by Nigeria in 1983. The adoption of the charter meant that African status had at least achieved an important consensus on a minimum set of human right to be guaranteed by treaty and on regional procedures provides a framework for the recognition of human rights in Africa. It encompasses the so-called three generations of human right; Civil and Political Right[61], social and cultural right[62] and collective rights[63].

The charter provides additional protection for a number of basic rights already recognized by domestic legislation, establishes a common regional standard for judging the human rights systems of the several African states and imposes treaty obligations on states parties to abide by those standards and to submit to the regional body charged with monitoring compliance. Thus, States parties to this charter have agreed to recognize the right, duties and freedoms

[60] Article 40, Paragraph of the Convention
[61] Article 3 – 13 of the Charter
[62] Article 14 – 17 of the charter
[63] Articles 19 – 24 of the Charter.

enshrined in this charter and shall undertake to adopt legislative or other measures to give effect to them[64].

Furthermore, it provides that every individual shall be entitled to the enjoyment of the rights and freedoms recognized in guaranteed in the charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status[65].

The charter also provides that every person shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. Thus, 'all form of exploitation and degradation of man particularly slavery, slave trade, torture cruel, inhuman or degrading punishment and treatment shall be prohibited[66].

3.3.8 **UN Standard Minimum Rules for the Treatment of Prisoners**

The UN Standard Minimum Rules for the Treatment of Prisoners was first adopted on 30th August 1955 by the United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva, and approved by the Economic and Social Council in resolutions of 31 July 1957 and 13 May 1977.

Since its adoption by the Economic and Social Council in 1957, the Standard Minimum Rules for the Treatment of Prisoners (SMRs) have constituted the universally acknowledged minimum standards for the treatment of prisoners, and probably represent the most well-known

[64] Article 1
[65] Article 2
[66] Article 3

amongst the United Nations standards in crime prevention and criminal justice. Despite their legally non-binding nature, the rules have been of tremendous importance worldwide as a source of inspiration for relevant National Legislations as well as of practical guidance for prison management.

Although not legally binding, the Minimum Standards provide guidelines for international and domestic law for citizens held in prisons and other forms of custody. The basic principle described in the standards is that "*There shall be no discrimination on grounds of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status*[67]".

It contains Rules of General Application. It contains standards which set out what is generally accepted as being good principle and practice in the treatment of prisoners and the management of penal institutions. Specifically, it covers issues related to minimum standards of accommodation[68], personal hygiene[69], clothing and bedding[70], food[71], exercise[72], medical services[73], discipline and punishment[74], the use of instruments of restraint[75], complaints[76], contact with the outside world[77], the availability of books[78], religion[79], retention of prisoners'

[67] Part I of the SMR
[68] Rules 12 – 17 of the SMR
[69] Rule 18
[70] Rules 19 - 21
[71] Rule 22
[72] Rule 23
[73] Rules 24 - 35
[74] Rules 36 - 46
[75] Rules 47 - 49
[76] Rules 54 - 57
[77] Rules 58 - 63
[78] Rule 64
[79] Rules 65 - 66

property[80], notification of death, illness, transfer[81], removal of prisoners[82], the quality and training of prison personnel[83], prison inspections[84].

Part II contains rules applicable to different categories of prisoners including those under sentence. It contains a number of guiding principles[85], the treatment (rehabilitation) of prisoners[86], classification and individualization[87], privileges[88], work[89] (slavery and servitude are prohibited by rule 97), education and recreation[90], social relations and after-care[91]. Part II again contains rules for prisoners under arrest or awaiting trial, generally referred to as remand, rules for civil prisoners i.e. for countries where local law permits imprisonment for debt, or by order of a court for any other non-criminal process and rules for persons arrested or detained without charge.

However, there was a revision process of the Rules where the General Assembly requested the Commission on Crime Prevention and Criminal Justice, in 2010, to establish an open-ended intergovernmental Expert Group to exchange information on the revision of the SMRs so that they reflect advances in correctional sciences and best practices[92], provided that any changes to the rules would not result in lowering existing standards. The General Assembly further

[80] Rule 67
[81] Rules 68 - 70
[82] Rule 73
[83] Rules 74 - 82
[84] Rules 83 - 85
[85] Rules 86 - 90
[86] Rules 91 & 92
[87] Rules 93 & 94
[88] Rule 95
[89] Rules 96 - 103
[90] Rules 104 & 105
[91] Rules 106 - 108
[92] UN General Assembly Resolution 65/230". undocs.org. United Nations. 21 December 2010. A/RES/65/230. Retrieved 21 March 2017

highlighted a number of principles which should guide the continued revision process, including that (a) any changes to the Standard Minimum Rules should not lower any of the existing standards but should improve them so that they reflect the recent advances in correctional science and good practices, so as to promote safety, security and humane conditions for prisoners; and that (b) the revision process should maintain the existing scope of application of the Standard Minimum Rules for the Treatment of Prisoners, and continue to take into account the social, legal and cultural specificities, as well as human rights obligations, of Member States[93].

In December 2015, the General Assembly adopted its landmark resolution entitled "United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules")[94]. The reference was added not only in recognition of South Africa's major support to the revision process, but also to honor the legacy of the late President of South Africa, who spent 27 years in prisons in the course of his struggle for democracy and the promotion of a culture of peace. Accordingly, the General Assembly also decided to extend the scope of International Nelson Mandela Day (18 July) to be also utilized in order to promote humane prison conditions of imprisonment, to raise awareness about prisoners being a continuous part of society and to value the work of prison staff as a social service of particular importance.

3.4 Human Right Standard

Nigeria is signatory to a number of international and regional human rights instruments which promote the rights of national of a state. International norms and standards have various legal

[93] Ibid
[94] UN General Assembly Resolution 70/175". undocs.org. United Nations. A/RES/70/175. Retrieved 21 March 2017

effects depending on their source. Thus, various levels of states' obligations depend on whether the international standards are derived from treaty law, from customary international law or from various bodies of principles, minimum rules and declaration. The normative content of some of these standards and details on their proper implementation at ties national level are to be formed in the evolving practice of the United Nations treaty bodies, among others the Human Rights Committee, a treaty monitoring body established under international covenant on civil and political Rights.

However, treaties which have laws been ratified or acceded to by states, as well as customary international law, have the character of binding law. Such treaties include:

1. The United Nation Charter
2. International Covenant on Economic, Social and Cultural Rights.
3. International Covenant on Civil and Political Rights.
4. Convention on the Rights of the Child.
5. Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.
6. International Convention on the Elimination of all forms of Racial Discrimination.
7. Convention on the Elimination of All forms of Discrimination against Women.
8. Convention on the Prevention and Punishment of the Crime of Genocides.

Additionally, human rights standards are also enshrined in other types of instrument, declaration, recommendations, bodies of principles, Codes of Conducts and guidelines. These instruments are not legally binding on states. Nevertheless, the various Declarations and

Minimum Rules in force have moral force and provide practical guidance to states in their conducts. The value of these instruments rest on their recognition and acceptance by a large number of states and even without binding accepted within the later national committee. Importantly too, some of their provision that are relevant to the rights of prisoners are declaratory of elements of customary international law and are thus binding.

3.5 Harmonization of Human Rights on the Protection of the Rights of Prisoners

Although international human rights standards are set to ensure that municipal laws do not fall short of accepted standard, regulation of prison conditions is properly the province of domestic legislation. This is because familiarity with local customs, cultural, traditions and standards of life will be an important factor in determining what conditions are acceptable to human society and what are not.

In Nigeria, there are isolations that contain provision for the protection of prisoners. Some of these legislations are the Constitution, Prisons Act[95], Legal Aid Act[96], Criminal Procedure Act[97], Criminal Procedure Code[98] and some judicial pronouncements that interpreted and explain legislations. The most important of these legislations is the Nigerian Constitution.

3.5.1 The Constitution of Federal Republic of Nigeria 1999

The Nigerian Constitution is the Supreme law of the country as every law and arm of government derives legitimacy from the government. Any law which is inconsistent with the

[95] Prison Act, Cap. P29, L.F.N, 2004
[96] Legal Aid Act, Cap.L9, L.F.N. 2004
[97] Criminal Procedure Act, Cap.C41, L.F.N 2004
[98] Criminal Procedure Code, Cap.C42, L.F.N 2004

Constitution is null and void to the extent of its inconsistency. The following civil and political rights are guaranteed by the 1999 Constitution:

1. The right of life[99]
2. The right to dignity of human person[100]
3. The right to personal liberty[101]
4. The right to fair hearing[102]
5. The right to family life[103]
6. The right to freedom of religion[104]
7. The right freedom of expression[105]
8. The right to peaceful assembly and association[106]
9. The right to freedom from discrimination[107] and
10. The right to acquire and own immoveable property anywhere in Nigeria[108].

It is submitted that all these rights are available to prisoners in spite of their conviction. They could be exercised and enjoyed if only prisoners are aware of their existence and again, if the prison system will actually abide them. Though not justiciable during incarceration, it can be exercised to a certain extent. The burden lies on the prisons to ensure that to some certain extent, prisoners are well catered for by allowing them exercise these rights.

[99] S.33
[100] S.34
[101] S.35
[102] S.36
[103] S.37
[104] S.38
[105] S.39
[106] S.40
[107] S.42
[108] S.43

Apart from the Constitution, there is the Prisons' Act which has made provision for the rights of prisoners in Nigerian Prisons Regulations made pursuant to 5.15 of the Prisons Act which stated the types of and quality of food prisoners are entitled to for purposes of their health condition, their bedding, clothing and so on[109]. More also, regulation 54 provides that every convicted person undergoing a sentence of imprisonment for a period exceeding one calendar month may earn remission of sentence as the reward for industry accompanied by good conduct.

Regulation 55 further provides that the maximum remission which prisoner may earn shall be one-third of the sentence. It is submitted that it is a legal right of a prisoner to be entitled to remission on his or her jail term in so far as the prisoner is serving a sentence exceeding one calendar year and he or she not found wanting for offence(s) against discipline under Regulation 48.

3.6 Rights of a Prisoner

The prisoners are entitled to all the fundamental rights entrenched in the Nigeria Constitution, just like every other Nigerian. Fundamental rights are rights guaranteed in the Nigerian Constitution particularly chapter IV. Prisoner's right under the Nigerian law can be divided into two which are:

(1) Prisoner rights before conviction and;

(2) Prisoner rights after conviction.

However, whether pre or post-conviction, the prisoner is entitled to the following rights:

[109] Regulations

3.6.1 Right to Life

The right to life can be rightly be referred to as the mother of all rights for it is the foundation upon which the enjoyment of every other right is anchored. Nwabueze puts the point admirably when he writes that

> "Human life is indisputably entitled to be protected by the state because of its sacredness. It is sacred because it is God-given. It is completely beyond our power as human beings to bestow only God can bestow. It is sacred for ….It combines the dignity of the physical body and the dignity of human soul. The right to life is thus the ultimate of all human rights".

There is the doubt that the right to life is the foundation upon which all other rights are predicated and that is why it is usually the first of all right guaranteed under most Constitutions. For instance, S.33 (1) of the 1999 Constitution provides that: "*Every person has a right to life, and no one shall be deprived intentionally of his life, save in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria".*

The question therefore is: What is the meaning of life as used in this section? "*life means thing more than mere animals existence, and the inhibition against the deprivation of life extends to all those limit and faculties by which the life is enjoyed*[110]". The right of the accused or prisoner to life is therefore the basis of duty of care which the law imposes on prison authorities.

The right to life is also guaranteed the international covenant on civil and political right which provides:

[110] Udombana, N.J. Op. Cit. P.9

1. Every human being has the inherent right to life. This shall be protected by law. No one shall be arbitrarily deprived of his life.
2. In countries which have not abolished death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force as at the time of the commission of the crime and not contrary to the provisions of the present covenant and to the convention on the prevention and punishment of the of Genocides. The penalty can only be carried out pursuant to a final judgment by the competent court.

The combine effect of the above provision is that some in accordance with due process of law, prison officials or any other person dealing with a prisoner cannot interfere with the prisoner's right to life. This is clear from the decision of the supreme-court in the case Bello V. Attorney-General of Oyo state, where it was held that the execution of a condemned prisoner on the orders of the military Governor of Oyo state[111], while an appeal was pending against his conviction amounted to a violation of his right to life.

The right to life is one of fundamental right recognized by our Constitution. No one is to be deprived of that internationally save in execution of the sentence of a court which he has been found guilty in Nigeria. It is in recognition of this basic right that our criminal law and procedure is replete with several statutes governing trials in capital offences. At the apex of such trials in capital offences is the provision by there of an unconditional right of appeal from the court of Appeal to the Supreme Court in cases of sentences of death. It seems that the fact that a law which deals with procedural matters as the Supreme Court act, ought not to be so constructed as to derogate from the Constitution".

[111] (1986) 5 N.W.L.R. Pt. 45. P539

The position of the law in Nigeria regarding the entitlement of prisoners to the right of life, with particular reference to the condemned prisoners is similar in practice with the provisions of the United Nations Safeguard guaranteeing protection of the Rights of those facing the Death penalty[112]. It provides that capital punishment only be carried out pursuant to a final judgment tendered by a competent court after legal process which gives all possible safeguards to ensure fair trials[113]. Also the capital, punishment shall not be carried out pending only appeal or other recourse procedure or other proceedings relating to pardon or commutation of the sentence[114]. In other words, every legally available avenue for reprieve must be dully exhausted before a prisoner's right to life can be legally dominated.

Death penalty continues to attract the attention of some writers who criticize it. It has been submitted by Udonbana (2010) that the death penalty has failed to accomplish the anticipated result of crime deterence, and that Nigeria must therefore of necessity tow the line of some developed countries and other African countries in abolishing the death penalty[115].

However, Death penalty continues to be legitimate and practiced in a number of countries including Nigeria. Death penalty might appear to constitute a violation of the right of life insisting that it does. It leaves states the option to impose the death penalty but urges them to move certain limits on the way in which the death penalty can be imposed[116].

[112] Adopted by the United Nation on May 27, 1984
[113] Rules 5 and 6
[114] Rule 8
[115] Udombana, N.J. Op. Cit. P. 12
[116] www.hrea.org/index.php?base_id=153. Accessed on 30/12/2013 at 12:30pm

In Nigeria, the lingering issue of death row inmates was again thirst into the time light recently by a report that their number has surpassed 700[117]. the category of convicts had been sentence had been sentenced to death for serious crimes like murder and are awaiting execution, some for as many as ten years, without any decision being taken one way or the other over them[118]. They have remained so in a state of suspended animation, suffering psychological torture.

However, in spite of the legality of the death sentence, it is now agreed that keeping condemned prisoners for much longer than necessary in prison is not fair to all concerned. The Nigeria state is not bending the right message to society that there are certain behaviours that it abhors in the interest of the overall health of society[119]. And for the offenders, nothing can be more traumatizing than keeping anyone in limbo for any length of time. It has been suggested that the state governors should act quickly to sign the death warrants commute such, sentence is or grant state pardon. Doing nothing is not an option[120].

3.6.2 The Right not to be Subjected to Torture or to Inhuman or Degrading Treatment

The right of the prisoner to the dignity of his person is paramount to the whole idea of prisoner's right as respect for the dignity of acceptable standard of treatment is meted out to human beings. Thus, the body of principles for the detention or imprisonment guarantees this right of prisoners and detainees and gives no room for any derogation from it. It provides that "No person under any form of detention or imprisonment shall be subjected to torture or to cruel inhuman or degrading treatment or punishments. No circumstance whatever may be

[117] Addressing the fate of death row inmate. Editorial, Daily Trust, Friday, January, 10th, 2014, P. 76
[118] Ibid p.76
[119] Ibid
[120] Ibid

revoked as a justification for torture or other cruel, inhuman or degrading treatment or punishment[121]. The Nigeria Constitution has affirmed this right which is enjoyed by all Nigerians including prisoners and detainees. It provides that[122]:

1. Every individual is entitled to respect for the dignity of his person, and accordingly
    a. no person shall be subjected to torture or to inhuman or degrading treatment.
    b. no person shall be held in slavery or servitude; and
    c. no persons shall be required to perform forced or compulsory labour.

Clearly the use of such punitive measures as solitary confinement, denied food, physical violence, harassment, threats and intimidation or the use of shackles on prisoners by law enforcement agents in carrying out their duties toward prisoners amount to a violation of this right for which there can be no justification[123]. It is unfortunate that the reality on the ground in Nigeria prisons as well as some of the provision, of the prison regulations fall short of the acceptable United Nations standard minimum Rules as they violate prisoners' right to dignity of the human person[124].

More so, the United Nations Declaration on Protection of All Persons form being subjected to Torture and other Cruel, Inhuman or Degrading Treatment or Punishment adopted by General Assembly resolution 3452 (XXX) of 9th December, 1975 prohibits any state from permitting or

[121] Principle 6. See also article 5, Universal Declaration of Human Rights, Article 5 of the African Charter, and Rule 31 of the UN Standard Minimum Rules for Treatment of Prisoners.
[122] S.34
[123] Ajamo, M.A and Okagbue, I.E. Human Righhts and the Administation of Criminal Justice in Nigeria. Nigeria Institute of Advanced Legal Studies, Lagos, 1991, P. 209
[124] For example, Regulations 49 (3) and 61 of the Prisons Regulations, Cap. 366, LFN, 1999, which run contrary to Rule 31 of Standard Minimum Rules

tolerating torture or other cruel, inhuman or degrading treatment or punishment even in exception of circumstance such as war or a threat of war internal political instability or any other public emergency[125]. Additionally, states are required to take effectives measures to prevent any such violation within their territories, investigate any complaints of violation and prosecute and punish any official found capable[126].

There is abundant evidence of all forms of dehumanizing torture going on in prisons and detention centers in Nigeria. Also the practice of keeping prisoners on death row for a prolonged period before execution, which in some cases may be as a result of delay in appellate proceedings or administrative bottlenecks, it has been held, may amount to inhuman or degrading treatment, which contravenes the constitutional rights of such prisoners. This decision takes into account the mental and psychological effect of such delay or the prisoner as well as the physical conditions of incarceration. This principle has also been tested in the Nigeria case of Peter Nemi and Ors V. The State; where the appellants have been on death row for over ten years. The Supreme Court Opined that the question of not subjecting prisoners even condemned one to inhuman or degrading treatment brings into focus 5.34 of the Constitution. According to the due process of the law, and it is said that due process of law does not end with the pronouncement of sentence.

Incidental to the enjoyment of this right are certain minimum standards of treatment to which prisoners are entitled. They are aimed at improved prison conditions befitting the status of

[125] Article 3.
[126] Article 4, 9 and 10.

prisoners as dignified human beings, irrespective of their incarceration and magnitude of the offence giving rise to it. These cover, among others, such as areas as:

3.6.2.1 Accommodation: The Standard Minimum Rules (SMRs) provide for sleeping accommodation in individual cells or rooms to be occupied by one prisoner. If further says that even in the face of contemporary overcrowding, which necessitates an exception to this Rule, it is not desirable for two prisoners to share a cell or room. Additionally, the accommodation should meet all requirement of health, which includes minimum floor space, lighting, heating and ventilation, having due regard to climatic conditions. [127]Contrary to this provision, the provision of Nigerian Prison Regulations to the effect that "Prisoners for when separate cells are not provided shall be associated in rooms, with not less than three prisoners in each room" [128]runs foul of this requirement thus giving room for the scandalous states of congestion currently evident in Nigerian Prisons.

3.6.2.2 Bed and Bedding: According to Standard Minimum Rules, every prisoner shall be provided with separate and sufficient bedding, which shall be issued clean, kept in good order and changed often enough to ensure its cleanliness[129]. Unfortunately, the Nigerian provision is vague as it merely provides for a suitable sleeping space and the reality in most Nigerian Prisons is pathetic as beds and beddings[130] are one of the rarest commodities.

[127] Rules 9 (1) and 10
[128] Regulation 17
[129] Rule 19
[130] Prison Regulation26

3.6.2.3 Clothing: The provision is entitled to adequate and proper clothing as provided for by the SMR to the effect that every prisoner not allowed to wear his own clothing shall be provided with clothing suitable for the climate and adequate to keep him in good health, such clothing shall in no way be degrading or humiliating[131]. And where a prisoner is allowed to wear his own clothing the authorities shall ensure on his admission that they are clean and fit for use[132]. The prison's regulations make fairly adequate provisions for the clothing of prisoners but as in most other cases, it ends on the pages of the law books.

3.6.2.4 Feeding: The Standard Minimum Rules provides for food of nutritional value adequate for health and strength and of wholesome quality, well prepared and served to the prisoners at the usual hours as well as for drinking water whenever needed[133]. The position in Nigeria is that the Prison's Regulation and allows a prisoner sufficient quality of plain and wholesome food, having regard to nature of labour to be performed by him. Other areas include exercise and sports[134], medical services[135], discipline and punishment[136] and information and complaints by prisoners[137]. However, it appears aforementioned rights of prisoners are not available to prisoners in Nigerian prisons. The judicial approach is helping matters as the court is reluctant to extend right of prisons to those mentioned in the Standard Minimum Rules. The case of Ekanem V. A.I.G.P[138] is very instructive. In this case, the court of Appeal held that[139]:

[131] Rule 17 (1) (2) (3)
[132] Rule 18
[133] Rule 20 (1) and (2)
[134] Rule 21 SMR
[135] Rule 22 – 26, Ibid.
[136] Rule 27 – 32, Ibid
[137] Rule 35 – 36, Ibid.
[138] (2008) 5 Paras G - C. N.W.L.R Gpt. P. 97

> "…Any Person who is arrested and or detained must be brought before a court law within a reasonable time. He must be taken to court two months from the date of arrest or detention in the case of a person in custody who is not entitled to bail."

On the second relief for declaration i.e. where the applicant seeks a declaration that his captors should have provided him with sleeping materials and should not have removed his clothes except for his short. I am not of the view that such a declaration would not have been utopian in the Nigerian context whether the detention was in the police station or the prisons, having read about the general custodial situation in Nigeria. I am also of the view that the relief sought is not justifiable. Fundamental rights are in the realm of domestic law and they are fundamental because they have been guaranteed by the Constitution; see Uzokwu V. Ezeonu (II) (1991) 6 NWLR (Pt 200) 708 at 761. I do not know of any guaranteed right to be provided on arrest with a bed to sleep on though it is practicable to expect a detained person to sleep where he lies on before he sleeps is another matter.

This pronouncement captures the judicial attitude to the right of prisoners, and it presents the position of the law. However, it is submitted that this decision was reached without regard to the pathetic prevailing conditions in Nigerians prisons which deforms rather than reform the prisoners. More so, the fact that most prisoners are awaiting trial and by the provisions of the Constitution, until they are convicted, they are presumed innocent.

[139] Pp. 111 – 112, Paras G – C, Per Omage, J.C.A

3.6.3 The Right To Fair Hearing

The right to fair hearing is central to the determination of the guilt or otherwise of a person charged with a criminal offence. A hearing is fair hearing when and if it is fair to both parties[140]. It is also envisages that the court should be fair without showing any degree of bias against any of the parties[141].

For awaiting trial prisoners and those whose conviction have been appealed against, therefore, there is an array of legal safeguards to ensure compliance with their right to fair hearing. Section 36 of the Constitution guarantees the right to fair hearing providing in the following subsections that:

(4) Whenever any person is charged with a criminal offence, he shall, unless the charge is withdrawn, be entitled to a fair hearing in public within a reasonable time by a court or tribunal.

(5) Every person, who is charged with a criminal offence shall be presumed to be innocent until he is proved guilty.

(6) Every person who is charged with a criminal offence shall be entitled to __

a) be informed promptly in the language that he understands and in detail of the nature if the offence.

b) be given adequate time and facilities for the preparation of this offence.

c) defend himself in person or by legal practitioners of his own choice.

d) examine in person or by his legal practitioners, the witnesses called by the prosecution before any court or tribunal and obtain attendance and

[140] A.G. Benue State V. Umar (2008) I NWLR Pt. 1068 p.311 Pages 351 – 352, Paras. F – H
[141] Ibid

carryout the examination of witnesses to testify on his behalf before the court or tribunal on the same conditions as those applying to the witnesses called by the prosecution; and

e) have without payment the assistance of an interpreter if he does not understand the language used at the trial of the offence.

The right to fair hearing has been provided for by the body of principles. It provides that[142]:

1. A person shall not be kept in detention without being given an effective opportunity to be heard promptly by a judicial or other authority. A detained person shall have the right to defend himself or to be assisted by counsel as prescribed by law.
2. A detained person and his counsel, if any shall receive prompt and full communication of any order o detention, together with the reasons therefore.

These provisions guarantee a prisoner's right to fair hearing, which covers not only the prison system's grievance procedure, but also the prisoner's right and access to counsel or to materials for preparation of his/her case where he/she decide to represent him/her. The need for an accused to be defended by counsel could arise out of several factors such as the accused person's ignorance of the law or fear which makes him incapable of personally handling his case.

An accused person's right to representation by counsel is therefore crucial as understood by the court in Uzodima V. Commissioner of Police[143]. That

[142] Principle 11 of the Body of Principles.

> "the right of counsel for the poor as well as the rich is indispensable safeguard of freedom and justice under law. That is why we have legal aid in some categories of offences…. Our Constitution expects that even the guilty as well as the innocent should be entitled to a fair trial[144]".

The court further state that a layman who does not have the experience and skill of counsel to guide him might get lost in the intricacies of the law and thereby lose the advantages of counsel extended to every accused by law[145]. It is, therefore, wrong for prison authorities to remove prisoners from easy access to their counsel or abuse this right in any other way as does prisons regulations 45 which unconstitutionally exclude convicts from the scope of the right of counsel. In fact, where a detained person does not have a counsel of his or her choice, the ones is on the judicial or other authority, in the interest of justice, to assign one to him/her even if he/she lacks sufficient means to pay for it[146].

With regard to awaiting trial prisoners, the Standard Minimum Rules provides[147]. "An untried prisoner shall be allowed to inform immediately his family of his detention and shall be given all reasonable facilities for communicating with his family and friends, and for receiving visits from them, subject only to restrictions and supervision as are necessary in the interest of the administration of justice and of the security and good order of the institution".

Regulation 45 of the Prison Regulations as mentioned earlier provides for this right of the prisoner. But Rule 187 of the standing orders further elaborates on this right, providing that in every prison, there shall be a suitable place where visit between prisoners and the friends or

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[143] (1982) 3 NCLR 325 at 327
[144] Ibid.
[145] Ibid. p. 372
[146] Principle 17 (12), body of principles
[147] Rule 92, SMR

relatives can take place, and that such place shall be fitted with a table and chair or foams so that the prisoner is separated from his visitor by only the width of the table not less than three feet in width. The warder conducting the visit shall place himself where he can see and hear everything taking place. If necessary, an interpreter shall be present. Rule 188 provides for the hours of visitation as between 0730 hours to 1100 hour on Sundays as 1330 hours to 1530 hours on Saturdays, and at such other times as the superintendent may arrange.

On access to counsel the standard minimum Rules provides that[148]:

> "For the purpose of his defence, an untried prisoner shall be allowed to apply for free legal aid where such aid is available, to receive visits from his legal adviser with a view of his defence and to prepare and hand to him confidential instructions. For these purpose, he shall if he so desires be supplied with writing material. Interviews between the prisoner and his legal adviser may be within sight but not within the hearing of a police or institution officials".

Being presumed innocent, an awaiting trial person is guaranteed the right to free access to his lawyer for the purpose of preparing his defence. The Constitution also recognizes this right and as such provides that prisoner "be given adequate time and facilities for defence preparation of his offence". Facilities for defence of course include legal representation for which provision has been made for awaiting trial prisoners for reasonable opportunity for daily communication with their legal adviser. This, obviously underscores the fact that the right of a prisoner to counsel without access to counsel.

Although the Constitution is silent on the monitoring legal representation of a person charged with a capital offence, both the Criminal Procedure Act (CPA) and the Criminal Procedure

[148] Rule 93, SMR

Code (CPC) guarantee that such a person should be provided with a counsel by the court[149]. It is also settled now that the assignment of a legal practitioner to conduct the defence of any person who is charged with a capital offence is not a violation of the right to a counsel of his choice. In Josiah V. State[150], the appellant was charged with armed robbery and murder. Although a legal practitioner did not represent him, he was tried and convicted. The Supreme Court held that if a counsel does not represent an accused charged with a capital offence, the court shall assign a counsel for his defence[151]. Thus, awaiting trial prisoners standing trial for capital offence must be represented by a counsel as this right is unwaivable.

Implicit in the right to fair hearing is the requirement of prompt trial or trial "within a reasonable time" as provided by the Constitution[152]. The Constitution defines a reasonable time to mean, depending on the proximity of a court or tribunal, period of one day, or two days, or such long or by the court to be reasonable[153]. It is submitted that provision is vague and ambiguous. However, the provision states in relation to deprivation of liberty for a detained aim suspect that where he/she is not tried within two months.

Prison officials, prisoners are therefore given necessary opportunities and facilities to fully exercise their religious freedom. The only issue is that only Muslim and Christian prisoners are favoured in this regard as prisoners of the other religious faith are virtually left out.

[149] S.352 Criminal Procedure Act and S.186 Criminal Procedure Code
[150] (1985)1 S.C. P. 406
[151] Osamor, B. Fundamentals of Criminal procedure Law in Nigeria. Dee – sage Nigeria Limited, Abuja, 2004, P. 244.
[152] S.36 (4) of the Constitution
[153] S.35 (5) of the Constitution

3.6.4 Right to Privacy

Every individual is entitled to right to privacy. The Nigeria Constitution guarantees the right to privacy of citizens, their homes, correspondence, telephone conversation and telegraphic communication is applicable to prisoners and detainees albeit to limited extent[154]. It is arguable in the light of the forgoing Constitution provision that the practice of censoring prisoners' communication by prison officials which is backed by the provisions of the Prisons Regulations[155] and the prison standing order[156] infringes on the right to privacy of awaiting trial prisoners in particular who according to law are presumed innocent and as such should not be subjected to such measures. Apart from the Constitution, there are international instruments providing for the right to privacy of prisoners. Article 17 of the International Covenant on Civil and Political Rights (ICCPR) guarantees this right that (1) "No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attack on his honour and reputation, (2) Everyone has a right to the protection of the law against such interference or attack[157]". The application of the last of paragraph in one of the provisions, to a convicted prisoners may be questionable as it is debatable whether such a person has any honour and reputation deserving protection, particularly in the Nigerian context where prisoners are largely regarded as outcast and therefore viewed with suspicion[158].

The enjoyment of the right of privacy by prisoners or person awaiting trial is limited by his incarceration while automatically rules out his right to visit friends or family. Rule 37 of the standard Minimum Rules accords the right of communication and correspondence to prisoners

[154] S.37
[155] Regulation 44
[156] Order 174
[157] Article 12, Universal Declaration on Human Rights
[158] Udombana, N.J. Op. cit. P. 22

providing that *"prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits"*.

However, it is apparent that in spite of the necessary limitations on the application of this right to prisoners, the prison Regulation makes provision for all prisoners other than those under sentence to be allowed reasonable opportunities daily of communication with their friends or legal advisers and to write letters[159]. Convicted prisoners are also allowed to receive a visit from friend in the presence of a prison officer and to write and receive a letter at the discretion of the superintendent[160]. Or while prisoners under the change of capital offence and to be allowed all reasonable opportunity to communicate daily with their friends or legal advisers and to write or receive letters and this is to be done in the presence of prison officer[161].

These provisions to a great extent confirm to the international standard but their application is where the Nigerian Prison authority are sometimes found wanting in that a lot of restrictions and control are laced on the prisoners to the extent that the whole of such visit and communication become conducive[162].

3.6.5 Right to Freedom of Thought, Conscience and Religion

This right is one of the rights which prisoners and detainees extensively enjoy this right is derived from the Constitution which provides that:

[159] Regulations 45
[160] Regulation 42
[161] Regulation 62
[162] Udombana, N.J. Advancing the wellbeing of the Vulnerable: Law and Women Prisoners in Nigeria. LASU Law Journal Vol. V, Issue 1, 2007, O.113 at P. 129.

> "Every person shall be entitled to freedom of thought, conscience and religion, including freedom to change his religion or belief and freedom (either alone or in community with others, and in public or in private" to manifest and propagate his religion or belief in worship, teaching, practice and observance".

Similarly, Universal Declaration of Human Right provides that everyone has the right to freedom of thought, conscience and religion. This right also includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance[163]. The provision of the Constitution is quite similar to this provision.

Standard Minimum Rules provides that as far as practicable, every prisoner shall be allowed to satisfy the needs of his religious life by attending the services provided in the institution and having in his possession the books of religious observance and instruction of his denomination[164]. It also stipulates that a qualified representation of each religion shall be appointed or approved where there are a sufficient number of prisoners of the same religion[165]. Such a representation is to hold regular services and pay visits to the prisoners and access to him all not be denied any prisoner except the prisoner objects to such visit[166].

Similarly, the Prison Regulation makes limited provision for the exercise of religious rights of prisoners to the effect that minister of religion may be allowed at the direction of the Director of Prisons, to conduct divine service in prison on Sunday, Christmas Day and Good Friday

[163] S.38 of the constitution.
[164] Rule 42
[165] Rule 41 (1)
[166] Rule 41 (1) and (2)

between certain specified hour[167]. More so, Muslim prisoners are also entitled to observe their Friday prayers and five daily prayers.

Consequently, the Nigerian prison authorities seem to have recognized the fact that prisoners more than any other set of persons are in need of spiritual encouragement. More so, as such exercise keeps the prisoners in a state of disposition that creates lesser problems for prison officials. Prisoners are therefore given necessary opportunity and facilities to fully exercise their religious freedom. The only issue is that only Muslim and Christian prisoners are favoured in this regard as prisoner of other religious faith are virtually left out.

3.6.6 Right to Freedom of Expression

By implication, the enjoyment of the right to freedom could be accomplished through the uniting and receiving if letters as well as visitation by family and friends. It is also covers the right of access to counsel both awaiting trial prisoners and those whose conviction have been appealed against. The enjoyment of this right is paramount to the maintenance of the sanity of the prisoner because of their basic human need to express their thoughts and feelings about the situation in which they have found themselves.

The Constitution provides for freedom of expression and the press. It says that every person is entitled to freedom of expression including the freedom to hold opinion, receives and imparts ideas and information. The freedom of expression could be exercised orally or in writing through the press or other electronic media. It has been submitted that the right is freedom of expression. This is a substantive person may express his idea, opinion or convey information

[167] Rule 39

by any means available to him. The Constitution did not restrict the means of conveying such information and ideas[168]. The medium could be by words, in writing, printing, drawing, scriptures or even through signs or gesture like in miming. A person may also express himself through letters, articles, bills, pamphlets, cartoons, newspaper etc. Article 19 of the ICCPR elaborates of this right by providing that:

1. Every one shall have a right to hold this without interference.
2. Everyone shall have a right to freedom to seek, receive and import information and ideas of all kinds, regardless of frontier, either orally, in writing or in printing, in the form of art or through any other media of his choice[169].
3. The exercise of the right provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions but this shall only be such as are provided by law and are necessary.
    a. for respect if the right or reputation of others;
    b. for the protection of national or of public order (Ordre public) or of public or morals.

3.6.7 Freedom from Discrimination

The right to freedom from discrimination is one of the fundamental rights guaranteed by the Constitution. It provides that[170] " a citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is such a person:

[168] Ibid
[169] See also Article 19 UDHR
[170] S.42 of the constitution

(a) be subjected either expressly by, or in the practical application of, any in force in Nigeria or any executive or administration action of the government, to disabilities or restrictions to which citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religious or political opinions are not made subject";

This right is also available to prisoners especially those awaiting trial. More so, the UDHR provides for the equality of all persons before the law[171] and their entitlement without any discrimination to equal protection of the land. Prisoners entitlement to this right is also re-echoed by the SMR which provides for the impartial application of the Roles, without discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status[172].

One important area of discrimination, which is of interest currently, is that of the identified HIV medical reason or behavior problem but one to ignorance on the part of prison officials as well as fellow inmates[173].

3.7 HUMAN RIGHTS PROTECTION AGENCIES

3.7.1 The legal Aid Council

The Legal Aid Act of 2011 gives the Legal Aid Council the powers to deal with civil, criminal and fundamental rights matters brought to it by agents who are indigent. The Act determines indigents as those 'whose income does not exceed the national minimum wage'[174].

[171] Article 7 of the UDHR
[172] Rule 6 (1)
[173]Making Standard work. An International Standard on Good prison practice (The Hague: Panel reform International, 1995), P. 22

The essence of the Legal Aid Council is to improve access to justice by the citizenry of Nigeria, especially indigent accused person. From 1976 when the Legal Aid Council was first established, it has in no small way added to the scope 0f jurisprudence, and has widened access to justice for all Nigerians[175]. The Legal Aid Council has played a major role in enhancing the administration of justice as a way of improving the council's justice sector with a more robust protection of human rights.

The Legal Aid Council was established pursuant to the promulgation of Legal Aid Decree No. 56 of 1976, then an amended Legal Aid Act, cap. L9, Laws of the Federation of Nigeria, 2004 which was repealed by a new legal Aid Act, 2011. The Legal Aid Council has continued to collaborate with the stakeholders in the justice sector to effect jail delivering. In this regard, the council's lawyers accompany State Chief judges on jail delivery.

However, in Nigeria, Legal Aid Council cannot deal with the large number of suspects who need assistance. Consequently, only one in seven inmates awaiting trial and one in five convicted inmates in Nigeria have legal representation[176]. Of those awaiting trial, 25 percent have legal representation from the Legal Aid Council and other non-governmental bodies offering pro bono services[177].

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[174] Section 10 (1)
[175] Legal Aid council Report to the Nigeria Bar Association delivered at the 2012 annual general conference holding at Abuja, August, 2012
[176]Access to Legal Aid in criminal justice system in Africa; Survey Report.United Nations, 2011. P. 10
[177] Ibid

Therefore, the Legal Aid Council is not devoid of constraints to execute its duties such as lack of funds to enable it provide legal assistance to all indigent and underprivileged Nigerians who require its services few personnel, lack of operational vehicles, office equipment etc[178].

3.7.2 National Human Rights Commission

The National Human Right Commission of Nigeria was established in 1995 as a response to the Vienna Declaration and programme of action adopted by the World Conference on Human Rights in Geneva[179].

It was created as an organ for facilitating Nigeria's implementation of its various human rights treaty obligations including but not limited to the UDHR, the international convention on the Elimination of All forms of Racial Discrimination and the African Charter on Human and peoples' rights[180]. It was also created as a mechanism of human rights and a forum for 4i-enlightenment and dialogue on human rights issues.

The Act establishing the Commission sets out in ten sub paragraphs the functions and powers of the commission. These include[181]:

1. To monitor and investigate all alleged cases of human rights violations in Nigeria.

2. To organize local and international seminars, workshops and conferences on human rights issues for public enlightenment.

[178]Ojukwu, E. Et. Al (2012) Handbook on prison pre- trial detainee law clinic.Network of Universities legal Aid Institutions, Abuja. P. 23
[179] Ibid. P. 23-24
[180] Ibid. P. 24
[181] S. 5 of the national human right commission Act

3. To liaise and co-operate with local and international organizations on human rights with the promotion and protection of human rights.

The National Human Rights Commission (NHRC) also operates as a complaint mechanism which offers Nigerians a simple inexperience and non-technical procedure for address of human rights vio1ations[182]. Thus, to this extent, NHRC assist in protecting the rights of prisoners in Nigeria.

3.7.3 The Prisons Service

The Nigeria Prisons Service derives its operational powers form the Prison Act[183], it performs the following functions.

i. Take into lawful custody all those certified to be so kept by courts of competent jurisdictions.
ii. Provide suspects in court as at when due.
iii. Identify the causes of their anti social depositions.
iv. Set in motion mechanisms for eventual reintegration into society as normal law abiding citizens on discharge, and
v. Administer prisons farms and industries for this purpose and in the process generate revenue for the government.

The prison service is wholly set up and managed in Nigeria exclusively by the Federal Government under the Constitution but most of the inmates and detainees come from state

[182]Ojukwu, E. Et. Al. Opcit.
[183] Cap. P. 29, Laws of the federation of Nigeria, 2004.

courts. Nigeria has over 400 facilities spread across the 36 states[184]. It has a prison population of about 39,763 prison inmates with about 25,648 prison inmates on remand custody and about 14,115 convicted inmates. The prisons are for custody, retribution, deterrence, reformation and rehabilitation of the convicted prisoner. The most common problem is congestion in the prisons.[185]

The prison plays a prominent role in the administration of criminal justice especially at the trial and post-trial stages. It is saddled with the responsibility of custody as well as conveying accused persons who are remanded in prison custody and are awaiting trial to and from prison. The prison play complimentary role to the judiciary in that it is a place where criminals should be reformed and rehabilitated to make them to be useful to the society when their terms of imprisonment run out.

3.7.4 Borstal Institution and Remand Centre

Borstal centers have been established under the Borstal Institutions and Remand Centres Act[186]. A remand centre is a place for the detention of persons not less than sixteen years but under twenty-one years of age who are remanded or committed in custody for trial or sentence[187]. A borstal institution is a place in which offenders who were not less than sixteen but under twenty-one years of age on the day of conviction may be detained and such training and instructions as will conductive to their reformation, prevention of crime[188]

[184]Ojukwu, e. Et. Al. Opcit
[185] Ibid
[186] Cap. #11, Laws of the federation of Nigeria. 2014
[187] S.3, Ibid
[188] Ibid

A prison or any part of a prison may be declared to be a remand centre or borstal institution. In addition to the application of the borstal and remand centre regulations to remand centres and borstal institutions, the prison act also applies to the centres and institutions[15].

Under the child's rights act (and laws of the states that have enacted state versions), every state ought to establish government accommodation where a child offender may be accommodated or detained where bail has not been granted.

3.7.5 Administration of Justice Commission

In Nigeria the Administration of Justice Commission was set up by the Administration of Justice Act with the responsibility among other things over the general supervision of the administration of justice[189]. The Commission has the Chief Justice of Nigeria as the chairman, the any general of the Federation, minister of defence, Inspector General of Police, the Director of Prisons and the president of the Nigerian bar association as members.

The duty of the Commission is to ensure that the court system in Nigeria is generally maintained and adequately financed, justices and officers of the courts conform with the code of ethics of their office, criminal matters are speedily dealt with, congestion in courts is greatly reduced: congestion in the prison is greatly reduced, and persons awaiting trial are as much as possible not detained in prison custody. The Act provides that each state in Nigerian must establish the administration of justice committee, to be headed by the Chief Judge of the state with the Attorney General of the state, the Commissioner of Police, and the chairman of the state branch of the Nigeria Bar Association as members.[190]

[189] S. 10 Ibid
[190] S. 4 of The Administration of Justice Commission Act

3.7.6 Chief Justice

The Constitution provides for the position of the Chief Judge of the Federal High Court[191]and States High Courts[192] and of the Federal Capital Territory, Abuja. An important function of the Chief Judge is called "Jail deliverer". Under this scheme, the Chief Judge visits the prison to review cases of pre-trial detainees who may require to be released unconditionally or on bail in deserving cases such as[193]:

a. Detainees that served more time in detention without trial more than they would have stayed had they been convicted.

b. Those that deserve to be released on bail due to the circumstances of their case including health reasons.

c. Detainees that were granted bail but could not fulfill the conditions of the bail due to the circumstances of the case and the offences are not seriousness.

The Chief Judge is the chairman of the Administration of Justice Committee at State level and the Chief Justice of the Federation, the chairman of the Administration of Justice Commission.

3.8 ACCESS TO JUSTICE

The big question here is: for those awaiting trials, what happens if later on they are found not guilty? How would they be compensated for the years or time spent in prison? Though they can seek redress in court for defamation, but it is not enough because the damage has already been done by smearing their name and family. Also a situation whereby majority of those in both Minna and New Bussa prison have no lawyers, there can never be fair trial in

[191] S. 229 (1) of The 1999 Constitution
[192] S. 235 (1) Ibid
[193]Ojukwu, E. Et. Al. Opcit

such a situation because the accused will just be at the mercy of what the persecuting officer or counsel tells the Judge.

Worthy of importance here is the essence of defending the rights of these prisoners, to possess equal and non-discriminatory access to the courts of law, expand access of inmates to equal and impartial justice, attack corruption in the prison system as well as in justice administration, support legal struggles for human dignity and disseminate legal resources that help achieve these purposes.[194]

Considering issue of beating as one of the torture experienced in both Minna and New Bussa prisons, it is clear that prison warders do the beating, which goes to confirm or agree with the second assumption that prison staff abuse prisoners. The recognition that most of the prison staff (warders) do not even know most of the Standard Minimum Requirements for the protection and treatment of prisoners and other instruments provided by the United Nations Conventions, is grossly inappropriate given the status of Nigeria in the world. There remains a long way to travel before we can feel that a true appreciation of prisoners' rights has arrived in our prisons especially now that we are in democracy which upholds human rights as one of its cardinal objectives.

3.9 CONCLUSION

In Nigeria, just like in many other parts of the world, one of the most extensively discussed issues on the public agenda today is the increase in prison population. The aims of

[194] http://en.wikipedia.org/wiki/Access_to_Justice#cite_note-1

imprisonment are protection, retribution, deterrence, reformation and vindication. Investigations revealed that the prison services have been neglected more than any other criminal justice agency in Nigeria. For example, most of the prisons were built during the colonial era for the purpose of accommodating a small number of inmates. Human Rights are the basic guarantors for human beings to be able to achieve happiness and self-respect; consequently, in most jurisdictions, the Human Rights Commission Act[195] confirms that these Rights do not stop at the prison gates. However, most States fail to meet the Human Rights obligations of their prisoners. As regards to health, for example, every prison should have proper health facilities and medical staff to provide dental and psychiatric care among others. There exists in the Nigerian Prison System numerous challenges, trends and the related Human Rights and Ethical issues. Some of the unmet needs of Nigerian prisoners which include, inter alia, living in unwholesome cells, delayed trial of inmates, lack of voting rights, access to information, lack of conjugal facilities for married prisoners, poor and inadequate nutrition, poor medical care, torture, inhumane treatment and the need to protect prisoners in a changing world. The research work highlights instruments, both foreign and local which aim at reforming prison services in Nigeria, and countries that sing from the same song sheet with Nigeria on prison services, to conform to the Fundamental Human Rights of prisoners in the 21st century.

These rights include the rights to humane treatment which prohibits specifically violence or seriously endangering health, or physical mutilation, protection from acts of intimidation, insults and public curiosity, protection from reprisals, exercise, protection from physical or mental torture, adequate physical and psychological treatment, to adequate food, water, shelter

[195] Human Rights Commission Act, Cap.N46 LFN 2004

and clothing, sanitary living conditions, religious freedom, and to complain. Detaining powers have the right to use appropriate force in the event of escape or a riot, to require prisoners to give their name and rank, and to utilize prisoners for labor as long the work doesn't have to do with forced labour.

The rights in question are protected by local legislations; ultimately is the Nigerian Constitution, then the Prison Act itself followed by others. There are as well the international treaties. For the most part these treaties came into existence following the two World Wars and the body of law continues to be added to and amended. Now, they are numerous and lay down codes by which prisoners should be dealt with. Foremost amongst them are the International Covenant on Civil and Political Rights, the UN Standard Minimum Rules for the Treatment of Prisoners, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, and the Convention on the Rights of Child etc.

CHAPTER FOUR

HUMAN RIGHTS ABUSES IN NIGER PRISONS

4.1 INTRODUCTION

Nigeria's human rights record remains poor and government officials at all levels continue to commit serious abuses. Human rights in Nigeria are protected under the most current Constitution of 1999. Though Nigeria has made serious improvements in human rights under its Constitution, this work notes areas where significant improvement is needed with respect to Nigerian prisons.

This chapter examines data on Human Rights Abuses in Minna and New Bussa Prisons, with particular focus on the compliance of prison authorities to the United Nations minimum standard of the protection of prisoners' rights and other instruments.

4.2 A REVIEW OF M I N N A PRISON

The colonialist established the prison system to punish the offenders. The prison was one of the agents of social control and principal organs of criminal justice system in Nigerian.[196] Various laws were promulgated for the establishment and regulation of prison institutions. The Prison Ordinance No. 21 of 1916, provided that the (colonial) Governor of Nigeria may gazette and declare any building enclosure or place in any part of the territory if he so wish to be a prison. It thus followed from this enactment that such buildings chosen declared as such in Minna falls under the official definition of a prison in colonial Nigeria.[197]

[196] Isah H: The Evolution of Zuru Central Prisons (Un-published B.A Project) Dept of Hist, UDU Sok 2006 P. 14
[197] Gopye(ed) etal Basic recruit Manual Kaduna PTS Kaduna PP. 10-15

The present Minna prison was initially at Kuta town then the Gwari Native Authority Headquarters. Before then in Minna, there was a small house lock up which housed only prisoners to three months and below, for a sentence which is above three months the convicts were usually sent to Kuta where there was a standard native Authority Prison.[198]

The initial staff strength of the prison was nineteen (19) and this included the officer in-charge with one corporal. The remaining seventeen (17) staffs were all privates. The prison was modeled to admit rape, theft, etc. offenders in order to reduce tension and enforce security; a chief warder (popularly known as Dan-Kumi) served in the prison during the Native Authority era.[199]

4.3 A REVIEW OF NEW BUSSA PRISON

The New-Bussa Prison was first established in 1895 at Old Bussa under the control and supervision of the Emir, who also administered justice.

The creation of states in 1967 each of the six Northern States had District Courts established. The District courts was to mediate cases between disputed parties among the natives of Borgu (New Bussa).

The Introduction of Native Authority Police and re-organization of the Prison split the Emirs Court in to two. Emirs Customary Court with the Emir as the President the two Courts led the Prison with inmates. In 1968, the capacity of the Prison was 288 during such period, when the Federal Government took over the Prisons Administration from the Native Authority.

[198] Egu, M.A, History of the Nigerian prisons service. An insides Account 1900 P. 35
[199] Ibid p. 133-134

The subsequent transfer of the entire prison from the Old Bussa due to the construction of the Kainji Dam and Power Station, led to resettlement of the people and establishment of New Prison in Bussa and other resettled, Borgu communities in 1945[200].

4.4 CONTRIBUTORY FACTORS TO ABUSE OF PRISONERS' RIGHTS

There are certain constraining issues that hinder the enjoyment of rights by prisoners; ironically, same contribute in hindering proper data acquisition. These include insufficiency of funds and/or materials, which could have aided in many ways, in order to effectively administer this study in the areas under study. Consequently, reliable information on prior criminal records is hardly available to judges and prison officials, except for very serious crimes. But even in cases of serious crimes where such record exist, they are hardly preserved and stored under conditions that afford quick retrieval for routine judicial decision- making.

4.5 DATA PRESENTATION AND ANALYSIS

4.5.1 Procedure for Data Collection

The respondents to the questioners designed for this study were drawn from the two prisons which make up the researcher's study areas. The distribution cut across all categories of inmates from those convicted or unconvicted (awaiting trial prisoners) for Armed Robbery, Theft, Rape, Murder, Debtor etc such categories respondents were selected using simple random sampling procedure.

[200] Interview with the warders, 2014

The empirical method of research adopted in this work, to a large extent was through administering of questionnaires. Two different questionnaires were designed for the purpose i.e. one for the prisoners and another for the prison staff. To bridge the gap, personal interview aided, particularly with few friendly staff.

Consequently, 200 respondents were given the questionnaire to fill in Minna prison. The distribution was done with the assistance of a warder and two prisoners called head masters. The headmasters are those prisoners representing their respective halls. The researcher was able to collect back the entire 200 questionnaires (which shows 100% success) given to the respondents in Minna prison with appreciable responses to the issues raised. The analysis of the findings from the questionnaire sources in this work are therefore based on the 200 questionnaires (100%) that were returned back to the researcher and the oral interview sources. This number, however, represents a 100% of the total number administered in Minna which was also properly filled and returned to the researcher.

In New Bussa prison, a total of 25 respondents were given the questionnaire to fill. The distribution was a little different from that of Minna, because in New Bussa due to their limited number, the researcher sat in the welfare office while the prisoners came one after the other and filled the questionnaires. The analysis of the findings in New Bussa prison was based on the 25 questionnaire returned and oral interview sources and observation. This number represents a 100% of the total number administered to New Bussa prison.

Table 4.5.1: Procedure for data collection

S/N	Sites	Questionnaire	Questionnaire	Questionnaire not

1	Minna	200	100	200	100	0	0
2	New Bussa	25	100	25	100	0	0

Sources – field survey, 2014.

So, the overall total of the respondents that filled and returned the questionnaire in both Minna and New Bussa prisons were 225. More so, the researcher embarked on the unstructured oral interview technique of data collection so as to augment the findings from the questionnaire such that prison staff and other experts on prisons could add to the flair in the work in the two areas were conveniently studied, especially given the use also of the personal observation of the conditions of living of the respondents in the areas by the researcher.

Minna is made one of the focal points for this research work because it is the state capital and thus the core of the state. It has the largest prison accommodation in the state and the prisoners therein cut across the state and the country as a whole. The capital city houses two prisons i.e. Old and New Minna prisons. New Bussa as the second option was as a result of its proximity to the south east; there is a common notion that crime rate in the region is high, therefore the researcher believed a lot will be gained from the caliber of prisoners housed there.

4.5.2 Distribution of Respondents' Socio-Demographic Characteristics

In both Minna and New Bussa, the various aspects of respondents' personal characteristics shows that most of them are within the age brackets of 18-28 and 29-39 years, while the least was from the age bracket of 50 and above years. The inference that could be drawn here is that most persons in the prisons were young men and women who should be in productive age. This ugly situation is further reinforced by the facts available from the Federal Office of

Statistics that individuals within the age range of 18 and 49 who are implicated in crime are actually more, (90.7%) than other age categories.[201] It can be inferred therefore that the fact that they are of working age actually exposes them to crime commission or accusation of crime commission as the case may be. In addition this result is not unexpected especially in a society where there is mass unemployment and underemployment and in which poverty level has assumed unimaginable proportions.

As regards sex distribution, the data as presented in the table above shows that 96% of the respondents were male in Minna prison. While in New Bussa, the respondents were all male constituting 100%. At the time the data was collected, there was no female inmate in New Bussa. But in Minna (only 8 females in all) 3.5% of the respondents were female. This may not be unconnected with the fact that relatively few women are found in the various prisons in the country. The inference here is that women are less inclined to crime, compared to their male counterparts. Or one would agree with the position that: "women do not have equal illegitimate opportunities as their male counterparts, their crimes are generally under reported and they are shown more leniency by law enforcement officials than their male counterparts".[202]

On economic background, the data as presented in the table above, showed that in Minna prison, 82.5% are poor, 1.5% are from rich background, while 32 (14.2%) refused to thick that column. But in New Bussa all (100%) the respondents are from poor family background. The explanation that could be given here is that people are more often than not

[201] Federal Office of Statistics (1998:5)
[202] Igbo, E.U (2007). *Introduction To Criminology*. University Of Nigeria Press Ltd. P. 230

driven to crime due to poverty. This is because of inequality in the distribution of resources among individuals in the society. In other words, the institutional means available for the achievement of cultural goal is not equally distributed. This is in line with the notion that about 70% of Nigerians are living below poverty line and Nigeria was rated the 25th poorest nation in the world in spite of abundant resources.[203] And that poor people take to crime to make ends meet. Access to education, health, power and prestige is dependent upon available resources. No wander those involved in crime are from family of lower social background.

In respect to educational qualification, there is indication that most respondents in both Minna (48.5%) and New Bussa (64%) had secondary education. Making the sum total of 50.2% had secondary education. In Minna 6.5% had no western education, in New Bussa 20% had no western education, making the sum total of only 8% of both Minna and New Bussa had no western education. It is important to note that in Minna 23% had NCE/Diploma while in New Bussa, only 4% had, making the sum total of both area of 20.9% had NCE/Diploma. And 3.6% had Degree and above in Minna and New Bussa had none: with this high figure of the educated, it appears that education has become a strong factor in criminality. This may not be unrelated to a high level of unemployment of which the children of poor people (which is mostly made up of secondary school leavers in Nigeria), in the period of economic hardship or recession have fewer options available to them of which crime is one. As it was further argued, if some of them resort more to crime than conformity

[203] Eze, M. and Okafor, E.(2007), "Pakistan Journal of Social Sciences Volum4(1):23-31(medwell on line.com).

and compromises their own fundamental rights, it is because they are at the sharp end of the unequal distribution of resources, which typified capitalist social and economic arrangement.[204]

Table 4.5.2: Distribution of respondent's socio-demographic characteristics

1.Age distribution	Minna	0%	N/Bussa	%	Total frequency	Overall percentage	Valid percentage	Cumulative percentage
Less than 18	12	6	2	8	14	6.2	6.2	6.2
18 > 28	93	46.5	12	48	105	46.7	46.7	52.9
29>39	74	37	7	28	81	36.0	36.0	88.9
40 – 50	15	7.5	4	16	19	8.4	8.4	97.3
51 above	6	3	0	0	6	2.7	2.7	100.0
2. Sex	Minna	0%	N/Bussa	%	Total frequency	Overall percentage	Valid percentage	Cumulative percentage
Male	192	96	25	100	217	96.4	96.9	96.9
Female	7	3.5	0	0	7	3.1	3.1	100.00
					I missing			
Total	199	99.5	25	100	225	100.00	100.00	100.00
3. Educational background	Minna	0%	N/Bussa	%	Total frequency	Overall percentage	Valid percentage	Cumulative percentage
Sch. Cert.	38	19	3	12	38	16.9	17.0	17.0
S.S.C.E/TCII Cert	97	48.5	16	64	113	50.2	50.4	67.4
NCE/Diploma	46	23	1	4	47	20.9	21.0	88.4
Degree and above	8	4	0	0	8	3.6	3.6	92.0
Illiterates	13	6.5	5	20	18	8.0	8.0	100.00
					I missing	4		
Total	199	99.5	25	100	225			

Sources-Field Survey, 2014

4.5.3 Distribution of respondents by years incarcerated, status and categories of offence.

The next analysis represents employment status. It shows that the unemployed and applicants constituted the majority. The unemployed in Minna is 30% while New Bussa is 8%. Minna had 27.5% applicants and New Bussa had 28%. Both Minna and New Bussa

[204] Ibid P. 22

had the sum total of 27.6% unemployed, and 27.6% applicants. The inference that could be given here is that people are more often than not driven to crime due to poverty. It was also proffered that people are driven to crime because of the inequality on the distribution of resources among individuals in the society.[205] In other words, the institutional means available for the achievement of cultural goal is not equally distributed.

On the status of conviction, the table above shows that Minna has 50.5% and New Bussa 36%, giving in effect a sum total of 48.9% awaiting trials in both prisons. Those convicted short terms in Minna are 37.5% and in New Bussa 56%. Those convicted for life imprisonment in Minna covers 15%, while had none. Those condemned to death in Minna are only 0.9% while New Bussa again has none. With those in awaiting trial as majority, this goes to indicate the extent to which Nigerians are vulnerable to being punished by being confined even before they are found guilty. This is in total violation of the constitutional rights of most of those prisoners awaiting trial. This factor amongst others add up to default in the constitutional requirement for speedy trial provided for by Section 35(4) of the Constitution which provided that:[206]

> Any person who is arrested or detained in accordance with sub-section (i) (c) of this section shall be brought before a court of law within a reasonable time, and if he is not tried within a period of (a.) two months from the date of his arrest or detention in the case of person who is in custody or not entitled to bail, or (b) three months from the date of his arrest or detention in the case of a person who has been released on bail, he shall (without prejudice to any further preceding that may be brought against him) be released either unconditionally or upon such conditions are reasonably necessary to ensure that he appears for trial at a later date.

[205] Ibid
[206] 1999 Constitution (As Amended)

The expression “reasonable time” has been defined in Section 35 (5) to mean:

(a) in the case of an arrest or detention in any place where there is a court of competent jurisdiction within a radius of forty kilometers, a period of one day, and

(b) In any other case, a period of two days or such longer period as in the circumstance may be considered by the court to be reasonable.

It follows from the above provision that any person arrested or detained for an offence shall be released within 48 hours or such longer period as the court in the circumstances will determine. But the reality is different; citizens are imprisoned for years, months, without being brought before the courts.

As regards the categories of offence, house breaking (theft) constituted the majority (40.9%) in both Minna (58.5%) and New Bussa (60%). This is followed by Armed Robbery with 19.1% in total. Minna had 20% while New Bussa had 43% of armed Robbery cases. The least of the categories of offence are debtors (3.6%). The debtors in Minna represent 3% while New Bussa had 8%. The inference that could be drawn here is that House Breaking (theft) and Armed Robbery are the major crimes in the prisons studied, in other words, they are the most important forms of crime in Nigeria. This prevalence may be linked to the general hopelessness and the inability of the political leadership to solve the nagging problem of unemployment and mass poverty in the land. Added to this, are the issues of corrupt practices of security men at various ports and boarders who allowed the smuggling of arms and

ammunitions to the country. The result is general insecurity and increase in armed Robbery and assassinations.[207]

Table 4.5.3: Distribution of respondents by years incarcerated, status and categories of offence.

4.Employpment	Minna	0%	N/Bussa	%	Total frequency	Overall percentage	Valid percentage	Cumulative percentage
Unemployed	60	30	2	8	62	27.6	27.7	27.7
Employed	52	26	4	16	56	24.9	25.0	52.7
Applicant	55	27.5	27	28	62	27.6	27.7	80.4
Self employed	32	16	12	48	44	19.6	19.6	100.0
					I missing	4		
Total	199	99.5	25	100	225			
5. Status	Minna	0%	N/Bussa	%	Total frequency	Overall percentage	Valid percentage	Cumulative percentage
Convicted Short term	75	37.5	14	56	89	39.6	39.6	39.6
Awaiting Non convicted	101	50.5	9	36	110	48.9	48.9	88.4
Detained	1	0.5	0	0	1	.4	.4	88.9
Long term Convicted	18	9	2	8	20	8.9	8.9	97.8
Lifers	3	1.5	0	0	3	1.3	1.3	99.1
Condemned	2	1	0	0	2	.9	.9	1000
Total	200	100	25	100	225	100.0		
6. Nature of Offence	Minna	0%	N/Bussa	%	Total frequency	Overall percentage	Valid percentage	Cumulative percentage
House breaking (theft)	77	38.5	156	60	92	40.9	41.1	41.1
Fighting	39	19.5	2	8	41	6.2	6.3	65.6
Murder	14	7	0	0	14	6.2	6.3	65.6
Armed Robbery	40	20	3	12	43	19.1	19.2	84.6
Not aware of offence	4	2	0	0	4	1.8	1.8	86.6
Rape	11	5.5	2	8	13	5.8	5.8	92.4
Cheating	8	4	1	4	9	4.0	4.0	96.4
Debtors	6	3	2	8	8	3.6	3.6	100.0
Total	199	99.5	25	100	225			

Source: Field survey, 2014

[207] Ibid

4.5.4 Respondents Opinions on the Various Aspects of their Experiences in Prison

This goes to show the distribution on the different personal experiences in prison. On the question, do prison officials respect your human dignity? Majority of the respondents (57.8) agreed that prison officials do respect their human dignity. In Minna (55.5) and New Bussa (76%) all agreed that their dignity is respected. While in Minna (25.5) and New Bussa (20%) said No, their dignity is not being respected. 2.5% in Minna said they are not aware while none in New Bussa said they are unaware. In Minna, 16.5% and New Bussa, 4% said not always. The inference that could be made here is that despite majority (57.8) agree that their human dignity are being respected by officials, those figures or percentage (24.9%) that said their human dignity is not respected cannot be neglected. This is serious as 24.9% is quite high number. This showed that some prisoner's human dignity is not being respected by officials. A preamble paragraph of International Covenant on Civil and Political Rights (ICCPR) provides that:

> In accordance with the principles proclaimed in the Charter of the UN, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.[208]

And also article 10(1) of the covenant provides that "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person". Form the wording of this article it can be deduced that it applies also to prisoners, and the state parties to the covenant (Nigerian membership) must take all the necessary steps to ensure that the treatment of prisoners takes into account their inherent dignity as human persons. This soiled hand thus requires to be cleaned rather than be cut –off.

[208] Ololade, O, (2004). An Appraisal of The Right To Dignity Of Prisoners And Detainees With Disabilities. A Masters of Law Thesis, Legon. P.29

On the question, if they feel equal to other prisoners, the figures show that 44.9% said they felt equal with other prisoners in both Minna (41%) and New Bussa (76%) while 33.3% felt otherwise. 'No' in Minna is 35% and New Bussa 20%. In Minna 3% said they were not aware while none in New Bussa knew. 21% in Minna and 4% in New Bussa said not always; giving an overall total of 19.10%. The inferences that could be given here is that majority of those that felt equal could be due to the category of offences. This is an indication that prisoners are supposed to be categorized according to offence committed. That percentage (33.3%) that felt unequal could be due to the seriousness of the offense they committed. As rightly pointed out a writer, prisons are categorized in accordance with the types of inmates, the structural features, and the extent of security arrangement.[209]

On the question of discrimination, 34.7% had said there were discrimination against them in both Minna (35%) and New Bussa (32%). While 49.3% overall total said there were no discrimination against them in both Minna (48%) and New Bussa (60%). In Minna, 14.5% and in New Bussa 8% said not really, while 2 5% (Minna) and 0% (New Bussa) said they were not aware.

For those who said they were being discriminated against fall at 34.7%, those discriminated religiously in Minna constitutes 17% and New Bussa 4% giving an overall of 15.6% in both Minna and New Bussa. While those discriminated on grounds of social origin in Minna falls at 11% and New Bussa 20%. Discrimination on economic property grounds, for Minna is 8.5% and New Bussa 12%. The least on the issue of discrimination is nationality which lies at 0.9%. Despite the small number of those discriminated against, it calls

[209] Dambazau, A.B. (2007), *Criminology and Criminal Justice*. Spectrum Books Limited, Ibadan. P. 203

for concern especially with the highest percentage of those discriminated on religious grounds, especially when one considers the sensitive nature of religion in our national polity today, which in most cases culminates into violence or crises. Discrimination therefore, implies maltreatment of a person, which shows that the person is of a lesser value than others in the same category[210]. In its preamble, the international covenant on civil and political Right (ICCPR) declared that: "*All persons are equal before the law and are entitled without any discrimination to the equal protection of the law"*

Also, in the Universal Declaration of Human Rights (UDHR), International Covenant on Civil and Political Rights and Standard and Minimum Rules for the treatment of prisoners (SMR), the prohibited distinctions are defined as including race, color, sex, language, religion, political or other opinion, national or social origin, property, birth etc.[211]

Also, the 1999 Constitution in sections 38(1) clearly stipulates "Right to freedom of thought, conscience and religion". The implication is that, every Nigerian irrespective of whether in prison or a free person in the society has the right to practice his or her religion where ever that person is.

On the services of a lawyer during trial; 59.6% in both Minna (57.5%) and New Bussa (76%) said they did not have the services of the lawyer during trial. While 39.6% in both prisons said they had the services of lawyers. 2 persons in New Bussa did not fill the

[210] Oladele; Opcit . p.36
[211] Ololade, O,(2004). An Appraisal of The Right To Dignity Of Prisoners And Detainees With Disabilities. An Masters Of Law Thesis, Legon. P. 36-37

column. The inference that could be made here is that many inmates in both Minna and New Bussa had no fair trial. This statement is collaborated by the opinion of Justice Hugo Black which states…

> In our adverse system of criminal justice, any person handled into court or detained, who is too poor to hire a lawyer, cannot be assumed a fair trial unless counsel is provided for him.[212]

The legal Aid Council which was established by legal Aid Act Cap.205 laws of the Federal Republic of Nigeria of 2nd May 1997 to provide services to indigent citizens whose income is not enough to secure those services of a council to defend him in a criminal trial. The legal Aid Council is grossly under – funded and has not been able to effectively discharge its mandate. Accordingly there are presently legal Aid Council officers in each of the 36 states and the FCT. But the majority of the offices are manned by only a few lawyers per state. This makes it impossible for the lawyers to attend to the numerous indigent citizens who need the services of the council. In an interview with Legal Aid Counsel in Minna, there was complain of lack of functional offices with adequate furniture, vehicles, telephone, and computers to discharge their duties. Moreover section 46 (4) (b) of the Constitution provides that[213]:

> The National Assembly shall make provisions (a) for the rendering of financial assistance to any indigent citizen of Nigeria where his right under this chapter has been infringed or with a view to enabling him to engage the services of a legal practitioner to prosecute his claim.

All those are theoretical postulations, without any concrete functional machinery put in place to assist those in need of lawyers, as a result so many inmates in these prisons rights of legal council is denied.

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[212] Dambazau, A.B. (2007), Criminology *and Criminal Justice*. Spectrum Books Limited, Ibadan. P. 193
[213] 1999 Constitution (As Amended)

Table 4.5.4: Respondents opinions on the various aspects of their experiences in prison.

7. Do prison officials respect you	Minna	0%	N/Bussa	%	Total frequency	Overall percentage	Valid percentage	Cumulative percentage
Yes	111	55.5	19	76	130	57.8	57.8	57.8
No	51	25.5	5	20	56	24.9	24.9	82.7
Not aware	5	2.5	0	0	5	2.2	2.2	84.7
Not always	33	16.5	1	4	34	15.1	15.1	100.0
Total	200	100	25	100	225	100.0		
8. Is there discrimination against you?	Minna	0%	N/Bussa	%	Total Frequency	Overall percentage	Valid percentage	Cumulative Percentage
Yes	70	35	8	32	78	34.7	34.7	34.7
No	96	48	15	60	111	49.3	49.3	84.0
Not really	29	14.5	2	8	31	13.8	13.8	97.8
Not aware	5	2.5	0	0	5	2.2	2.2	100.0
Total	200	100	25	100	225	100.0		
9. If yes, what kind of discrimination?	Minna	0%	N/Bussa	%	Total Frequency	Overall percentage	Valid percentage	Cumulative Percentage
Religion	34	17	1	4	35	15.6	35.0	35.0
Social origin	22	11	5	20	27	12.0	27.0	62.0
Colour	3	1.5	0	0	3	1.3	3.0	65.0
Sex	6	3	0	0	6	2.7	6.0	71.0
Nationality	2	1	0	0	2	.9	2.0	73.0
Economic/property	17	8.5	3	12	20	8.9	20.0	93.0
Birth/Age	7	3.5	0	0	7	3.1	7.0	100.0
Total	91	45.5	9	36	100.0			
10. Do you have the services of a lawyer during trial?	Minna	0%	N/Bussa	%	Total Frequency	Overall percentage	Valid percentage	Cumulative Percentage
Yes	83	41.5	6	24	89	39.6	39.9	39.9
No	115	57.5	19	76	134	59.6	60.1	100.0
					1 missing	.9		
Total	198	99	25	100	225			

Sources-field survey, 2014

4.5.5: Respondents Opinion on Torture & Conditions of the Prisons

As regards Torture, many of the respondents in Minna (57%) said they experienced torture, while 37.5% said they did not experience torture. In New Bussa 40% experience torture while 60% did not experience torture. And only 4% in Minna said they are not sure if they experience torture. The inference drawn here is that many up to (57%) inmates in Minna prison experienced torture compared to that of New Bussa which lies at 40%. This act is against the standard minimum rules for the treatment of prisoners (SMR), Article 31 states:

> Corporal punishment, punishment by placing in a dark cell, and all cruel, inhuman or degrading punishments shall be completely prohibited as punishments for disciplinary offices.[214]

Torture is a fundamental violation of human rights, condemned by the General Assembly of the United Nations as an offence to human dignity and prohibited under national and international law. Yet torture persists, daily in our prisons. The United Nations General Assembly adopted the United Nations Declaration on Protection of Persons against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment by the General Assembly Resolution 3452 (XXX) of 9th December, 1975 condemning any act of torture. In article II of the Declaration, it states:

> Any act of torture or other cruel, in human or degrading and shall be condemned as a denial of the purposes of the charter of United Nations and as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights.

And Article 4 of the Declaration states:

[214] An Amnesty International Report (1984): *Torture in The Eighties*. London, Pitman Press.

> Each state shall in accordance with the provisions of this Declaration, take effective measures to prevent torture and other cruel, in human or degrading treatment of punishment from being practiced within its jurisdiction.[215]

On the kind of torture meted on the inmates, many of the respondents agreed that beating is the most used. In Minna, 30.5% and New Bussa 40% said beating was used on them.

The next kind of torture was beating and chaining of which 11% was for Minna and 0% in New Bussa. And the least used on the prisoners was solitary confinement with only 2.5% for Minna and 0% for New Bussa. The inference that can be drawn here is that beating is the most common kind of torture used on prisoners in both prisons.

The inference that could be drawn under torture is that 57% of the prisoners in Minna and 40% in New Bussa experienced torture and the most used kind of torture on the prisoners is beating, which is an abuse on the rights of the prisoners. Section 79 of the Prisons Act Cap 366 stressed that "No prison officer shall strike a prisoner, except in self-defense".

As regards the number of prisoners in a cell, majority of the prisoners (55.1%) live in a cell accommodating 20 and above. In Minna, 53% of the inmates and 72% in New Bussa live in a cell that accommodates 20 and above inmates. In Minna, 20.5% of the prisoners and New Bussa 4% live in a cell of 16 –20 inmates. While those that stay in cell of 11 -15 in Minna make up 10% and New Bussa 16%. The least of the cells with number of prisoners are the 1 -5, Minna with 7% and New Bussa with 0%. There is a high congestion in the cells of both prisons. As observed, the cells in New Bussa lack the needed ventilation. Which is in

[215] Ibid

line with the observation made by a report and draft bills for the reform of prisons in Nigeria compiled by the Nigerian Law Reform Commission in 1983, that:

> Nigerian prisons are too congested, and poor ventilation is one of their glaring features. Prisoners and detainees are cramped together in cells with no adequate accommodation facilities provided.

The cells always stink with hot, uninviting air oozing out at intervals from the cells to the inmates environment. It is unfortunate, during observation and corroborating same with the interview, in both Minna and New Bussa, hardened criminals are made to live together with first offenders especially in New Bussa prison.

As regards the length or period of incarceration, it was shown that those with less than a year in Minna constitute 42.5% and New Bussa 88%, i.e. the majority. Followed by those incarcerated for 1 – 3 years, where Minna has 36% and New Bussa (0%). Those in incarceration for 4 – 6 years, Minna has 16% and New Bussa has 12%. While the least of the respondents in incarceration are those of more than 10 years; where Minna has 2% and New Bussa has 0%. The reason for months or years of incarceration has been traced to the high number of awaiting trial. Some of whom are spending as long as 3 -7 years without any trial, which goes contrary to the provisions of the 1999 Constitution as earlier noted[216], which provides for speedy trial for councils.

Table 4.5.5: Respondents Opinion on Torture & the Conditions of the Prisons

11.. Do you experience torture?	Minna	0%	N/Bussa	%	Total frequency	Overall percentage	Valid percentage	Cumulative percentage
Yes	114	57	10	40	124	55.1	55.6	55.6
No	75	37.5	15	60	90	40.0	40.4	96.0
Not really	9	4.5	0	0	9	4.0	4.0	100.0
					2 missing	.9		
Total	198	99	25	100	225	100.0		

[216] Section 35 (4) of the 1999 Constitution

12. If yes, what kind of torture?	Minna	0%	N/Bussa	%	Total frequency	Overall percentage	Valid percentage	Cumulative Percentage
Beating	61	305	10	40	71	31.6	50.4	50.4
Chaining	18	9	0	0	18	8.0	12.8	63.1
Solitary confinement	5	2.5	0	0	5	2.2	3.5	66.7
All the above	14	7	0	0	14	6.2	9.9	76.6
Non of the Above	11	55	0	0	11	4.9	7.8	84.4
Beating and Chaining	22	11	0	0	22	9.8	9.8	
Total	132	66	10	40	142	63.1	100.0	
13. How frequent are you beating?	Minna	0%	N/Bussa	%	Total frequency	Overall percentage	Valid percentage	Cumulative Percentage
Daily	27	13.5	3	12	30	13.3	21.6	21.6
Once in a while	71	35.5	3	12	74	32.9	53.2	74.8
Always	8	4	4	16	12	5.3	8.6	83.5
Rarely	23	11.5	0	0	23	10.2	16.5	100.0
Total	129	64.5	10	40	139	61.8	100.0	
14. How many are you in a cell?	Minna	0%	N/Bussa	%	Total frequency	Overall percentage	Valid percentage	Cumulative Percentage
1 -5	14	7	0	0	14	6.2	6.2	6.2
6 -10	19	9.5	2	8	21	9.3	9.3	15.6
11 – 15	20	10	4	16	24	10.7	10.7	26.2
16 -20	41	20.5	1	4	42	18.7	18.7	44.9
More than 20	106	53	18	72	124	55.1	100.0	
Total	200	25	225	100.0				
15. How long have you been in prison?	Minna	0%	N/Bussa	%	Total frequency	Overall percentage	Valid percentage	Cumulative Percentage
Less than a Year	85	42.5	22	88	107	47.6	48.0	48.0
1 -3	72	36	0	0	72	32.0	32.3	80.3
4 -6	32	16	3	12	35	15.6	15.7	96.0
7 -10	5	2.5	0	0	5	2.2	2.2	98.2
More than 10	4	2	0	0	4	1.8	1.8	100.0
Total	198	25	225	100.0				

Sources-field survey, 2014

4.5.6: Respondents Opinion on Beddings, Health and Food Matters

As regards what the prisoners sleep on, in both Minna (48%) and New Bussa (68%) majority of them sleep on mats. Some of them in Minna (35.5%) and New Bussa (24%) said that they are sleeping on spring beds with mattress, while some claimed to sleep on the bare floor i.e. Minna (9%) and New Bussa (8%). While in New (6%) said they sleep on spring beds with no mattress. The inference that can be drawn here is that only few (34.2%) had the privilege to sleep on spring beds with mattresses. While majority (50.2%) sleep on mats, and collaborating the observation with interview, the blankets used are worn out and do not go round to every prisoner with the cold nature of Minna and New Bussa, it is unthinkable for prisoners to sleep on mats even without blankets. It is said:

> The beds, in the few prisons where they exist are old, fragile and in need of replacement. The mattresses are either worn thin form constant recycling or nonexistent in most of the prisons. Beddings and blankets are nonexistent and the clothing of the inmates are insufficient and not usually replaced, thereby resulting in some prisoners wearing their own personal clothes while being incarcerated.[217]

Also, law reforms report (1984) stressed that:

> Prisoners sleep in double decked beds with no mattress and pillows provided. In these congested cells, not all prisoners are fortunate to be provided with beds. The unlucky ones made to sleep on the cold, dirty, bare floor.

There is no doubt that this harsh treatment is part of torture, we cannot seek a moral end through an intrinsically evil means. For rehabilitation function to be achieved, humane treatment of prisoners must be the cardinal aim.

[217] Bello, B. (2004), "Human Rights Prison Conditions And The Administration Of Criminal Justice System" Paper Presented At a Two Day Legislative And Executive Governance Monitoring Dialogue, Rockview Hotel, Abuja. P. 8

On the number of times the prisoners take their bath, an overall sum of 64.4% in both Minna (62) and New Bussa (84%) agreed that they take their bath daily. While 19.1% in both Minna (21.5%) and New Bussa (0%) agreed that they do take their bath once in two days. And the least (4.4%) are those who take their bath weekly. Inference here is that majority of the inmates do take their bath daily, which goes a long way in keeping them neat. On the number of those that have fallen sick in prison, majority (75.6%) in both Minna (78.5%) and (52%) said they had fallen sick. While those that said they have not fallen sick in Minna constitute 21% and in New Bussa 48%. One would add here that the conditions of the cells are enough reasons to add to their ailments. In both Minna and New Bussa prisons, there are clinics that do take care of prisoners, but they are lacking in equipments. The New Bussa prison has few equipment and poor health personnel. Minna has a good clinic but with little equipment and to quote what one of the health personal stated, 'even drugs, we run short off'. In both prisons, there are shortage of drugs, facilities and personnel. This is in line with the poor attitude those in authority normally portray towards the prisoners, which is total disregard of the rights of prisoners of good medical care. On whether they are taken to hospital if their sicknesses are serious, 49.5% of Minna and 44% of New Bussa said they are taken to hospital when their health condition is serious. While in Minna 20% and New Bussa 8% said they are not taken to hospital. And in Minna 11.5% said it is not always that they are taken to the hospital. The point here and in line with the interview conducted on some officials, some sickness could be defined not serious by officials (health personal), while the prisoners see it as serious; whatever the case and coupled with the fact that the clinics in the prisons lacked some basic equipment and drugs. The condition of clinic in New Bussa prison run contrary to the principles of medical ethnics in the protection of prisoners adopted by the United Nations General Assembly on 18 December 1982. Article 1(1) which states:

> Health personnel particularly physicians, charged with the medical care of prisoners and detainees have a duty to provide them with the protection of their physical and mental health and treatment of disease of the same quality and standard of it afforded to those who are not imprisoned or detained.

The health condition of all prisoners is very important in their rehabilitation to ensure that after leaving prison that they will not only integrate properly in the society, but they should be strong enough to carry on with their life like any other persons. As regards food matters, majority said that they eat three times a day, which corroborated with what the officials said. But on whether the food is balanced or not, majority in both Minna (88.9%) and New Bussa (91%) i.e. 72% agreed that their food is not a balanced diet, while those that agreed that their food is balanced in Minna constitute 8% and New Bussa 28%. With the observation made and the interview conducted, it is obvious that that the food given to prisoners in both Minna and New Bussa is far below the standard required.

> The food fed to the prisoners is nutritionally unbalanced, quantitatively insufficient and prepared under unhygienic conditions.[218]

According to the Prison Act, "every prisoner shall be allowed a sufficient quantity of plain and wholesome food"[219]. The use of the word wholesome food here means balanced diet, but the food observed fall short of the "wholesome" as even the sanitary environment where the foods are prepared in both prisons are not healthy. If prisoners are to be kept healthy to achieve their rehabilitation function, then their food needs to be well balanced.

Table 4.5.6: Respondents Opinion on Beddings, Health and Food Matters.

16. What do you sleep on?	Minna	0%	N/Bussa	%	Total frequency	Overall percentage	Valid percentage	Cumulative percentage
Floor	18	9	2	8	20	8.9	8.9	8.9
Mat	96	48	17	68	113	50.2	50.4	59.4
Spring bed	12	6	0	0	12	5.3	5.4	64.7

[218] Ibid

[219] Prisons Act Cap 366 Laws Of The Federation of Nigeria 1990: Schedule Savings Transitional Provisions.

Table	2	1	0	0	2	.9	.9	65.6
Spring bed not Mattress	71	35.5	6	24	77	34.2	34.4	100.0
Total	199	99.5	25	100	225	100.0		
17. Have you fallen sick in prison?	Minna	0%	N/Bussa	%	Total frequency	Overall percentage	Valid percentage	Cumulative Percentage
Yes	157	78.5	13	52	170	75.6	75.9	75.9
No	42	21	12	48	54	24.0	24.1	100.0
					Missing	0.4		
18. Do health personnel attend to you when you are sick?	Minna	0%	N/Bussa	%	Total frequency	Overall percentage	Valid percentage	Cumulative Percentage
Yes	126	63	12	48	1.38	61.3	74.6	74.6
No	23	11.5	1	4	24	10.7	13.0	87.6
Not always	20	10	0	0	20	8.9	10.8	98.4
Rarely	3	1.5	0	0	3	1.3	1.6	100.0
Total	172	86	13	52	185			
19. When seriously ill, are you taken to the hospital?	Minna	0%	N/Bussa	%	Total frequency	Overall percentage	Valid percentage	Cumulative Percentage
Yes	99	49.5	11	44	110	48.9	60.1	60.1
No	40	20	2	8	42	18.7	23.0	83.1
Not always	23	11.5	0	0	23	10.2	12.6	95.6
Rarely	8	4	0	0	8	3.6	4.4	100.0
Total	170	85	1.3	52	183			
20. How many times do you eat in a day?	Minna	0%	N/Bussa	%	Total frequency	Overall percentage	Valid percentage	Cumulative Percentage
Three times	198	99	25	100	223	99.1	99.6	99.6
Two times	1	0.5	0	0	1	0.4	0.4	100.0
Total	199	99.5	25	225	100.0			

Sources-field survey, 2014

4.5.7: Respondents Opinion on School, Handwork, Exercise and Visitation

As regards schooling, majority in Minna (78.5%) agreed there is a school. While in New Bussa only a few (48%) agreed. While those that disagreed on the existence of school in Minna are 42%, in Bussa it is 52%. The inference that can be made here is that in Minna there is a functional school, though only few (2) two teachers on ground. And those in Minna (42%) that disagreed are mostly those awaiting trial or those that claimed to be educated. The situation in New Bussa is quite different, because while majority (52%) disagreed of the existence of school was because there was no any functional school. The prison officials interviewed agreed to the fact that they used to have youth corps member that was assisting in teaching the inmates, but since she left, there had not been anyone. In both Minna and New Bussa prisons the infrastructures and facilities are inadequate. Which is in line as enumerated by Law Reform Report (1983) that:

> Training programmes for prison inmates are disorganized. Facilities including qualified teachers and relevant books in various subjects are mot inadequate, while prison libraries in the country are ill – equipped and dirty.

The prisoners in both Minna and New Bussa prisons are all entitled to better treatment, adequate function property after their incarceration.

On whether they learn handwork, in Minna, 58% and New Bussa, 64% agreed they learn handwork. While on the other hand in Minna, 37% and New Bussa 36% said they don't learn anything. In Minna, 4.5% that don't learn anything are those on awaiting trial, who are not mandated to go through the training. The interview conducted showed that most of the equipment/tools for the training of prisoners are in a state of despair. This made most of the prisoners develop poor interest in learning the trade. Apparently, most of them are not happy being in prison. Corroborating it with the interview, learning handwork appears to be compulsory for the convicts; inmates on awaiting trial were completely

excluded from almost all the vocational as well as recreational activities. A disturbing development here is the fact that since awaiting trial prisoners are not allowed to take part in vocational training and about 60% of the prisoners are on awaiting trials; this means that Nigerian prisons cannot adequately rehabilitate prisoners. Furthermore, this is against the United Nations Declaration of Human Rights which specifies that untried prisoners shall always be offered opportunity to work, but shall not be required to work, if he chooses to work, he shall be paid for it.[220]

Also, in an interview with some of the staff, as well as personal observation, it shows that on the tailoring and carpentry sections in both Minna and New Bussa had no equipments to work with. Sewing machines could not go round while other essential facilities provided on other sections were inadequate.

On visitation, majority (97.3%) of the prisoners in both Minna (97.5%) and New Bussa (96%) agreed that friends and family members are allowed to visit them. Those that claimed that they are not allowed are mostly those that their relations or friends don't even know that they are in prison. The inference drawn here is a healthy development, those prisoners' relations and friends visit them which encouraged them to feel a sense of belonging.

As regards those engaged in labour outside the prison, only convicts are allowed to go out for labour outside the prison, in Minna it is 46% and New Bussa (56%). While those that said No, in Minna represents 53.5% and New Bussa 44%; they are those on awaiting trial, of which they are not allowed. One discovery here is that some awaiting trials in New Bussa are also involved in engaging in labour outside, which goes contrary to prison rules.

[220] Eze, M. and Okafor, E.(2007), "Pakistan Journal of Social Sciences Volum4(1):23-31(medwell on line.com).

Collaborating this with the interview conducted most of the prisoners' complained that after doing the work, the money is paid to the officers in charge of the wok. And most of the times they don't give them anything, and even when they are given them something, it is a far cry from the labour they worked for. It's unfortunate that most of the prison officials don't respect the dignity of prisoners; they look at them as people to be used in whatever way. This goes contrary to the Prisons Act Cap 366, which says:

> No prison officer shall receive any fee or gratuity from, or have any business dealings with, prisoners or with the friends of the prisoners, or with visitors to prisoners.

Table 4.5.7: Respondents Opinion on School, Handwork, Exercise and Visitation.

21. Is there school in your prison?	Minna	0%	N/Bussa	0%	Total frequency	Overall percentage	Valid percentage	Cumulative percentage
Yes	157	78.5	12	48	169	75.1	75.4	75.4
No	42	21	13	52	55	24.4	24.6	100.0
Total	199	99.5	25	100	225	100.0		
22. Do you learn Hand work?	Minna	0%	N/Bussa	0%	Total frequency	Overall percentage	Valid percentage	Cumulative Percentage
Yes	116	58	16	64	132	58.7	58.9	58.9
No	74	37	9	36	83	36.9	37.1	96.0
Not always	9	45	0	0	9	4.0	4.0	100.0
Total	199	99.5	25	100	225	100.0		
23. Are family and friends allow to visit you?	Minna	0%	N/Bussa	0%	Total frequency	Overall percentage	Valid percentage	Cumulative Percentage
Yes	195	97.5	24	96	219	97.3	97.8	97.8
No	4	2	1	4	5	2.2	2.2	100.0
					I missing			
Total	199	99.5	25	100	225	100.0		
24. Are you engage in labour outside the prison?	Minna	0%	N/Bussa	0%	Total frequency	Overall percentage	Valid percentage	Cumulative Percentage
Yes	92	46	14	56	106	47.1	47.3	47.3
No	107	53.5	11	44	118	52.4	52.7	100.0
					I missing	0.4		
Total	199	995	25	100	225	100.0		

Sources-field survey, 2014

4.6 HUMANIZING NIGERIAN PRISONS

The unique nature of the problem under study requires the use of Prisoners Rights theory. As a result, attempt is made to present prisons as an institution of prisoners' rights abuses. Prisoners' Rights theory of justice model becomes relevant of which the focus is the prisoner's status. The ultimate concern is the overall treatment of prisoners in such a way that conform to the precepts of 'justice' or rule of law or Standard Minimum Requirement for the protection and treatment of prisoners and other instruments of the United Nations of which Nigeria is a signatory. A penal policy based on prisoners' rights is one which respects the prisoner's inherent dignity as a person, recognizes that he or she does not surrender the law's protection on being imprisoned, and accords procedures and facilities for ensuring that his treatment is at all times just, fair and humane.

However, an analysis of few of the examples given so far indicates that the treatment of prisoners in both Minna and New Bussa Prisons are not just, neither are they fair nor humane as is summarized thus:

a) Those awaiting trial in Minna represents 50.5% and New Bussa 36%
b) Those that had the services of lawyer in Minna represent 57.5 and New Bussa 76%
c) Those that experience torture in Minna is 57% and New Busa is 40%
d) A cell that is supposed to accommodate 8 inmates is accommodating 20 and above in Minna and New Bussa i.e. 53.1% and 72% respectively.[221]

These are some of the gross violation of prisoners rights which also agree with the assumption that there are serious human rights abuses in both Minna and New Bussa prisons.

[221] Field survey, 2014

4.7 CONCLUSION

The Prisons Service in Nigeria is a Federal phenomenon. That is to say that the prison is exclusively a Federal Government concern which means that no State for now has the power in Law to operate or maintain prisons. However, this does not mean that the State Government has no role to play in the ensuring the proper administration of its prisons and the ensuring the well being of the inmates.

To this extent, the data collected and analyzed shows to a great deal of abuse of the rights of prisoners in both Minna and New Bussa Prisons. Majority of inmates in Niger State prisons are those awaiting trial. In fact, it has been found out that 70% of inmates are still awaiting trial. This is in spite of the presumption of innocence guaranteed by the Constitution. This is purely an abuse of right accruable to an inmate.

The most common amongst all is that which many authors have written on i.e. overcrowding; meaning that both prisons under study as well as the facilities in place are grossly over stretched. Others range from, poor accommodation, beddings, clothing, feeding, health facilities and even violations to those rights guaranteed by the Nigerian Constitution, though limited by virtue of incarceration. Much needs to be done in these areas and the major players are the stakeholders.

CHAPTER FIVE

SUMMARY, RECOMMENDATIONS AND CONCLUSION

5.1 INTRODUCTION

The importance of this research work cannot be over-emphasized based on the fact that human rights abuses in Nigerian prisons are becoming rampant, and a familiar feature of our prison system. It is now well accepted that inmates are entitled to some rights provided by law even though they are being deprived of their right to personal liberty.

This Chapter summarizes the entire research work, gives or states the findings which have been made and finally, proffers solutions by way of recommendations on how to address the issues and problems which have arisen as a result of the abuse of rights of inmates in Nigerian prisons with particular reference to Minna and New Bussa prisons in Niger State.

5.2 SUMMARY

This research work first examined the components of pioneer chapter, which are the introduction, statement of the problems, aims and objectives of the study, scope of the study, research methodology, justification, literature review and the organizational layout.

It is confirmed that there is an ill-conceived notion that prison inmates have no rights. The acceptable approach is that their rights may be limited but they have a degree of human and civil rights that is guaranteed by the Constitution, by International Conventions and by the UN Declarations. For instance, the UN General Assembly adopted what it called the Basic Principles for the Treatment of Prisoners, on December, 14, 1990. Therefore, prisoners cannot and should not be subjected to cruel and unusual punishment; they are to have full

access to due process and equal protection and should not be discriminated against.

Furthermore, prisoners are entitled to adequate medical and psychiatric care. And their physical safety must also be assured and all times. But is this the case in Nigeria, particularly in Niger State? What is going on and going wrong with the Nigerian prison system can be glared from many reports and especially from a recent report entitled, 'Country Reports on Human Rights Practices'[222]. This 55 - page US Department of State report "highlights the continued pursuit of free and equal dignity in human rights in every corner of the world. It draws attention to the growing challenges facing individuals and organizations as governments around the world fall short of their obligation to uphold universal human rights". One of the countries the report looked at was Nigeria.

Concerning the prison conditions, the report said they "remained harsh and life - threatening. Prisoners, a majority of whom had not been tried, were subjected to extrajudicial execution, torture, gross overcrowding, food and water shortages, inadequate medical treatment, deliberate and incidental exposure to heat and sun."

In terms of infrastructure, it was noted that most of the country's 234 prisons, built 70 to 80 years ago lacked basic facilities. Disease remains pervasive in cramped, poorly ventilated prison facilities, which had chronic shortages of medical supplies; inadequate medical treatment caused many prisoners to die from treatable illnesses. Lengthy pretrial detention remains a serious problem thereby defeating the aims of the existence of any rights at all.

The foregoing highlights the challenges facing the Nigerian prisons which formed the basis

[222] https://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/wrapper. Accessed on 23rd March, 2016

of this research work. Thus the aim and objectives of this research work highlights the challenges of the Nigerians prisons, examines the rights of inmates in Nigerian prisons and proffered possible solutions to these problems.

Looking at the Nigerian Prisons system, it was observed that the earliest records of Prisons come from the 1st Millennium BC. During these times, prisons were always almost stationed in the underground dungeons where guilty or suspected criminals spent their lives either awaiting death sentence or a command to become a slave. The conditions in the European Prisons remained harsh until English royalty started being more involved with their justice system. One of the most historical prison legislations was introduced in 1215 when King John signed Magna Carta Charter which stated that no man could be imprisoned without trial.

The modern period in prison history refers to the time from 800 to the present. The origin of modern prison services in Nigeria dates back to 1861 when Lagos was declared a colony. The progressive intrusion of the colonial masters into the hinterland and the establishment of the British Protectorate necessitated the establishment of prisons as the last link in the criminal justices system. The establishment of and growth of Prisons in Nigeria is backed by various statutes from the colonial period to the present. Among these statutes are the Prisons Ordinance of 1966 and the Prisons Decree No.9 of 1972.

The Nigerian Prisons Service which had hitherto been generally administered under one director now has, in addition to the Director, three principal divisions performing different roles to enable the prisons service execute its programmes expeditiously and achieve its goal. These divisions are Technical, Inspectorate and welfare units with each unit under a deputy

Director of Prison. At the apex of the Nigerian Prisons Organizational Structure sits the Comptroller - General of the Nigerian Prison Service.

The function of the Nigerian Prisons service is chiefly, among others, to serve as a detention centre and correctional institutions for persons found guilty. Additionally, the chapter also deals with the role of the prison in the correction and rehabilitation of inmates.

There are also different types of prisons in Nigeria. They are the Divisions, Provincial prisons, Convict prisons, Open prisons, and Prison farm centers. Similarly, prisoners have been categorized into prisoners awaiting trial, convicted prisoners, male and female prisoners, juvenile, lunatics and detained persons.

The various legal regimes for the protection of the rights of inmates have been discussed. There are United Nations Charter, Universal Declaration of Human Rights, International Covenant on Economic, Social and Cultural rights, International Covenant on Civil and Political Rights etc.

The prisoners are entitled to all the fundamental rights entrenched in the Nigerian Constitution. Thus, Prisoners are entitled to some rights such as right to life, right not to be subjected to torture or to inhuman or degrading treatment, right to fair learning, right to privacy, right to freedom of thought, conscience and religion and the right to privacy.

There are certain agencies established for the protection of human rights and by extension, prisoners' rights. These agencies include the Legal Aid Council, National Human Rights Commission, and the Prison Service etc. All these agencies are involved in one way or the

other in the protection and promotion of the rights of inmates in Nigeria.

On the discussion on human rights abuses in the Niger States Prisons with particular reference to Minna and New Bussa prisons as case studies, the author examined data on human rights abuses in Minna and New Bussa prisons, with particular focus on the compliance of prison authorities to the United National Minimum standard of the protection of prisoners' rights and other instruments.

A review of the Minna prison shows that it was initially at Kuta Town that is the Gwari Native Authority Headquarters. It was in 1931 that the Gwari Native Authority was moved to Minna. The New Bussa prison was first established in 1895, at old Bussa under the control and supervision of the emir, who also administered justice. The subsequent transfer of the entire prison from the old Bussa was due to the construction of the Kanji Dam and power station, this led to the resettlement of the people and establishment of new prison in Bussa and other resettled Borgu Communities in 1945.

200 respondents were given the questionnaires to fill in Minna prison. The analysis of the questionnaires was based on the answer supplied and other oral interviews. In new Bussa a total of 25 respondents were given the questionnaires to fill. The distribution was a little different from that of Minna because in New Bussa, due to their limited number, the researcher sat in the welfare office while the prisoners came one after the other to fill the questionnaires. The analysis of the findings in new Bussa was based on the 25 questionnaires returned and oral interview sources and observation.

The unique nature of the problem under study requires the use of prisoner's rights theory. As

a result, attempt is made to present prisons as institutions of prisoner's rights abuses. Prisoner's right theory of justice model becomes relevant only to the fact that its ultimate concern is the overall treatment of prisoners in such a way that conform to the precepts of justice or standard minimum rules.

5.3 FINDINGS

The issue of the abuse of the right of prisoners and inmates in Nigerian prisons especially in Niger (Minna and Bussa) has been at the centre of discussion on the ongoing reform of the administration of criminal justice system. This is more so that the prison institution is a key component of the criminal justice system and its success determines the success of the criminal justice system. Thus, issues of the prisons, especially as they relate to right and welfare of inmates cannot but be given due attention if the purpose of the imprisonment is to be achieved. Traditionally, the concept of imprisonment used to be employed to punish offenders who have passed through the institution of the police and the courts. Thus, punishment used to be the main consideration for imprisonment.

However, there has been a shift in the approach to the treatment of inmates and prisoners. Prisoners and inmates are now accorded certain special rights that are necessary to achieve the essence of their incarceration. It is now clear that imprisonment does not necessarily deprive inmates and prisoners of some rights that they are entitled to by virtue of the fact that they are still human beings. Therefore in spite of conviction and imprisonment, prisoners that are only serving term of imprisonment are still entitled to certain rights such as the right to the dignity of human person, right to life etc. The conditions of the prisons in Niger State are quite poor going by their bedding, clothing etc and this goes to the issue of the abuse of the right of dignity of human person.

One of the factors that contributed to the bad state of Nigerian prisons, especially prison congestion is the practice of holding charge. Holding charge is employed by magistrate courts to remand an accused arraigned before the court for a capital offence. Thus, in many cases, when the magistrate's court does not have jurisdiction to try the offences, the accused is always remanded in prison pending the conclusion of investigation and advice from the ministries of justice. That is the position in Niger State; this situation arises because most criminal cases at the magistrate courts are prosecuted by the police who do not have power to charge accused suspects before States High Courts.

Majority of inmates in Niger State prisons are those awaiting trial. In fact, it has been found out that 70% of inmates are still awaiting trial. This is in spite of the presumption of innocence guaranteed by the Constitution. This is purely an abuse of right accruable to an inmate.

Institutions like the police and the prison are not doing enough to check the congestion of the prisons. Therefore due to overcrowding, the welfare resources meant for few prisoners are therefore over stretched to accommodate inmates awaiting trial. Minna presently has two prisons which are still not enough while New Bussa has only one. Most of the Local Government Areas surrounding Borgu Emirate have no other prison than New Bussa Prison which is not that big in size.

Due to the number of inmates awaiting trial, much effort is being made to address the issue because of its seriousness and pressure on other components of the criminal justice system.

Also, there is no adequate legislative framework for the protection of the right of prisoners. The Nigerian Constitution renders the rights of prisoners non - justiciable as most of the

rights of prisoners contained in the Prisons Act and the U.N Minimum Standard Rules for the treatment of prisoners are not reflected in Chapter 4 of the 1999 Constitution (as amended).

Thus, the non justiceability of these rights of the prisoners has made it impossible for prisoners to approach the court for redress in the event of maltreatment, violations or torture etc. More so, there are no adequate legislative frame works to effectively protect the rights of prisoners. The Prisons Act does not have adequate provisions for the rights of prisoners as there are no strict penalties for people found to be wanting in the violation if rights of provisions.

Finally, there are not specialized institutions set up to ensure that rights of prisoners and inmate are protected to bring incidents of abuses of the rights of prisoners to the barest minimum. The Nigerian prison service is not competent enough to address this issue that is outside the mandate given to it by the Prison Act.

5.4 RECOMMENDATIONS

First, there is urgent need for a closer synergy among the key components of the criminal justice system of which the prison is an indispensable part. All stakeholders in different components must know that prisoners have certain rights to be respected for which is necessary for the realisation of the objective of the prison system.

Secondly, there is need for enlightenment and education of the police officers, court officers and prison staff on the essence of imprisonment and the Nigerian prisons. If stakeholders are enlightened about the rights of prisoners, the prison will no longer be regarded as a means of punishment but a place to reform prisoners to become useful to the society.

Thirdly, it is recommended that the practice of holding charge should be gradually faced out and abolished from our system. The police can be mandated to conduct investigations within a given time, where same is not obtainable, they should charge a suspect for a lesser offence while the investigation is ongoing. That way, a person will not just be remanded pending investigation or advice from the Ministry of Justice. So also, Magistrate Courts should not entertain cases over which they have no jurisdiction. Capital offence should be taken to the high court which has jurisdiction to try the offences. A gradual abolition of holding charge will go a long way in decongesting our prisons. More so, if prisons become decongested the lots of the convicted will improve as the facilities available will be enough to carter for those serving their term of imprisonment.

Fourthly, the government should establish more prisons to address the issue of congestion and overcrowding in prisons. Most of the prisons in Nigeria today are old. Therefore, more prison should be built or the existing ones should be expanded so as to decongest the prisons. By so doing, the cases of Prisons break will be brought to a halt or at least brought to a barest minimum as the monitoring of the movement and activities of the inmates will be easier for the prison personnel.

Government should also encourage the participation of private companies in the management of Prisons by engaging them as consultants for certain services such as health consultants and or specialists amongst others. This will bring about checks and balances in certain aspects of the administration of the prisons. In some cases, it may even prove to be cost effective where the private companies or organizations are Non Governmental Organisations (NGOs) or non-profit making organizations that offer pro bono services or even registered trustees.

Fifthly, the courts ought to encourage and assist to make rights of prisoners justiceable, without this development, the rights of prisoners will be difficult to enforce. And violations will persist because cases of violations and abuses will go unpunished. More so, other legislations should be passed to provide adequately for rights of prisoners. There should be a specific legislation specifically for the rights of inmates.

Finally, institutions that will be charged with the responsibility of protecting and enforcing the rights of inmates should be established. For example, a commission or an agency can be set up by government to monitor the treatment and welfare of inmates. Civil society organization should be encouraged to participate and monitor the prisons and other government parastatals and agencies that oversee the prisons.

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APPENDIX 1

QUESTIONNAIRE

Department Of Public Law, Faculty of Law, Ahmadu Bello University, Zaria

Dear respondent,

The bearer is a post graduate (LLM) student of the above named department conducting a research on "**Human Rights Abuses in Nigerian Prisons System: A Case Study of Niger State Prisons".** Kindly give him all the support he needs as all information obtained will be used for academic purpose and will be treated with strict confidentiality.

SECTION A: BIODATA

1. Age: Less than 18 [ ] 18-28 [ ] 29-39 [ ] 40-50 [ ] 51 and above [ ]

2. Gender: Male [ ] Female [ ]

3. Educational Level: School Living Certificate [ ] Secondary or TCII Certificate [ ] NCE/Diploma [ ] Degree and above [ ] Illiterate [ ]

4. Employment: Unemployed [ ] Employed [ ] Applicant [ ] Self Employed [ ] Student [ ]

5. Status: Convicted [ ] Not Convicted (Awaiting trial) [ ] Detained [ ]

6. Nature of Offence: House Breaking (Theft) [ ] Fighting [ ] Homicide [ ] Armed Robbery

[ ] Not Aware of Offence [ ] Rape [ ] Others [ ]

SECTION B: DIGNITY OF THE PRISONER

7. Do the prison officials respect your human dignity? Yes [ ] No [ ] Not aware [ ] Not always [ ]

8. Are you being discriminated in any manner? Yes [ ] No [ ] Not really [ ] Not aware [ ]

9. If yes, what kind of discrimination? Religion [ ] Social Origin [ ] Colour [ ] Sex [ ] Nationality [ ] Economic/property [ ] Birth [ ]

10. Did you have the services of a lawyer during trial? Yes [ ] No [ ]

SECTION C: TORTURE

11. Do you experience torture? Yes [ ] No [ ] Not really [ ] Not aware [ ]

12. If yes, what kind of torture? Beating [ ] Chaining [ ] Solitary Confinement [ ] All of the above [ ] Non of the above [ ] Others [ ]

13. How frequent are you beaten? Daily [ ] Once in a while [ ] Always [ ] Rarely [ ] Never [ ]

14. How many are you in a Cell? 1-5 [ ] 6-10 [ ] 11-15 [ ] 16-20 [ ] More than 20 [ ]

15. How long have you been in prison? Less than a year [ ] 1-3[ ] 4-6 [ ] 7-10 [ ] More than 10 [ ] I don't know [ ]

SECTION D: BEDDINGS/HEALTH MATTERS

16. What do you sleep on? Floor [ ] Mat [ ] Spring bed [ ] Table [ ] Spring bed with mattress [ ] Mattress [ ]

17. Have you ever fallen sick in prison? Yes [ ] No [ ]

18. Do Doctors or Health personnel attend to you when you are sick? Yes [ ] No [ ] Not always [ ] Rarely [ ]

19. When seriously ill, are you taken to the hospital? , Yes [ ] No [ ] Not always [ ] Rarely [ ]

SECTION E: FOOD MATTERS

20. How many times do you eat in a day? Three times [ ] Two times [ ] One time in a day [ ]

SECTION F: VOCATIONAL

21. Is there school in your prison? Yes [ ] No [ ]

22. Do you learn handwork? Yes [ ] No [ ] Not always [ ]

23. Are family members and friends allowed to visit you? Yes [ ] No [ ]

24. Are you engage in labour outside the prisons? Yes [ ] No [ ]

APPENDIX 2

QUESTIONNAIRE 2

Department Of Public Law, Faculty of Law, Ahmadu Bello University, Zaria

Dear respondent,

The bearer is a post graduate (LLM) student of the above named department conducting a research on "**Human Rights Abuses in Nigerian Prisons System: A Case Study of Niger State Prisons".**

This questionnaire is designed to collect information on prison staff, lawyers, security agents and judicial officers view on the rights of prisoners and the abuse of those rights in Niger Prisons. The study will only be used for academic purpose. Your anonymity and confidentiality are guaranteed. Thank you for your co-operation.

Instruction: Please [√] tick option of your choice and write down answers where they are required.

SECTION A: Socio-Economic Profile of Respondents

1. Age: Less than 18 [ ] 18-28 [ ] 29-39 [ ] 40-50 [ ] 51 and above [ ]

2. Gender: Male [ ] Female [ ]

3. Please identify your profession ………………………………………………..

4. Please specify your rank …………………………………………………………..

5. Years of practice/experience: Less than 1 [ ] 1-4 [ ] 5-10 [ ] 10 and above [ ]

SECTION B: Views on Performances of Prison Wardens towards Prisoners/Inmates

6. In your view, do prison wardens treat or judge prisoners by the nature of offence they have committed?
Yes [ ] No [ ] I don't know [ ]

7. To what extent do prison officials respect prisoner's dignity?
To a large Extent [ ] Some Extent [ ] Minimal Extent [ ] Not at all [ ]

8. What in your opinion is the most important right of an inmate that needs to be protected and why?
… . … .
… …

9. Would you regard prison officials as being fair in their treatment of prisoners?
Yes [ ] No [ ] I don't know [ ]

10. If Yes to Q10 above, to what extent do you think they are fair and impartial in their

treatment of prisoners?
To a large Extent [ ] Some Extent [ ] Minimal Extent [ ]

11. Would say that prison officials are acquainted with existing rules and prison guidelines with respect to the rights of prisoners?
Yes [ ] No [ ]

12. Generally speaking, how would you rate compliance of prison wardens to their duties and laid down rules?
Very High [ ] High [ ] Moderate [ ] Low [ ] Vey Low [ ]

13. Please give reasons for your answer in Q12 above.
……..……
……..

14. How would you rate the living conditions of our prisons in terms of conduciveness?
Very High [ ] High [ ] Moderate [ ] Low [ ] Vey Low [ ]

15. Please suggest ways in which the conditions of the prisons can be improved.
a. ……...
b. ……...
c. ……..

16. In your opinion, would you say that the inmates are aware of their rights?
Yes [ ] No [ ]

17. If No to Q16 above, how do think that position can be changed?
……..

18. Any additional comments?
……
……
……
……

Thank you for your input.