

**AN APPRAISAL OF THE PROTECTION OF HUMAN RIGHTS IN KUJE MEDIUM
PRISON AND SULEJA PRISON**

BY

Oluwafunke, Rebecca BADA

**DEPARTMENT OF COMMERCIAL LAW,
FACULTY OF LAW,
AHMADU BELLO UNIVERSITY,
ZARIA**

SEPTEMBER, 2018

**AN APPRAISAL OF THE PROTECTION OF HUMAN RIGHTS IN KUJE MEDIUM
PRISON AND SULEJA PRISON**

BY

**Oluwafunke, Rebecca BADA
LL.M/ LAW /8026/2013-2014**

**A DISSERTATION SUBMITTED TO THE FACULTY OF LAW AHMADU BELLO
UNIVERSITY, ZARIA IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR
THE AWARD OF THE DEGREE OF MASTER OF LAWS-LLM**

SEPTEMBER, 2018

DECLARATION

I, Oluwafunke Rebecca BADA declare that the work in the dissertation titled: ‘**An Appraisal of the Protection of Human Rights in kuje Medium Prison and Suleja Prison**’.

The information derived from the literature has been, duly acknowledged in the text and a list of references provided. No part of this dissertation was previously presented for another degree at any other institution.

Oluwafunke, Rebecca BADA

Date

CERTIFICATION

This dissertation entitled: “**An Appraisal of the Protection of Human Rights in kuje Medium Prison and Suleja Prison**” by Oluwafunke, Rebecca BADA meets the regulations governing the award of the degree of Master of Laws LLM, of the Ahmadu Bello University, and is approved for its contribution to knowledge and literary presentation.

Prof. B. B. Babaji
Chairman, Supervisory Committee

Signature

Date

Prof. I. F. Akande
Member, Supervisory Committee

Signature

Date

Prof. A.I Bappah
Head, Department of Public Law

Signature

Date

Prof. S. Z. Abubakar
Dean, School of Postgraduate Studies

Signature

Date

DEDICATION

This dissertation is dedicated to God and to Rt. Rev Jacob Olajide Babajide and Mrs. Esther Oluwakemi Bada, and to Daddy Martine's Yellow, Former Chairman Civil Service Commission River State.

ACKNOWLEDGEMENTS

Glory be to God the Father and to the Son and to the Holy Spirit, for the successful completion of this study, I acknowledge with deep gratitude the contributions of Prof. B.B. Babaji the chairman of supervisory committee to this dissertation. His deep insight and penchant for details has made this work a success. I am indebted to him much more than words can express.

Words fail me to appreciate my mother and member of the supervisory committee, Prof. I.F. Akande from whose wealth of knowledge I have benefited immensely. She has indeed been a mother, a mentor and a tutor. The concern she has shown for the completion of this dissertation and constructive suggestions have greatly sharpened the final outcome of this dissertation. I am deeply grateful to God for bringing me under her tutelage.

My appreciation also goes to Dr. Kabir. M. Danladi, the then Head of Department, Public Law from whose wealth of knowledge I have benefited, and for his contribution during my internal defense. Other lecturers in the faculty of law who have in one way or the other impacted upon my life: Prof. Aboki, who encouraged me not to give up, despite the challenges, Dr. A.M. Madaki, Prof. Bappah A. I. Dean of Law; Prof. Y.Y. Bambale, Dr. P.I. Onuh, Dr. A.A. Akume, Dr. P.I. Apenigal, Dr. I.O. Aninye and Dr. Ishaq. Other staff of the faculty are; Dr. Isaac Ameh, Mrs. Love Ajaegbu, Mrs. B. Raji, Mrs. Oladimeji, Mr. Area and all his staff, and the entire staff of Public Law Department. God bless you all.

Members of my family deserve special mention for the invaluable support received while writing this dissertation: Rt Rev. and Mrs. J.O.B. Bada, Mrs. Deborah Bada the best Mother in the world, Mrs. Grace Bada, Mr. and Mrs. Olatunbosun Bada, Mr. and Mrs. kayode Bada, Mr. and Mrs. Adara Abiola, Mr. and Mrs. Ajibade Mojisola, Mr. and Mrs. Bola Adamas, my twin

sister Labake Bada, Mr. and Mrs. Omowumi Peter, Mr. and Mrs. Remi Balogun, Rev. Olalekan Bada, thank you all for your Love, care and encouragement, My heart also goes to Mr. Abraham Oghenegare, my prince, for his love, care, and understanding during this entire work. May God replenish you.

I also thank all the members of staff in the Federal Ministry of Justice especially Miss Fagbemi Kehinde Adesola, Mrs. Shadrach-Osiaje Eghwere who help me in getting citation for most of my cases, Mr. Joseph Adeleke, Mrs. Moyo Babarinsa, Mrs Yetunde Cole, Mrs. Salmat, Mr. Aaluuba Don-Oboh, and my daddy Mr. Ajakaye and Mr. Alilu, may God bless you all for your encouragement.

To all who have contributed to the success of this dissertation either by words and prayers- Rt. Rev. and Mrs. Eberien, love Eberien, Mr. and Mrs. Joy, Mr. Uj, all the members of St. Paul Anglican Church Nyanyan Abuja, I love you all.

ABSTRACT

This dissertation entitled; An Appraisal of the protection of Human Rights in Kuje Medium Prison and Suleja Prison is aimed at examining the protection of human right of prisoners in the Nigerian prisons. The research methodology adopted here are both doctrinal and empirical methods. The doctrinal entails relevant books, Articles in journal publications, seminar, conference papers, internet materials and judicial authorities. While the empirical approach includes the practical assessment of the activities in selected Nigerian prisons (i.e. Kuje medium prison and Suleja prison, In the course of this study, it was found that Nigeria's prisons are filled with people whose human rights are systematically violated; approximately 70 % of the inmates are awaiting trial and most of whom have been waiting for their trial for years. Living conditions in the prisons are appalling. They are damaging to the physical and mental well-being of inmates and in many cases constitute clear threats to health. Conditions such as overcrowding, lack of vocational training, verbal and Physical Abuse of detainees, poor sanitation, leaking roofs, lack of food and medicines and denial of contact with families and friends, fall short of United Nations Standards for the Treatment of Prisoners. In this regard, the study was concluded by recommending among others that the judiciary should adopt a modern approach of the use of none custodian sanctions such as community service, restitution to the victim or a compensation order, forfeiture as the most effective methods of encouraging social reintegration and by so doing the prisons would be of less use and only to be reserved for serious cases.

TABLE OF CONTENTS

Title page	-	-	-	-	-	-	-	-	-	-	-	i
Declaration	-	-	-	-	-	-	-	-	-	-	-	ii
Certification	-	-	-	-	-	-	-	-	-	-	-	iii
Dedication	-	-	-	-	-	-	-	-	-	-	-	iv
Acknowledgements	-	-	-	-	-	-	-	-	-	-	-	v
Abstract--	-	-	-	-	-	-	-	-	-	-	-	vii
Table of Contents	-	-	-	-	-	-	-	-	-	-	-	viii
Table of Cases-	-	-	-	-	-	-	-	-	-	-	-	xiv
List of Statutes	-	-	-	-	-	-	-	-	-	-	-	xv
List of Abbreviations--	----	-	-	-	-	-	-	-	-	-	-	xvi

CHAPTER ONE

GENERAL INTRODUCTION

1.1	Background to the Research	-	-	-	-	-	-	-	-	-	-	1
1.2	Statement of the Research Problem	-	-	-	-	-	-	-	-	-	-	4
1.3	Aim and Objectives of the Research	-	-	-	-	-	-	-	-	-	-	5
1.4	Scope of the Research-	-	-	-	-	-	-	-	-	-	-	6
1.5	Research Methodology	-	-	-	-	-	-	-	-	-	-	6
1.6	Literature Review	-	-	-	-	-	-	-	-	-	-	6
1.7	Justification of the Research	-	-	-	-	-	-	-	-	-	-	10
1.8	Organizational Layout	-	-	-	-	-	-	-	-	-	-	10

CHAPTER TWO

CONCEPTUAL CLARIFICATION OF KEY-TERMS AND HISTORICAL DEVELOPMENT OF PRISON IN NIGERIA

2.1	Introduction	-	-	-	-	-	-	-	-	12
2.2	Conceptual Clarifications of Key Terms	-	-	-	-	-	-	-	-	12
2.2.1	Overcrowding	-	-	-	-	-	-	-	-	12
2.2.2	Prison	-	-	-	-	-	-	-	-	12
2.2.3	Prisoner	-	-	-	-	-	-	-	-	12
2.2.4	Pre-trial Detention	-	-	-	-	-	-	-	-	13
2.2.5	Parole	-	-	-	-	-	-	-	-	13
2.2.6	Goal Delivering	-	-	-	-	-	-	-	-	13
2.2.7	Probation	-	-	-	-	-	-	-	-	13
2.2.8	Rehabilitation	-	-	-	-	-	-	-	-	13
2.2.9	Community Service	-	-	-	-	-	-	-	-	14
2.3	Justice	-	-	-	-	-	-	-	-	14
2.3.1	Meaning of Human Rights	-	-	-	-	-	-	-	-	14
2.3.2	Scope of Human Rights	-	-	-	-	-	-	-	-	17
2.3.3	Justification of Prisoners' Rights	-	-	-	-	-	-	-	-	20
2.4	Meaning of Prison	-	-	-	-	-	-	-	-	23
2.4.1	History of Prison in Nigeria	-	-	-	-	-	-	-	-	24
2.4.2	Structure of the Nigeria Prison	-	-	-	-	-	-	-	-	27
2.4.3	Duties of Prison	-	-	-	-	-	-	-	-	29
2.5	Classification of Prison Inmates	-	-	-	-	-	-	-	-	32

2.5.1	Inmate and Staff Safety	-	-	-	-	-	-	-	-	33
2.5.2	Equity	-	-	-	-	-	-	-	-	34
2.5.3	Public Safety	-	-	-	-	-	-	-	-	35
2.5.4	Efficient Facility Planning	-	-	-	-	-	-	-	-	35

CHAPTER THREE

LEGAL AND INSTITUTIONAL FRAMEWORK FOR THE PROTECTION OF PRISONERS' RIGHTS IN NIGERIA

3.1	Introduction	-	-	-	-	-	-	-	-	40
3.2	Legal Frame Work for the Protection of Prisoners Rights in Nigeria	-	-	-	-	-	-	-	-	40
3.3	Institutional Framework for the Protection of Prisoner's Rights	-	-	-	-	-	-	-	-	42
3.3.1	The Police	-	-	-	-	-	-	-	-	42
3.3.2	The Court	-	-	-	-	-	-	-	-	46
3.3.3	The Nigeria Prison Service	-	-	-	-	-	-	-	-	49
3.4	Inalienable Rights	-	-	-	-	-	-	-	-	51
3.4.1	Right to Life	-	-	-	-	-	-	-	-	51
3.4.2	Right to Dignity of Human Person	-	-	-	-	-	-	-	-	57
3.4.3	Right to Freedom of Thought, Conscience and Religion	-	-	-	-	-	-	-	-	63
3.4.4	Right to Freedom of Expression	-	-	-	-	-	-	-	-	66
3.4.5	Right to Freedom from Discrimination	-	-	-	-	-	-	-	-	69
3.5	Custodial Rights	-	-	-	-	-	-	-	-	75
3.5.1	Right to Regular Feeding	-	-	-	-	-	-	-	-	75
3.5.2	Decent Clothing	-	-	-	-	-	-	-	-	80
3.5.3	Access to Bath and Other Forms of Hygiene	-	-	-	-	-	-	-	-	83

3.5.4	Accommodation and Bedding Facilities	-	-	-	-	-	-	86
3.5.5	Access to Medical and Health Facilities	-	-	-	-	-	-	92
3.5.6	Access to Vocational Training	-	-	-	-	-	-	97
3.5.7	Visits and Communications	-	-	-	-	-	-	103

CHAPTER FOUR

HISTORY OF KUJE AND SULEJA PRISONS AND THE NATURE OF HUMAN

RIGHTS ABUSES

4.1	Introduction	-	-	-	-	-	-	108
4.2	History of Kuje Medium Prison	-	-	-	-	-	-	108
4.3	History of Suleja prison Niger State	-	-	-	-	-	-	114
4.3.1	The Plight of Vulnerable Prisoners in Kuje Medium Prison and Suleja Prison-							118
4.3.2	Plight of Foreign National Prisoners in Kuje Medium Prison and Suleja Prison-							120
4.4	Capacity, Lock Up, Population of Awaiting Trail Person and Convicts in Kuje Medium Prison and Suleja Prison	-	-	-	-	-	-	122
4.5	Human Rights Violation in Kuje Medium Prison and Suleja Prison	-	-					122
4.5.1	Lack of Access to Court	-	-	-	-	-	-	122
4.5.2	Adjournments	-	-	-	-	-	-	124
4.5.3	Verbal and Physical Abuse of Detainees	-	-	-	-	-	-	124
4.5.4	Feeding Arrangement and Loss of Appetite	-	-	-	-	-	-	126
4.5.5	Medical Facilities	-	-	-	-	-	-	127
4.5.6	Policy Related Violation	-	-	-	-	-	-	128
4.5.7	Practice Related Violation	-	-	-	-	-	-	131
4.5.8	Lack of Bedding Facilities	-	-	-	-	-	-	132
4.5.9	Poor Medical Facilities	-	-	-	-	-	-	133

4.5.10	Lack of Necessary Amenities	-	-	-	-	-	-	-	134
4.6	Non-Classification of Inmates	-	-	-	-	-	-	-	135
4.6.1	Physical and Mental Effects of Detention	-	-	-	-	-	-	-	136
4.6.2	Detentions in Prison over Trivial Cases	-	-	-	-	-	-	-	138
4.6.3	Legal Presentation and Court Processes	-	-	-	-	-	-	-	140
4.6.4	Conditions of Prison Detention (Leaking Roof in Suleja Prison)	-	-	-	-	-	-	-	141
4.7	Problems in Kuje Medium Prison and Suleja Prison	-	-	-	-	-	-	-	141
4.7.1	Condition of Kuje and Suleja Prison Staff	-	-	-	-	-	-	-	149
4.8	Poor Administration of Prisons within the Federal Capital Territory-	-	-	-	-	-	-	-	150
4.8.1	Effect on Prison Management	-	-	-	-	-	-	-	152
4.9	Essence and Nature of Prison Discipline in the Selected Prisons	-	-	-	-	-	-	-	152
4.10	The Role of Non-governmental Organizations and Churches in Prisons	-	-	-	-	-	-	-	154
4.10.1	Untapped Potential of Alternative Sentencing	-	-	-	-	-	-	-	159

CHAPTER FIVE

SUMMARY AND CONCLUSION

5.1	Summary	-	-	-	-	-	-	-	-	163
5.2	Findings	-	-	-	-	-	-	-	-	164
5.3	Recommendations	-	-	-	-	-	-	-	-	169
	Bibliography	-	-	-	-	-	-	-	-	173
	Appendix A: Questionnaire to Awaiting Trial Inmates	-	-	-	-	-	-	-	-	178
	Appendix B: Questionnaire to Convicted Inmates	-	-	-	-	-	-	-	-	180
	Appendix C: Questionnaire to Police Officers	-	-	-	-	-	-	-	-	182
	Appendix D: Questionnaire to Prison Officers	-	-	-	-	-	-	-	-	184

Appendix E: Questionnaire to Judicial Officers	-	-	-	-	186
Appendix F: Questionnaire to Prosecutors	-	-	-	-	188
Appendix G: Graph showing the Achievement of Prisoners' Right in Kuje Prison-					190

TABLE OF CASES

Adeyemi Johnson & 5 ords vs Inspector General of Police (2010) 17 NWLR () Pt.1221) 40 C.A- -----	119
Aliu Bello vs Attorney General of Oyo State (1986) 5 NWLR (Pt.45) -----	53, 56
Gani Fawehinmi vs Babangida (2003) 3 NWLR (Pt.808) -----	44
Fortune Society vs Mcgsinnis 319 SUPP 901 (SDNU 1970) -----	68
Jackson vs Godwin (1968) 400F. 2d 529 -----	72
Joshua vs the State (2007) NWLR (Pt.1040) -----	52
Nemi vs Attorney General of Lagos State (2007) 2 NWLR (Pt.208) -----	61
Odafe & Ors vs Attorney General of the Federation (2004) 5 NWLR (Pt.205) -----	70
Onwuka vs State (1970) LPER- 2722 (SC) -----	54
Ransome Kuti vs Attorney General of the Federation (1985) 2 NWLR (Pt.6) -----	52
Raymond vs Honey (1982) ALL ER. (Pt.759)-----	22
Silver and others vs United Kingdom 480f.SUPP-932 (SDUV 1972) -----	67
Sostre vs Mcginnis 422Fn2dCir 1971-----	68
Washington vs Lee (1966) 263 SUPP.327-----	71

LIST OF STATUTES

Administration of Criminal Justice Act 2015

African Charter on Human and Peoples' Rights, 1986

Childs' Rights Act 2003

Constitution of the Federal Republic of Nigeria, 1999, Cap C23, LFN 2004

Criminal Code Laws, Cap 77, LFN 1990

Criminal Procedure Act, Cap 80, LFN 1990

Criminal Procedure Code, Cap491, LFN 1990

International Covenant on Civil and Political Rights, 1976

International Covenant on Economic, Social and Cultural Rights 1976

Penal Code Act, Cap 532, LFN 1990

Police Act, Cap P19, LFN, 1990

Prison Act, Cap P 29, 2004

Prison Order

The African Charter on Human and Peoples Rights 1990

The UN Guidelines for the Prevention of Juvenile Delinquency 1990

United Nations Conventions on the Rights of the Child 1989

United Nations' Standard Minimum Rule for the Treatment of Prisoners 1957

Universal Declaration of Human Rights' 1948

Vienna Convention on Counselor Regulations 1963

LIST OF ABBREVIATIONS

AGF	-	Attorney General of Federation
CBO	-	Community Base Organization
CC	-	Criminal Code
CLO	-	Civil Liberty Organization
CRP	-	Constitutional Rights Project
CS	-	Community service
EFCC	-	Economic and Financial Crimes Commission
HURILAWS		Human Right Law Services
IG	-	Inspector General.
NCS	-	Non Custodian sanctions
NEPA	-	Nigerian Electricity Power Authority
NGOs	-	Non Governmental Organizations
NPF	-	Nigerian Police Force
PC	-	Penal Code
PRAWA		Prisoners Right and Welfare Action
SEC	-	Securities and Exchange Commission
SWEWP		Society for the Welfare of Women Prisoners
UNSMR		United Nations Standard Minimum Rule for the Treatment of Prisoners

CHAPTER ONE

GENERAL INTRODUCTION

1.1 Background to the Study

One of the most important tools available to society for the control of anti-social behavior is the criminal justice system. It is one of the indices for measuring the success of every government and to be accorded that self-reliant status that developing nations desperately seek to achieve. The way in which justice is administered in a society is one of the basic indicators of its well-being. As highlighted by the Universal Declaration of Human Rights, “it is essential, if man is not compelled to have recourse, as a last resort, to rebellion against oppression, that human rights should be protected by the rule of law, it is for the institutions of Criminal Justice Administration, especially the prison to ensure that this goal is achieved.”¹

The aim of an effective criminal justice system should be to strike a balance between punishing the guilty and protecting the innocent.² This balance has been the subject of debate in recent years. To balance these interests requires working with different types of institutions and actors such as the police, courts, prosecutors, prison officials, community leaders, paralegals, traditional councils and other local arbitrators and law enforcement agencies. In the criminal justice administration there are three distinct stages of a citizen's contact with the system. These are the pre-trial, trial and post-trial or custodial stage. Also important to balance the interest are the laws, rules and instruments which regulate criminal proceedings.

The criminal justice system is said to be the aggregate of the consequences of the procedural rules and policies that are applicable from the time of arrest, which is the first contact

¹ Owoade, M. A. (2006) “*Dispensation of Criminal Justice in Nigeria*”, in Kanam S. M. G. & Madaki A. M. (ed) *Contemporary Issues in Nigerian Law*, by Private Law Department, A.B.U Zaria, p.215.

² Akande, I. O. (2000) *Introduction to the Constitution of the Federal Republic of Nigeria 1999*, MIT Professional Publishers Ltd, Lagos, p.36

of an accused with the criminal process to the very last stage of the process which is the conviction and sentence, or acquittal.³

This means that once an individual is arrested as a suspect of a criminal act, the ball has been set rolling and therefore, anything that happens from the time of arrest and the time of conviction or acquittal must be within the purview of the law, anything less may result in the infringement of the fundamental rights of that person.⁴ The criminal justice system is said to be comprised of those concerned with the apprehension, prosecution, and conviction, sentencing and correcting the deviant behaviors of offenders. The functions of the governmental agencies are intertwined in such a way that for the purpose of administration of criminal justice. The prison service holds the right to keep the inmates under detention until the court decides the fate of the detainees.

Etymologically, the word “prison means confiscate” to the Latin word “Prendere” which means to ‘seize’ or confiscate” prisons is also defined in the Prison Act⁵ to include

- (a) the grounds and building within the prison enclosure’
- (b) Any lock-up house for the temporary remand which is declared by the minister by order in the Federal Gazette to be part of prison. With regard to the definition above the importance of free system of criminal justice administration cannot be overemphasized. Denying a person of his fundamental rights to life, to move freely, and to associate with other people⁶ must be done legally, because the detainee or prisoner is virtually cut off from outside life, and thus vulnerable to treatment violating his or her right. They are left at the mercy of prison officials.

³ Owoade, M. A. (2006), Op.cit, p.1

⁴ Ladan, M. T. (1998) *Crime Prevention and Control and Human Rights in Nigeria*, Econet Publishing Company Limited, p.222

⁵ Section 19, Prisons ACT, CAP P29, L.F.N 2004

⁶ Section 34, (1) Consitution of the Federal Republic of Nigeria, 1999 (As amended)

It is pertinent to also state that, the argument that prisoners should have no rights is informed or stimulated by an essentially vengeful and retributive philosophy. For example, the Principle of an eye for an eye is justifiable philosophy in the Nigerian Society in dealing with offenders. But once the nature of human rights is understood to be a species of human rights, it becomes clear that Prisoners not only should have right but they actually have rights.

The provision of Articles 10(1) of the Covenant on Civil and Political Rights 1976; state the need for all persons deprived of their liberty to be treated with human dignity and with respect. This principle is founded on the inherent dignity of human person.⁷ . Relevant Laws like United Nations Standard Minimum Rules for the Treatment of Prisoners 1957,⁸ and the Universal Declaration of Human Rights 1948, are all Laws that established the basic principles for the treatment of prisoners and providing for the international standard of the rights of all detainees or prisoners. These Laws prohibit the subjection of human to torture or cruel, inhuman or degrading treatment or punishment.

Prisoners' rights in Nigeria have their basis in law. Essentially, they are derived from the Constitution; the Prisons Act, Regulations and Standing orders as well as judicial decisions touching on the relevant rights and other Laws, which include the Administration of Criminal Justice Act 2015 which talks about humane treatment of arrested person, Having established these facts about the constitutionality as to prisoner's rights, the next issue to briefly mention here is the issue of its enforceability. Questions are raised like are prisoner rights' enforceable? The answer is simple. If a prisoners has right contained in the various prison laws and subsidiary legislations, within their proper constitutional context, it is implied that there is a duty on the prison authorities, the courts and the police to enforce and protect such rights. However Section

⁷ International Covenant on Civil and Political Rights (1966)

⁸ Amankwah E. H. (1955) *United Standard Minimum Rules for the Treatment of Prisoners'*, Law Publishing Company, Pakistan p. 55

46 (1) of the 1999 Constitution makes prisoners' rights legally enforceable.⁹ The innovative provisions of the Administration of Criminal Justice Also makes provision for day to day trial of criminal cases, This is to ensure that Criminal Cases are expeditiously dealt with in line with the provision of the constitution, and to ensure that congestion of cases in courts is drastically reduced.

1.2 Statement of the Research Problem

The philosophical basis of prisoners' rights is a widely held belief that an offender for all purposes is a human being and deserves equal treatment with his fellow human being, Irrespective of whether he is aware of such rights or not.¹⁰ It is essential, if man is not compelled to have recourse, as a last resort, to rebellion against oppression, his human rights should be protected by the rule of law.¹¹

Despite the numerous laws that have been enacted over time to protect prisoners' rights, their rights are still violated. The legal question that arises is whether or not prisoners have any right while in detention? How adequate are the legislations in Nigeria for the protection of prisoner's rights? How effective are the existing legal institutions (i.e. police, court and prison) responsible for the protection of prisoner's rights? What mechanisms are in place for prisoners education on their rights while in custody and how adequate are they?

In the course of this study, it was found that Nigeria's prisons are filled with people whose human rights are systematically violated; approximately 70% of the inmates are awaiting trial and most of whom have been waiting for their trials for years. Other violations include overcrowding, lack of vocational training, verbal and physical abuse of detainees, poor sanitation, and leaking roofs, lack of food and medicines and denial of contact with families and

¹⁰ Ladan, M. T. (1998) Op.cit, p.2

¹¹ ibid

friends, fall short of United Nations Standards for the Treatment of Prisoners. The Nigerian government has, on numerous occasions, stated its willingness to reform the criminal justice system, acknowledging its role in creating a situation of prolonged detention and overcrowding despite many Presidential Commissions and Committees, which include Administration of Criminal Justice Act Monitoring Committee,¹² National Working Group on Prison Reforms and Decongestion Committee¹³ recommending reform of the criminal justice system, etc. These recommendations have not been implemented. Instead, the government has simply set up new committees and commissions to study review and harmonize the previous recommendations. The reality remains that, those in prison stand little chance of their rights being respected, many prisons are locking up three times their designated capacities, forcing inmates to take turns to sleep, and this research work is conducted so as to proffer solutions to these problems.

1.3 Aim and Objectives

The aim of the dissertation is to examine critically, whether or not prisoners in Kuje and Suleja prisons suffer any deprivation in terms of their basic needs within the context of human rights provisions, and to analyze the concept and application of human rights in the prisons. The dissertation is set to achieve the following objectives:

- i. To identify the factors and issues that affect the application of human rights provisions by those concerned with offenders in the Nigeria criminal justice system.
- ii. The research work reviews the major improvements brought by the Administration of Criminal Justice Act 2015 which made conscious effort to

¹² Report of Administration of Criminal Justice Act Monitoring Committee, 17th September, 2016

¹³ Report of the National Working Group on Prison Reforms and Decongestion, May 12th 2000

strengthen the rights of the prisoners and reduce delays in the criminal justice system.

1.4 Scope of the Research

The Dissertation is limited to Nigerian law on the problems militating against the protection of prisoner's rights in the administration of criminal justice. Recourse will be made to both domestic and international human rights because of Nigeria's obligation hereunder. Recourse will also be made to English and foreign laws for a brief comparative study only. Geographically, the research is limited to Nigeria, with particular reference, to Kuje prison and Suleja prison, there is intention of making use of empirical data in this thesis.

1.5 Methodology

The doctrinal and empirical research methods are adopted in conducting this research. Empirical research involves the gathering of data from the field. Data was collected through interviews with some of the prison officials and inmates during a visit to the Kuje medium prison and Suleja prison, data was also collected from other stakeholder of the administration of criminal justice to get a clear picture of what the problems are and how to tackle them.

1.6 Literature Review

Existing literature in this field has comparably remained numerous; however we have not seen any major book about Kuje and Suleja prison; therefore the need for an update under the current legal regime becomes compelling. We acknowledge with due respect the works of learned authors in this area of interest.

Books have been written on this topic which includes "Criminology and Criminal Justice"¹⁴ where the author discussed the prison as the third arm of the Criminal Justice System responsible for the final product of the system. He also discussed the rights and privileges of the

¹⁴ Danbazau, A. B. (2011) *Criminology and Criminal Justice*, Spectrum Books, pp.197-210

inmates and their challenges, but he failed to state the challenges of the Kuje medium prison and Suleja prison.

Goffman in the “Asylums”¹⁵ threw more light on the prison as a total institution, how prisoners are physically, socially and psychologically controlled his denial of rudimentary choice of everyday life but unfortunately his work did not cover peculiar Nigerian circumstances but what is obtainable in New York.

Silverman¹⁶ in his book “Criminal Violence, and Criminal Justice”, the author dealt with the issue of how inmates are treated and the humiliation they go through and how it affects them psychologically. The book focused more on the inmates and gave little attention on the prison structure and facilities available.

Uju¹⁷ in “The Prisons and Penal Reformation in Nigeria”, she discussed extensively the problems associated with the Nigerian prisons, corruption, congestion, poor infrastructure, manipulation , poor health facilities, were all discussed by the author but only little was said on how to address those problems facing the prison system.

Ajomo and Okagbue carried out a field study in 1988 to 1989 to analyze the perception and application of human rights in criminal justice system. They found out that the image of the Nigerian police force is very poor. It is ravaged by corruption, police participation in crime, inefficiency of some policemen and illiteracy. The court on the other hand delays in trials, appeals and has low societal morals, while the prisons have inadequate resources.¹⁸As good as the findings of Ajomo and Okagbue are, new challenges now confront the Nigeria prison service, which was not address in the book.

¹⁵ Goffman, A. A. (1961) Garden City, New York,

¹⁶ Silver man, C.E (2012), *Criminal Violence, and Criminal Justice in Nigeria*, New York: Vintage p.14

¹⁷ Uju, A. et al, (2011) *The Prison Service and Penal Reformation in Nigeria: A Synthesis*, PRAWA

¹⁸ Ajomo, M. A. and Okagbue, I. (1991) *Human Rights and the Administration of Criminal Justice in Nigeria*, by NIALS, Lagos, p.33

Dambazau¹⁹ wrote extensively on criminal justice, he rightly pointed out that the criminal justice system as a legal entity comprises the police, the courts and the prison. He further stated that the police determines the inputs into the criminal justice system, the courts determine the guilt or innocence of the accused and make decisions in trial and sentence. The prisons are responsible for the custody of the criminal convict. As indisputable as his work is, he did not take into account the task confronting the criminal justice system in the fight against infringement of prisoner's fundamental rights.

Omotola²⁰ argues that, the violation of human rights pushes national security to the margin. But the book failed to address the challenges faced by inmate in Kuje and Suleja prisons. Another book that has guided the author on this research is a Thesis by Bappah²¹,

The three books cited above offer an insight into the rights of the accused. Bappah however, wrote only on the post-trial rights of the accused, in the Nigeria penal system, this observation however did not cover other parts in Nigeria.

In another publication, "Justice for Sale" on the administration of justice in magistrates and customary courts of Northern Nigeria for example, the author focused much attention only on the judiciary as the major agency creating serious problems in the enforcement of human rights in Nigeria. That is to say he did not pay attention to other factors hindering the enforcement of these rights. The publication also looked at some of the constraints hindering the application of international conventions on the enforcement of human rights especially the African Charter on Human and Peoples' Rights.

¹⁹ Dambazau, A. B. (2007) *Criminology and Criminal Justice*, Spectrum Books Limited, Ibadan

²⁰ Omotola J. S. (2012) *Assessing Counter-Terrorism Measures in African; Implications and National Security* Retrieved from [http://human security gate way.com/documents/ACCORD-Assessing COUNTER Terrorism Africa.PDF](http://humansecuritygateway.com/documents/ACCORD-Assessing%20COUNTER%20Terrorism%20Africa.PDF) ON 15th September, 2004.

²¹ Bappah A. I. (2001) *A Critical Appraisal of Post-trial Rights of a Person in Nigerian Penal System*, Unpublished LLM Thesis submitted to Postgraduate School, A.B.U. Zaria.

Yemi, A. G. in his Book titled “Law, Justice and Stability in Nigeria”²² he paid much attention to the Supreme Court of Nigeria as the only court that safeguards the enforcement of human rights in Nigeria. But by looking at the issue from practical perspectives one will undoubtedly believe that safeguarding and enforcement of human rights is not only done by the Supreme Court. Other Superior Courts play vital role particularly the State / Federal High courts because they are the courts of first instance as far as human rights enforcement is concerned.

In another publication “Human Rights and Administration of Justice in Nigeria” by Ayo Ajomo,²³ the paper discussed some of the factors that affect the judiciary in the role they play in the enforcement of human rights in Nigeria with specific reference to an accused person more especially the relationship of the accused person with the police, courts and prisons, however, the authors did not direct their attention to some other pressing factors jeopardizing criminal justice administration. Factors like constant rise in number of cases being filled and the corresponding inadequate number of judges to speedily and conveniently handle those cases and the problem of non-observance of the rule of law, have not been considered by the authors.

Using Kuje²⁴ and Suleja Prisons as a case study, it is hoped that this study will in aptly analyze and highlight the peculiar problems bedeviling the prison of which most of the problem are the reflection of what happens in other prisons across the country.

It is also hoped that this work will probe very incisively into all aspects of prisons life to be able to take a position as to the necessity of rehabilitation and reformation of prison in Nigeria. To this extent, this work becomes a reference, useful to subsequent writers on the subject.

²² Yemi, A. G. (1993) *Law, Justice and Stability in Nigeria*, J. Shawn Multiserve Bureau (JSMB) Ibadan, p.21

²³ Ajomo, M. A. and Okagbue, I. E. (1991) *Human Rights and the Administration of Justice in Nigeria*, NIALS, p.8

²⁴ Ibid, p.1

1.7 Justification of the Research

This work is humanitarian in scope. It emphasizes and encourages the dignity of human person. The justification for embarking upon this research work is primarily based on the fact that despite the existence of numerous laws of national and international legal standards, the prisoners' rights are continually being violated. It appears on a close examination that countless number of Nigerian populace including persons who are legally supposed to be responsible for the protection and enforcement of prisoners' rights are either ignorant of the fact that prisoners have some legal rights or on the other hand, such rights are neglected or never even given a second thought of enforcements. Thus, importance is highly attached to topic as this, because it will serve as a medium of creating awareness and impart high knowledge to persons who are legally responsible for the protection of prisoner's rights.

The problems are many and therefore, there is a need to identify them in order to create avenues to tackle them and avoid unnecessary infringement on the fundamental human rights of accused persons. These problems have become the subject of many seminars and lectures. It is prayed that, this study after its conclusion will be of great addition to literary work and immense assistance to the prisoners, legal practitioners, judges, students, lecturers, and the Nigerian prison Authority as a whole, the Federal Republic of Nigeria and the general public, so that they can make policies, plans that would enhance or better the life of the prisoners and at the end the prisoners become a better and reformed citizens in the society.

1.8 Organizational Layout

This study is divided into five chapters. Chapter one is the introductory chapter that introduces the work, states the problem, defines the scope of the research, reviews the available literatures in the field and the justification of the research study.

Chapter two is titled conceptual clarification of key terms. In this chapter, key terms that occur and reoccur in the Dissertation are defined for instance, human rights, inmates, Prison, etc. chapter three discusses custodial rights, examines the alienable rights or safeguards guaranteed to an offender under the Constitution of the Federal Republic of Nigeria 1999, and other instruments in relation to post-trial rights, Such right include; the right to life, the right to dignity of human person, right to food and regular feeding, decent clothing, access to medical and health facilities etc. This chapter aims at examining critically, whether or not prisoners in Nigerian prisons suffer any deprivation in terms of their basic needs within the context of human rights provisions.

Chapter four focuses on the history of the Kuje medium prison and Suleja prison. This chapter discusses the origin, establishment of kuje and Suleja prisons, the capacity of the prisons, and the challenges that prevent the enforcement of human rights in the prisons. Chapter five is the concluding and recommending chapter, which consists of the summary, findings, and recommendations.

CHAPTER TWO

CONCEPTUAL CLARIFICATION OF KEY TERMS AND HISTORICAL DEVELOPMENT OF PRISON IN NIGERIA

2.1 Introduction

This chapter examines some key concepts in this research topic with a view to providing a general understanding and appreciation of the discussion. It is highly imperative to undertake a conceptual clarification of terms and words which are constantly /recurrently used in this research. Furthermore, We shall also be looking at the meaning, nature and scope of human rights, justification of prisoner's rights, the history of the Nigerian prison, the purpose of the Nigeria prison, which include correcting the accused persons and reformation of the accused persons, the classification of different prison inmates, This chapter further examined the current situation and conditions of the Nigerian prison system in relation to the observations based on humanitarian grounds.

2.2 Conceptual Clarification of Key-Terms

2.2.1 Overcrowding: is referred to as a state of affairs where the number of persons Confined are higher than the capacity designed for the prison to safely provide for the needs of persons.

2.2.2 Prison:¹ Is defined as "any building or place in Nigeria declared by the minister of Internal Affairs, through an order in a federal Gazette as a prison."²

2.2.3 Prisoner:³ Prisoner is generally defined as "any one deprived of his liberty either awaiting trial or as a result of conviction for any offence". For the purpose of this paper

¹ Prison Act, Cap. P29 of the Laws of the Federation of Nigeria, 2004

² Ibid

³ Ibid

prisoner means any person awaiting trial, convicted or juveniles who are unable to get out of the claws of the authority.

- 2.2.4 Pre-trial Detention:**⁴ Keeping in custody an alleged offender under coercive measure to secure attendance in a criminal prosecution.
- 2.2.5 Parole:**⁵ It implies a conditional release of a convicted person after he has served the portion of his sentence to serve his last portion of his sentence outside the prison under supervision under conditions that the parolee abides to certain rules during the pendency of his sentence.
- 2.2.6 Goal Delivering:** It refers to the procedure adopted by chief judge of the federation or the state where mini trials are held inside the prison premises. Judges look 'at each inmate's file history, conduct hearing, it is mostly legal Aid lawyers and Non-Governmental activists who plead for the release of deserving prisoners. The judge will at the end of the proceedings order the release of large number of prisoners.
- 2.2.7 Probation:**⁶ Refers to the procedure of releasing a convicted person on suspended sentence to the community to be supervised avoiding imprisonment mostly on low risk offenders where the offender poses no threat to the public safety.
- 2.2.8 Rehabilitation:** This refers to support service or therapy to the offender in form of educational and vocational training to make offer self-reliance and law abiding and prevent re-offending.⁷

⁴ Bryan, A.G. (2004) *Black's Law Dictionary*, 8th Edition, St. Paul West Group p.3

⁵ Ibid

⁶ Chambers English Dictionary, published in 1990 by W & R Chambers Ltd, New york p.14

⁷ Ibid

2.2.9 Community Service: this is defined as a community base programming where a sentenced offender is supervised in the community either under the prosecuting authority or nongovernmental organization as opposed to imprisonment.

2.3 Justice: Justice according to Chambers Law Dictionary is the quality of being just; integrity, impartiality; rightness, the awarding of what is due. It also means a judge, a magistrate – a vindicator or administrator of justice also means righteousness, equitableness, or moral rightness to uphold the justice of a course, the quality of being just conformity to the principles of righteousness and rectitude in all things; strict performance of moral obligations; practical conformity to human or divine law, integrity in the dealings of men with each other, justice is also an act of being fair.

2.3.1 Meaning of Human Rights

According to Lawal, human rights are of central importance in the development of the modern world⁸ He also argues that it is profoundly historical, expressing the aspirations and seeking to remedy the ills of particular places and time. Lawal says that sometimes a “right” is used to indicate immunity from having a legal status altered and could also indicate a privilege to do something. Osita Eze is quoted to have said human rights represent demands or claims which individuals or groups make on the society some of which are protected by law and have become part of *lex lata* (law as it is) while others remain aspirations to be attained in future.⁹

The pertinent questions are, what human rights is, what do human rights laws seek to achieve and what are the achievable objectives of human rights.

⁸ <http://books?id=dYrFriJXLoC&1pg=PA51&dq=protection+of+human+rights+in+administration+criminal&source=web&0ts=QSi8h9xFgg&sig=g9jrjz50mng8kxntitdRChMrhoPPA51.M1> Visited 17 June, 208

⁹ Ibid

Human Rights refer to the "basic rights and freedoms to which all humans are entitled. Examples of rights and freedoms which are often thought of as human rights include civil and political rights, such as the right to life and liberty, freedom of expression, and equality before the law; and social, cultural and economic rights, including the right to food, are inherent in our nature and without which we cannot function as human beings.¹⁰ These are freedoms that allow a person to exist as an intelligent, intellectual, spiritual and conscionable being. Human rights are in respect of the core foundation of what constitutes the main existence of mankind.¹¹ All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. Article 1 of the United Nations Universal Declaration of Human Rights, The Universal Declaration of Human Rights is the foundation of the international system of protection for human rights. It was adopted by the United Nations General Assembly on December 10th, 1948. This day is celebrated annually as International Human Rights Day. The 30 Articles of the Universal Declaration of Human Rights establish the civil, political, economic, social, and cultural rights of all people. It is a vision for human dignity that transcends political boundaries and authority, committing governments to uphold the fundamental rights of each person.¹²

According to Odekunle, Human Rights could and do mean different things to different People within the same nation/ political entity For even assuming that the package of human rights provisions of a state are comprehensive and correct, their actual enjoyment would still depend on the educational and socio economic wherewithal of the citizens. This point of view

¹⁰ Owoade, M. A. (2000) Crime and Criminal Laws in Nigeria; in Yakubu J.A (ED) *Administration of Justice in Nigeria* p.200

¹¹ Cole, A. A. (2011) *A Human Rights Approach to Prison Management* , Spectrum Books Limited, Ibadan, p. 13

¹² <http://www.prisons.gov.ng/about.php>.last visited January 2017

actually brings to the fore the Nigerian situation because while the grassroots only seek decent feeding and shelter, the upper class seek means of embezzlement of government funds and justification for so doing. He concludes by saying that on the basis of the foregoing, it should be clear that human rights could and actually do mean two things, at least broadly defined-genuine and narrowly defined- deceptive and virtually meaningless for the majority of citizens (in the latter, the respect of human rights for the few/minority means in actual effect, the denial or abrogation of the human rights of the many/majority)¹³

The term human rights developed from what was then known as natural law. Natural laws according to John Locke were those laws that were eternal and unchangeable and applied to the whole world. John Lock expressed the view that an organized country or community was established by means of a social contract, the individual surrendered some of his rights to the community, if his rights were abused, the individual had the right to rebel against the government and withdraw all the rights he had voluntarily submitted to the state.¹⁴

According to Ajomo, the starting point of any serious international concern with human rights may be said to be the period between the two world wars. He states further that before then, human rights was considered to be a matter of domestic concern only based on the premise that an individual was not a subject of international law therefore, what a state did with its inhabitants was its business.¹⁵

Ajomo. Further states that man can only be free in a free state therefore it follows that human rights hinge directly on the ways in which the political institutions governing peoples

¹³ Odekunle, F. *Protection of Human Rights in African Criminal Proceedings*
<http://books?id=dYrFriJXLoC&1pg=PA51&dq=protection+of+human+rights+in+administration+criminal&source=web&ots=QSi8h9xFgg&sig=g9jrjz50mng8kxntjtdRChMrhoPPA51,M1> Visited 17 January 2016

¹⁴ ibid

¹⁵ Ajomo, Opcit, p.33

are organized and that these rights therefore depend closely upon the legal system of society as a whole.¹⁶

Today, human rights provisions are contained in national and international laws and instruments including the Universal Declaration of Human Rights, United Nations Charter and the Constitution of the Federal Republic of Nigeria and Constitutions of other States. These national and international legislations substantially cover areas of human rights concerns. The application and implementation of these laws is however subjected to the individual states and the agencies of government that are responsible for imposing them; the circumstances surrounding each individual citizen's case (bearing in mind that to every human right of an individual, there is a corresponding duty); the moral uprightness of the people in government, etc.¹⁷

2.3.2 Scope of Human Right

The preamble to the Universal Declaration of Human Rights¹⁸ defines the nature of human rights thus, recognition of the inherent dignity and of the equal and inalienable rights of members of the human family is the foundation for freedom, justice and peace of the world. The factors that allow an individual to fully utilize and develop his/her human qualities i.e. conscience, intelligence, reasoning, etc. are the human rights and the fundamental freedoms. These are the factors that promote the right

¹⁶ Ibid

¹⁷ Mohammed, M. (2010) *Protection of Human Rights in the Administration of Criminal Justice in Nigeria; with Particular Reference to Kaduna State*, LL.M. Thesis (Unpublished), Faculty of Law, A.B.U., Zaria, p.36

¹⁸ Paragraph 1 of Universal Declaration of Human Rights

to actualize being human and having to exercise the rights to hold opinions and act on them; it gives the human being the dignity which is God given.¹⁹

There is the assertion that human rights are understood to represent individual and group demands for the shaping and sharing of power i.e. human rights act primarily as a limit on state power and human rights norms were not felt to have any application where acts were by private individuals in more recent time's, it has come to be recognized that human rights law may be used to obligate States to use due diligence to prevent, investigate and punish systemic and egregious human rights violations between private actors .The state has a duty to prevent abuse of human rights and put in place regulatory measures to ensure that such violations are either prevented or that punishments are meted out on persons who engage in human rights violations.²⁰

Other assertions which are often made in the less developed countries of the world are that human rights must be looked at in the context of social, religious and cultural beliefs prevailing in community rather than from a universal perspective and that human rights are non-absolutist i.e. that certain rights of individuals may be legally restricted.²¹ This is in an effort to maintain a certain level of decorum within the society. An example is the right to life of every individual, where that individual is proved to cause more harm in the society than good e.g. a murderer, then the life of that person may be taken as the law provides. There are in existence certain international human rights that are jus cogens and there is no provision for derogating from them. They include prohibition of slavery, genocide, torture,

The scope of human rights is taken in three perspectives i.e. the first, second and third generation rights.

¹⁹ Ngozi J.U. (2010) *"An Examination of the Rights of Prisoners and Detainees in Nigeria Bar Association Journal"* , vol.6 No. 1, p.1

²⁰ <http://allafrica.com/stories/200711080241.htm1> visited January 17 2016

²¹ Ibid

First Generation Rights; these entail the civil and political rights. These are the basic rights which every individual has. These rights are the most basic which every government is bound to uphold and protect on behalf of the individual. These rights are God given. They include the right to life, liberty and security of the person, freedom from discrimination, freedom from slavery or servitude, freedom from torture, inhuman or degrading treatment or punishment, freedom of thought, conscience or religion, freedom from arbitrary arrest, detention or exile, the right to fair hearing, freedom of movement and peaceful assembly, freedom of expression, and freedom of association.²²

Second Generation Rights:²³ These entail the economic, social and cultural rights. The need for a declaration on these rights arose due to the gross violations of these rights that occurred as a result of capitalist development and its underlying essentially uncritical conception of individual liberty that tolerated and legitimated the exploitation of working classes and colonized peoples.²⁴ These rights include the right to livelihood, the right to work under favorable conditions and protection against unemployment, the right to join trade unions, the right to adequate standard of living including food, clothing, shelter and leisure, the right to education and the right to adequate facilities for the protection of physical and mental health and for the enjoyment of social, religious and cultural life, All These rights are clearly stated in the Universal Declaration of Human Rights Articles 22-27.

In third world countries, these rights would have preferably been justifiable because even though these rights have been codified, the atmosphere is not favorable to enforce these rights. Poverty and insecurity is glaring, there are little or no jobs not to talk of providing a conducive,

²² Akande.I.O. (2000) *Introduction to the Constitution of the Federal Republic of Nigeria*, MIT Professional Publishers Ltd, Lagos, p.36

²³ Ibid

²⁴ Owoade Op.cit p.17

atmosphere for workers, etc. The question is, if these rights were justifiable, would it have made a difference in respect of the acceptability and the enforceability of these rights?²⁵

Third Generation Rights: These rights are a true reflection of the emergence of third world nationalism and a demand for a global redistribution of power, wealth and other important values including, the right to political, economic, social and cultural self-determination: The right to economic and social development and the right to participate in and benefit from the common heritage of humankind i.e. Scientific and technical discoveries, cultural sites and monuments²⁶

The achievement of ensuring that these rights are protected is dependent upon global corporation. Finally, it is noteworthy that in recent years, human rights have further developed around the areas of collective rights or the rights of peoples especially minorities and indigenous natives. The rights of women, persons with disabilities and other disadvantaged people within the society is now an important aspect of human rights with a need to protect these rights being recognized by many nations and governments²⁷

2.3.3 Justification of Prisoners Rights

The justification of Prisoners' rights is the fact that, a prisoner accused of violating the law of his community is deprived of his liberty and not his humanity.²⁸ By their very nature, Prisons are meant to restrict human rights, they are penal institutions created with the objective of curtailing the freedom of movement and certain other rights of individuals that are sent there by some authority or power. The early development of prisons worldwide, therefore, possessed

²⁵ Mohammed, M. (2010) *Protection of Human Rights in the Administration of Criminal Justice in Nigeria; with Particular Reference to Kaduna State*, LL.M. Thesis (Unpublished), Faculty of Law, A.B.U., Zaria, p.36

²⁶ Mahmoud, A.B,Tabi'u, M. (ed) Op.cit, p.71

²⁷ Ige ,T. and Lewis, O. (1999) *Human Rights Made Easy*, Legal Research and Resource Development Center Lagos, p. 4

²⁸ Ibid

little or no consideration for human rights as it is presently conceived of and attested to both in international laws of specific nations. This information is necessary to situate the current development and conditions that are embodied in the prison system in relation to human rights issues.²⁹

Prisoner's rights in Nigeria have their basis in law. Essentially they are derived from the constitution, in addition to this, the sources include Prison Act, Regulation and standing orders, judicial decisions touching on relevant rights, Administration of Criminal Justice Act 2015, international documents like the African Charter on Human and Peoples' Rights, United Nations Standard Minimum Rules for the Treatment of Prisoners, Articles 3, 4, and 5, of the African Charter on Human and Peoples' Rights provide inter alia; for every individual to be entitled to equal protection of the law and that because all human beings are inviolable, shall have the right of respect for life and integrity of his person and the rights to respect of his dignity inherent in a human being. Therefore, the prisoner being a human being is entitled to be treated as such by the reason of the provision in these Articles. Part of Article 5 went on to prohibit all forms of exploitation and degradation of human being, inhuman or degrading punishment in all its forms. The prisoner is imprisoned to be punished further while serving his term, the punishment he has highly deserved is the imprisonment i.e. confinement of his physical body in a place³⁰.

He may by the reason of the sentence, lost his liberty i.e. self-determination. He can no longer decide freely to do whatever he wants, go wherever he wants to because he is under the punishment of physical confinement; all he will do henceforth will be restricted. By these facts, his entitlements to contemporary materials, mental and social conditions of existence which enable him to develop all his positive potentials and talents to their fullest possible extent or

²⁹ Dambazau. A. B. (2011) *Criminology and Criminal Justice*, Spectrum Books Limited Ibadan, p. 216.

³⁰ Ngozi J. U. (2010) *An Examination of the Rights of Prisoners and Detainees in Nigeria*, *Nigeria Bar Association Journal*, Vol.6 No, 1, p.1

capacity and to continuously improve these conditions and to ensure that is not impaired or hindered. The right inquiry should, therefore, be directed to not as to whether a prisoner has any or deserve any right, but at determining the extent or limit of such rights.³¹

To buttress the point above, the Standard Minimum Rules for the Treatment of Prisoners state that,³² imprisonment and other measures are infictive by the very fact of taking from the person the right of self- determination and depriving him of his liberty therefore, the prison system shall not, aggravate the suffering inherent in such condition.

Furthermore, in an English case of *Raymond vs Honey*³³, Lord Wilberforce rightly stated that; a convicted prisoner, in spite of his imprisonment, retains all civil rights which are not taken away expressly or by necessary implication. Lord Justice Shaw, of the English court of appeal, makes the same point even more convincingly when he argues that Prisoners are subjected to a special regimen and have a special, Nonetheless, they are not denuded of all fundamental rights and Liberties which are inherent in our constitution³⁴ thus, despite the deprivation his general liberty, prisoners remains invested with residency rights, appertaining to the nature of his incarceration now, the rights of a citizen, however circumscribed by a penal sentence or Otherwise, must always be the concern of the courts unless their Jurisdiction is clearly-excluded by some statutory provisions.

The courts are generally the ultimate custodians of the rights and liberties of the subject, whether his status and however attenuated those rights and liberties may be as a result of some punitive or other processed. If this can be the position in a country like Britain that has no written

³¹ United Nations (2015) *Human Rights in the Administration of Justice, a manual on Human Rights for Judges, Prosecutors and Lawyers* by International Training Center of the ILO. Turin, Italy. p.251

³² Standard Minimum Rules for the Treatment of Prisoners, 1995, Rule 58.

³³ (1982), All ER.757 at p.759

³⁴ Jeremy, S. S. (2008) *Prisons in Africa: An Evaluation from Human Rights Perspectives*, Sur International Journal of Human Rights, Vol. 5, No 9, p.24

Bills of constitutional rights, there is every reason to assert that this position can be different in Nigeria which has a written constitution regarded as the superior law that must be obeyed, every other law, comes under the constitution.

This ought to be the position legally because a comprehensive number of prisoners' rights firmly anchored on a constitutional and statutory basis are essential and desirable element of socially functional, responsible and humane prison system. Prisoner's rights find a place within the new scheme of rehabilitation being the policy on the reorganization of the prison service of the federal government. Within this scheme, prisoner's rights are those human rights which are not inconsistent with the demands of penal confinement while at the same time, being consistent with the aspirations of a rehabilitative penal policy.

2.4 Meaning of Prison

A prison has been defined as a building where people are kept as a punishment for a crime they have committed, or while they are waiting for trial³⁵. In the triangular relationship of the criminal justice system, the third leg carries the prison. The prison is responsible for the custody of the final product in the criminal justice process. Maintaining custody involves carrying out measures to prevent movement escapes, such as erecting high walls of cells providing as a system of passes for movements within the prison, constant surveillance, and such stringent measures which may be applied from time to time to prevent escapes, riot and so on.

Prison according to Goffman, is a "total institution"³⁶ to be locked up in a physical, psychological and social sense, a situation in which there is no escape and the prisoners has no control, is to deny the individual the rudimentary choices of everyday life. Indeed where he lives,

³⁵Goffman, A. (1961), *Asylums Garden City*, N.Y. Anchor Books, p.13.

³⁶ *ibid*

what time he goes to bed and when he gets up, the food he eats the people with whom he eats, works, plays, and sleeps, the clothes he wears all these are chosen for him.

Prison was also defined as a facility in which individuals are forcibly confined and denied under the authority of the state as a form of punishment.³⁷ The most common use of prison is as part of a criminal justice system, in which individuals officially charged with or convicted of crimes are confined to jail until they are either brought to trial to determine their guilt or complete the period of incarceration they were sentenced to after being found guilty at their trial. A prison is an institution design to securely house people who have been convicted or are on awaiting trial.

These individuals known as prisoners or inmates are kept in continuous custody on a short or long term basis. Individuals who commit heinous crimes are sent to prison for more years. The more serious the offence, the longer the prison term imposed. Prisons according to Ajomo and Okagbue,³⁸ prisons are institutions created with the objective of curtailing the freedom of movement of individuals that are sent there by some authority or power.³⁹ They add that the early development of prisons worldwide had little or no consideration for human rights as it is presently conceived or attested to worldwide.

2.4.1 History of Prison in Nigeria

Modern Nigerian prison service could be traced to 1861, when the colonial concept of prison was established; coincidentally it was the beginning of formal colonial machinery of governance. It was in 1872 that the broad street prison was established with an initial inmate

³⁷ *Journal of Policy and Development Studies* Vol. 9, No1 November 2014 issn; p. 154

³⁸ Ajomo, M.A and Okagbue, I. (1991) *Human Rights and the Administration of Criminal Justice in Nigeria*. NIALS, Lagos p.33

³⁹ Ibid

capacity of 300. By 1910, the British colonial government had established prisons in Calabar, Onitsha, Benin, Ibadan, Jebba, Lokoja, and Degema. Colonial prisons were not designed for reform, but rather prisoners were used mainly for public works and other jobs for the colonial administration, they served the colonial interests of ensuring law and order and collecting taxes. The prisons were poorly run and the local prison conditions varied from one prison to another in their disorganization, callousness and exploitation. The prison served the purpose of punishing those who opposed the British colonial administration.⁴⁰

Prisons in Nigeria are total institutions. Inmates locked within their walls are segregated from the outside world, kept under constant scrutiny and surveillance, and forced to obey a strict code of official rules to avoid facing formal sanctions. Their personal possessions are taken from them and they must conform to institutional dress and personal appearance norms. Many human functions are strictly curtailed – heterosexual activity, friendship, family relationships, society, education, and participation in groups become seriously restricted or cut-off.⁴¹ It is an institution designed to warehouse people who have been convicted of crimes. These individuals, known as prisoners or inmates, are kept in continuous custody on a long-term basis. Individuals who commit the most serious crimes are sent to prison for one or more years; the more serious the offense, the longer the prison term imposed.⁴² For certain crimes, such as murder, offenders may be sentenced to prison for the remainder of their lifetime.

When individuals are accused of violating criminal law, they are tried in a court and either convicted (found guilty) or acquitted (found not guilty). A person who is convicted is then sentenced that is, assigned a specific punishment. The sentence may involve fines, probation (supervised release), or incarceration (confinement). Judges may sentence first-time offenders to

⁴⁰ Dambazazau A. B. (2011), Op.cit, p.8

⁴¹ Siegel, L. (2000) Criminology, Library of Congress Cataloging-in-publication Data

⁴² Riveles, S. (1994) "Focus Human Rights in Africa", *Journal of Opinion*, Vol. XXII/2, Summer, p.82-96

probation instead of incarceration. Offenders convicted of more serious crimes and those who have prior criminal records may be sentenced to incarceration in a prison, depending on the nature of the crime.

Prisons are also called penitentiaries. The word penitentiary was coined in the late 1700s because certain groups believed that through solitary religious study of the Bible, prisoners would become penitent [remorseful] and reform their behavior and possibly be integrated back to the society. Although prison structures existed in ancient civilizations, the widespread use of long-term confinement as a form of criminal punishment began only in the 15th century. Today every industrialized nation has prisons, and the role the prisons are meant to serve as corrective facilities for convicted felons and also to serve as temporary abodes for the suspected offenders who need to be kept in custody pending their hearing to determine whether or not they are to be convicted, in which case they are to remain imprisoned or they would be discharged. The question now is has the Nigerian prisons serve as a reformatory or correctional facility for those convicted? After serving their terms in prison, are the convicts better off psychologically? Do they receive training in terms of skills acquisition to enable them cope within the society when they finally come out of prison? All these questions point out to the duties of the prisons administration in Nigeria. The objectives of the Nigerian Prison system are to provide a reasonably safe custody of all persons committed. It also seeks to treat the inmates humanely and to reform or rehabilitate them in order to make them better people so that when they are done serving their prison sentences, they are better people.

2.4.2 Structure of the Nigerian Prisons

Based on the information provided by the Nigerian Prisons Service, the Nigerian Prisons Service derives its operational powers⁴³ to perform the following functions.

- (i) Take into lawful custody all those certified to be so kept by Courts of competent jurisdiction;
- (ii) Produce suspects in Court as at when due;
- (iii) Identify the causes of their anti-social dispositions;
- (iv) Set in motion mechanisms for their treatment and training 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 government⁴⁴.

The Prisons Service in Nigeria is a Federal phenomenon i.e. the Prison is exclusively a Federal Government concern, which means that no State for now has the power in law to operate or maintain prisons⁴⁵. Presently, the following prisons and prison related institutions spread across the length and breadth of Nigeria:⁴⁶

- (i) A total of one hundred and forty five (145) convict prisons;
- (ii) Eighty three (83) Satellite Prison Camps;
- (iii) Twelve Major Farm Centers;
- (iv) Nine Cottage Industries;
- (v) Nine Subsidiary Farms;

⁴³ CAP 366, Laws of the Federation 2004 (As amended)

⁴⁴ <http://www.prison.gov.ng/about.php> visited 12 January 17th 2016

⁴⁵ Amnesty International <http://tinyurl.com/2fzwr9> visited 15 January 2016

⁴⁶ *ibid*

- (vi) One hundred and twenty four Market Gardens;
- (vii) Three Borstal Institutions;
- (viii) One Open Prison Camp;
- (ix) One Staff College;
- (x) Four Training Schools.

The conventional convict prisons are for the remand of both the convicted and awaiting trial inmates. There are two major types of convict prisons operational in Nigeria today. These are the Maximum and the Medium Security Prisons. The Maximum Security Prisons takes into custody all classes of prisoners including condemned convicts; lifers, long term prisoners etc.⁴⁷ Even so, we have an unofficial classification of these Maximum Security Prisons in terms of heightened security. This explains why a high risk prisoner could be sent to one maximum Security Prison against another.

The Medium Security Prison on the other hand also takes into custody both remand inmates and convicts. However, short term convicts constitute the bulk of the inmates that should ordinarily be found in medium prisons. The Satellite Prisons can be described as intermediate prisons camps set up mainly in areas with courts that are far from the main prisons. They serve the purpose of providing Remand Centers especially for those whose cases are going on in courts within the areas. When convicted, long term prisoners could be moved to appropriate convict prisons to service their terms. The Farm Centers are Agricultural Prison Camps set up primarily to train inmates in Agro-based vocations so that when they are discharged they will have Agro-based skills to depend upon. The convicts are expected in addition to be taught to appreciate, the dignity of labor.

⁴⁷ Amnesty international Press Release of February 2008

The Farm Centers are large mechanized farms that are located in the food-producing areas of the different geographical regions of the country.⁴⁸

Subsidiary Farms and Market Gardens are Agricultural extension projects usually attached to some State Prisons Headquarters for the same purpose as state above. They are made up of vegetable-producing market gardens, poultry and piggery farms etc. Apart from training inmates in all these agro-based vocations, these endeavors are expected to yield revenue to the State.⁴⁹

The Borstal Institutions are for the remand and treatment of juvenile offenders. At the moment, the Prisons Service has only three (3) of such in Kaduna and Ilorin in the North and Abeokuta in the South. Plans are underway to build more to take care of the cases of juveniles who are increasing in numbers and who because of their age should not only be mixed with adult prisoners but should be deserving of different treatment methods from those of the adults.

For the purposes of staff development, the Nigerian Prisons runs four (4) Training Institutions. This is the Prison Staff College, Kaduna, which trains new officers and retrains serving ones. The Service also has three training schools for the training and retraining of junior staff.⁵⁰

2.4.3 Duties of the Prisons

By law, every prisoner who is confined in a Nigerian Prison is deemed to be in the legal custody of the superintendent in charge of that prison, and is subject to prison discipline and regulations whether or not; he is in the precincts of the prison. every superintendent of the

⁴⁸ Report of the National Working Group on prison Reforms and Decongestion, 12th May 2012

⁴⁹ <http://www.prisons.gov.ng/about.php>. Last visited June 20, 2016.

⁵⁰ Mohammed, M., (2010) *Protection of Human Rights in the Administration of Criminal Justice in Nigeria*; with Particular Reference to Kaduna State, LL.M. Thesis (Unpublished), Faculty of Law, A.B.U., Zaria, p.36

Nigerian Prisons is by law, authorized and required to keep and detain all persons duly committed to his custody by any court, judge, magistrate, Justice of Peace or other authority lawfully⁵¹ exercising civil or criminal jurisdiction, according to the terms of any warrant or order by which any such person has been committed, until that person is discharged by the due process of the law.⁵²

The main duty of the Nigerian Prison is to ensure that the offenders or suspects brought to it are housed, accommodated, fed and adequately cared for physically, mentally and psychologically. The duty of the Nigerian Prison is not to discharge any accused or suspected person because their role in the criminal justice administration does not extend to that. Most prisons have sick bays where the inmates are treated for minor diseases. As a result of overcrowding in the prisons today, infectious diseases are transmitted fast between inmates.

Unfortunately, the medical Centre is not adequately supplied with medicines to cater for the needs of all the inmates. The issue of Hiv/aids in the prison was addressed in one of the visits by Arewa Peoples' Development Association (an NGO based in Kaduna)⁵³ and the Controller then disclosed that their policy was not to disclose to the inmates their HIV status if they had no prior knowledge before they were imprisoned. The wisdom of this is however questioned because it is only when a person knows he/she is positive that the person would take steps to taking care of one's self, take drugs for the purpose, etc.

Prisoners who are taken to court must have prisons officers as their escorts. These prison wardens have a duty to keep court records of offenders and take them to court when the dates fixed for their hearing come. They wait for the hearing to go on and take them to the prison when

⁵¹ Report of the National Working Group on Prison Reforms and Decongestion

⁵² Ladan, M. T. (1998), Op.cit, p.2

⁵³ Arewa People's Development Association (an NGO based in Kaduna in 2005)

hearing is concluded. They do not however initiate any proceedings or actively take part in the hearing.

The monthly prison visit which involves a collaboration of the Ministry of Justice, the Judiciary, the Police and the Prison office is usually hosted by the Prisons Administration. The prison visit entails the presence of a Judge of the High Court, the Magistrates within Jurisdiction, the litigation officer in the Ministry of Justice alongside State Counsel and DPP and Police investigators and prosecutors.

The prison visit is like having a court sitting without all the formalities and technicalities of the court room and it sits within the walls of the prison with all the stakeholders present. The main purpose of prison visits is to precipitate decongestion of prisons by reviewing the cases of some of the prisoners so that the unfairly detained prisoners would be set free and those who have been imprisoned for an unusually long time but without any trial would have their cases pushed forward for accelerated hearing. In some prisoner's cases during prison visits, one discovers that there are some prisoners who are detained but the authorities have no records what so ever of the offences that brought about their imprisonment. It is this type of situation and others similar to it that the prison visit seems to address. It is usually a time for jubilation for prison inmates. These visits happen all over the federation at least once a month. An example was the recent visit to Kuje and Suleja prison in September 2015, which led to the release of 18 inmates, and a foreigner who was ordered to be deported back to his country.⁵⁴

The Prison service engages in certain activities that are expected to provide a certain level of discipline for the inmates. These disciplinary measures include solitary confinement, whipping with cane, reduction of diet etc. The prisons

⁵⁴ <http://www.prison.gov.ng/about.php>. visited 12 January 2016

have a duty to provide, the basic amenities for the inmates these include a clean environment, food, blankets, mattresses, medical care, etc.

2.5 Classification of Inmates

With the fairly recent trend towards direct supervision jails, the question of the potential role of inmate classification within such model is frequently being asked. The role of objective inmate classification systems has been pretty well defined. An inmate classification system can help identify those inmates who present a grave threat to themselves, staff, other inmates, or the community. Subsequently, such inmates can be assigned appropriate housing and supervision relative to the degree of assessed risk.⁵⁵

Frequently, in traditional jails, this results in maximum, medium, and minimum-security inmates being housed separately from each other, if the facility design and cell space permit. This has been demonstrated to work well for the management of the general inmate population for these two traditional jail designs. The question is can, or should, inmate classification play the same, or similar, role in a direct supervision jail? For instance, what is the potential impact of classification on overcrowding? What role can classification play in decisions to board inmates in other correctional facilities? Can classification help in identifying direct supervision inmates who are eligible for work release, non-secure trusty positions or minimum-security housing? To address these questions let us look at them in relation to four primary functions of classification, which include determining factors of inmate and staff safety, equity, fairness, consistency, public safety and community based programs, and correctional facility management and planning.⁵⁶

⁵⁵ Interview with Mr. Musa Tanko Assistant Controller of Prison in Kuje Prison on 7th December 2016

⁵⁶ [http://www.state.gov/www/global/human rights/ prison .com](http://www.state.gov/www/global/human_rights/prison.com). visited 27, September, 2016.

2.5.1 Inmate and Staff Safety

One of the primary functions of jail/ inmate classification systems is as a tool assisting jail administrators and staff in assessing and identifying the dangerous or potentially problem inmate in order to make appropriate housing, supervision, medical care, and treatment decisions.⁵⁷ In most jails this assessment could occur at two distinct stages of incarceration: (1) at booking or intake for temporary management decisions, and (2) before the inmate is moved to general population for longer-term housing assignment, needs assessment, and program referral.

In respect to the initial classification stage at intake (assessment of various factors including medical treatment needs, suicide risk, appropriate temporary housing.), the function of inmate classification remains essentially the same for all supervision models. At the second stage of classifying the longer-term inmate to general housing, the function of inmate classification may be different from direct supervision jails. While the issue of identifying the high risk or problem inmates (i.e., assaultive, suicidal, mental illness.) and separating them from the general population is the same for both models, the difference may be found in the housing policy of the facility. Frequently, direct supervision jails adopt a housing policy of mixing maximum, medium and minimum security inmates together in the same housing unit. In such instances, the application of classification is not critical to housing assignments. Some direct supervision jails, on the other hand, may choose the housing policy of separating minimum custody level inmates to take advantage of less expensive housing options and reduced staff supervision levels while still operating under the direct supervision model. Obviously, classification has a useful role to play in this circumstance.⁵⁸

⁵⁷Akinseye, G.Y. (2009) *Justice Sector Reform and Human Rights in Nigeria*, published by center for Social –Legal Studies, Abuja p. 89

⁵⁸<http://www.prisons.gov.ng/about.php>, visited July 12th 2016.

The point here is that the use of classification for security decisions, knowing what kind of inmate is where, is the same for traditional and direct supervision models; the difference lies chiefly in the relationship between the assessed security levels of inmates and the housing policies a specific facility chooses to meet its objectives.

2.5.2 Equity

An objective inmate classification system, regardless of the type of supervision/facility model, provides for equity and consistency in managing the general inmate population. In principle, all inmates should be classified by the same objective criteria supported by specific policies and procedures, including designated housing areas, decision guidelines, and program eligibility criteria. This provides reasoning to support the decision making process and eliminates arbitrary decisions. For example, the various security level classifications should define and determine an appropriate range of eligibility for certain programs, privileges (e.g., day release or trusty positions for minimum- security inmates.). This also supports a system of behavior modification providing incentives for the inmate to address these needs and to promote positive behavior, consistent with the direct supervision philosophy. A necessary component for this application of classification is a regular periodic review of an inmate's current security level classification. This provides structure for monitoring and tracking inmate behavior, and allows for the inmate to work his way to a lower security level (i.e., increased eligibility for programs, housing, special privileges), or, conversely, to higher security levels (i.e., restricted housing.) as a result of behavioral problems. Obviously, factors such as the offenses for which they are incarcerated may limit the security level an inmate may achieve. Regardless of the supervision

model used, the principle of security, fairness and consistency is very important, and provides a base from which management decisions are made.⁵⁹

2.5.3 Public Safety

Regardless of whether a jail is operating under the more traditional models or the direct supervision model, and regardless of the degree to which classification determines housing decisions, classification is perhaps most instrumental in its potential application to community-based correction programs and public safety. With the ever-increasing problem of jail overcrowding, jail administrators and local criminal justice policymakers are increasingly faced with the question of which offenders are going to take up the jail's limited space and resources. This problem can be addressed either at the front end, in determining punishment options or at the back end, in determining which sentenced inmates may qualify to serve a portion of their jail term and then be recommended for early release into community-based programs such as community service work, residential treatment, or intensive probation⁶⁰. To facilitate this process a good classification system should help to identify those inmates who have the best chance of successfully completing the community-based sanction while minimizing the risk to public safety.⁶¹

2.5.4 Efficient Facility Planning

Classification, and the inmate data it provides in conjunction with other important booking and release information, can play a significant role in facility planning and management. Knowing who is in the jail, offense type, crime classification, length of stay, security profile, etc.

⁵⁹<http://www.nigeriavillagesquare.com/Articles/akintokunbo-a-adejumo/the-nigeriaprison/public-safety.html>, visited in April 11, 2016

⁶⁰Adeyemi. A. A (2000) *Alternatives to Imprisonment in Nigeria: Problems and Prospects in Giving Balance to Justice System for Victim, Offenders and Society*. Compiled National Human Rights Commission, Penal Reforms International, and Prisoner Rehabilitation and Welfare Action, Abuja, 8-10 February, 2000

⁶¹Ibid

In short, an objective inmate population profile, comprise critical factors in this jail management process. An obvious application includes assistance in identifying the type of facility construction (minimum to maximum) needed to handle the local offender population.

Typically, new jail construction "over-builds" in terms of costly maximum security cell space, especially in rural areas, relative to the actual security profile of the inmate population in that area. Inmate data derived from classification may, if available during the planning process for new jail construction, or renovation, significantly reduces expenses by providing a wider range of options for housing. The inmate information provided by a good classification and data system can also identify target populations within the overall inmate population for which specific options may be discussed. For example, in a medium sized rural jail in northern Michigan, 59% of the general jail population in 1986 were classified as minimum security. The majority was defined as misdemeanants with an alcohol-related conviction. This group served over 8,000 jail days. By isolating this population, policymakers faced with an overcrowded jail could potentially evaluate the impact of diverting some portion of this minimum security sub-population into an acceptable alternative and assess the impact of that policy on the overall size of the jail population prior to implementing the policy. In some states, such as Michigan, state and local officials are interested in developing a standardized inmate classification system that would facilitate boarding of inmates in another jurisdiction or facility to relieve overcrowding for those jails which are overcrowded.⁶²

By standardizing the classification system, when communicating with each other, and regardless of the supervision model, would have the same objective criteria for determining security levels of inmates. A jail can then specifically identify which security beds are available

⁶² Gary K. and Dave W. W. (2009), Northpointe-Evolving Practice through Scientific Innovation, Northpointe Institute for Public Management, Inc. All Right Reserved, p.44.

for “out-county housing” and make arrangements accordingly. For policymakers at the regional or state level, this standardized system could facilitate consistent data collection and analysis of jail population profiles, and hence policy decisions can be more consistent throughout the state or region. In this context, the same objective classification system should be applicable for most, if not all, full service jails in a state or region regardless of the supervision model. In conclusion, our experience with the applications of a good inmate classification system in traditional jails suggests that these functions are similar for both traditional jail supervision models and the direct supervision model, with one important distinction. The same decision making criteria provided by a good classification system, supporting the primary functions of classification, should be applicable and relevant regardless of the type of supervision model used. The primary difference in the application of a good objective classification system, in the context of these differing supervision models, is in the role classification plays in determining housing decisions, which remain the individual choice of the jail administration. The primary factor for determining whether an inmate in a direct supervision jail is housed in a group or in a segregated area is in assessing his institutional behavior, special needs, and ability to get along with other inmates. All other basic applications of inmate classification hold similar potential in facilitating efficient and cost-effective jail management and planning. Having looked at the importance of inmate classification, how then, does Nigeria prison service classify inmate?⁶³

Classification of inmates in this context is done by the frequency of crime they commit. They are however, classified as follows.

1. **First Offenders:** They are the inmates that, commit offences and, with punishment may be deterred from committing further offences. It could be any criminal that commits any crime.

⁶³ Tabiu, M. (1998) the Nigerian Prisons and the Standard Minimum Rules for the Treatment of Prisoners, a seminar paper delivered at a 2-day workshop on Nigeria prisons, 10th -12, November , Ecowas secretarial, Abuja

Rapist, armed robber, thief or murderer etc. who commits such crime for the first time and deterred by punishment.

2. **Habitual Offender:** Commit offence almost at all times not even punishment can deter him from committing subsequent offences or crime According to the chief superintendent of Kuje medium Abuja prison (CSP)⁶⁴ they are the type of inmates that would tell you to keep their uniform that they would be back in no long a time. These habitual criminals are recidivists who cannot be deterred from committing crime by punishment; they are more or less naturally born criminals.
3. **Second Offenders:** Although this category of offenders are not habitual offenders. But circumstance induces their commission of crime and they are punished or imprisoned for the second term.

Lombrosos classification incorporates the following groups; the born criminal, the insane criminal, criminal by passion, occasional criminal and habitual criminal.

The Nigerian prison service, also classifies or separates prisoners based on sex, age whether convicted or awaiting trial. The ultimate aim is to enable the prison authorities provide the most appropriate treatment to each category of the prisoners especially those awaiting trial and young offenders, which is the requirement of the law. Another question we would be looking at is, why has Nigerian prison service failed in carrying out this responsibility?

According to the report of Amnesty international,⁶⁵ all the prisons visited, which include Kuje Medium Prison and Suleja Prison, which house men and women separately; in addition, convicted inmates and those awaiting trial are often in different cells. In the female wings, however, these categories are frequently mixed up. None of the prisons separated inmates

⁶⁴ In an interview with Chief Superintendent of prison (CSP) Kuje Medium Prison Abuja, on December 11, 2016

⁶⁵ Amnesty International <http://tinyurl.com/2fzwr9> visited 16 January 2016.

according to the nature of the offence. Only one prison had a cell for convicted inmates who were first time offenders. In Kuje prison, Amnesty International saw minors in cells with adults. Almost every prison visited locked up people with mental illnesses; in some cases they had committed no crime, but their families had brought them to the prison.

In addition, some prisons have a special category of so-called VIP inmates usually politicians and wealthy prisoners, one of them is the Kuje Prison, which detained police officers, Dasuki, the Chief Security Officer to Good Luck Jonathan former President of the Federal Republic of Nigeria, Raymond Dokpesi, Chairman of DAAR Communications,⁶⁶ were all separated from the general prison population, Their cells are not overcrowded, and they receive special treatment and privileges. This clearly does not comply with Nigeria's national and international obligations and it also contradict the right to freedom from discrimination of other inmates, and also contradict right to accommodation and bedding facilities of other inmates. Which shows that Nigeria prisons services has failed in caring out its constitutional responsibility.

⁶⁶ Interview with Mr. Musa Tanko Assistant Controller of Prison in Kuje Prison on 23rd, September 2016.

CHAPTER THREE

LEGAL AND INSTITUTIONAL FRAMEWORK FOR PROTECTION OF PRISONERS' RIGHT IN NIGERIA

3.1 Introduction

The right to freedom of movement is obviously restricted by the nature of imprisonment as that of free association. However, these rights are not completely removed since prisoners are rarely held in total isolation and, when they are, there has to be a specific and cogent legal justification. The violation of prisoner rights has led to prison break, riot, which led to the death of inmate and staff in the prison, as a result of the grave consequences, various laws and institutions have been put in place to help in the protection of prisoners' rights, We shall now consider these laws and institutions. Therefore, this chapter highlights the legal and institutional framework for the protection of prisoners' rights in Nigeria, Finally the chapter discusses the rights of persons who are under detention and this shall be discussed under two sub headings, which includes inalienable rights of a prisoner and the custodian rights of prisoners.

3.2 Legal Framework for the Protection of Prisoner's Rights, in Nigeria

The prison system as it is today is a reflection of the legacy of colonial Prison administration. The history and legal frame work of prison in Nigeria dates back from colonial era. The first prison legislation was the Prisons Ordinances. This was the main law regulating colonial prisons until 1914. In 1916, Prison Ordinance was enacted with the mandate to establish and regulate prisons, in the same year, Native Authority Ordinance was empowered to establish and maintain their own prisons; these constitutes the principal enactments regulating Prisons

until independence in 1960¹. This dual system continued until the unification of the two systems in 1966, when the military government took over the management of prisons.²

Subsequently, in 1968, a conference on “the Nigerian prisons system was held by the inspiration of the Federal Attorney General and commissioner for Justice. This conference stimulated major developments leading to the publication of a white paper. This led to the promulgation of Offences created by law, four Years after the establishment of Broad Street prison in 1872, which ushered in the First Modern Prison System in Colonial Nigeria Prison Act, which revised and replaced the Prison Act of 1960 for purposes of implementing the proposals set out in the white paper of 1971. It is noteworthy to stress that, the 1972 Act is the principal law governing the prison system in Nigeria every other subsequent amendments are mere recitals³. Following from the preceding enactments, the Prison Act is not the only “principal statutory instrument” regulating the prison system in Nigeria, Applicable too, are the prison Regulations and Standing Orders. The essence of the regulations and standing orders as set forth in Section 15 of the Act was to organize and make appointment to office in the Nigerian prison service subject of course to the recommendation of the Public Service Commission. It is perhaps unfortunate that, these Regulations and Standing Orders remain in enforce till today by virtue of Section 18 of the Prison Act which stipulates that: “subsidiary legislation made or deemed to have been made under the Prison Act 1960, if it was enforced with necessary modification, and may be amended or revoked as if it had been made under this Act. Fundamentally, the Nigeria prison system derive its status and legality form the constitution, Section 34 of the Constitution

¹ <http://www2.ohchr.org/english/law/treatmentprisoners.htm#wpqiQ18339> last visited September 12, 2016

² Ibid

³ Uegbune, C. (1998) “Review of the Existing Constitutional and Statutory Provisions for the Prisoners’ Rights in Nigeria” A Seminar Paper delivered at a 2-days Workshop on Nigeria Prisons, on 10-12, November at ECOWAS Secretariat, Abuja.

protects personal liberty, dignity of human person and freedom from degrading treatment. Thus, the legal frame works of the Nigerian prison rest on the constitution.⁴

3.3 Institutional Framework for the Protection of Prisoners' Rights in Nigeria

There are three major institutions that have the power to protect prisoners' rights in Nigeria. They are; (i) Law enforcement (police); (ii) adjudication (court); and (iii) corrections (jails, prison, probation and parole).⁵ In criminal justice system, these distinct professionals or agencies cooperate together as the principal means of maintaining the rule of law. However, with reference to criminal justice system, a brief study of the professional practice of each agent is made below.s

3.3.1 Police

The police as an institution for the protection of prisoners' rights plays a vital role in the administration of criminal justice, being the principal organ that deals with law enforcement, the effectiveness of the administration of criminal justice largely depends on the ability of the police to carry out their duties efficiently and effectively. The original meaning of the word Police refers to the general state of public order and public health of the city. It has also been defined as the civil force to which is entrusted the task of maintaining public order and enforcement of law for the prevention and punishment of its breaches.⁶

The first contact of an offender with the criminal justice system is usually the police, the police is referred to as the gatekeeper of the criminal justice system, who investigates a suspected

⁴ Section 34, Constitution of the Federal Republic of Nigeria, 1999 (As amended)

⁵ Akande, I. F. (2011) *Social Implications of Reforms to Criminal Justice System*, A paper presented at the First Nigerian Bar Association Criminal Justice Reform Conference held in Nicon Luxury Hotel, Abuja from 17th to 20th July, 2015, p.5

⁶ Ibid

wrongdoing and makes an arrest, but if the suspect is a hardened one and constitutes threats to the whole nation, then the state security services comes into the scene.

Section 214(1)⁷ establishes the Nigerian Police Force as follows: There shall be a Police Force for Nigeria, which shall be known as the Nigeria Police Force, and subject to the provisions of this section no other police force shall be established for the Federal or any part thereof.

In view of the above, Nigeria practices a national police force system. And in furtherance of that, the Constitution further provides⁸, the Nigeria Police Force shall be organized and administered in accordance with such provisions as may be prescribed by an Act of the National Assembly. Consequently, by virtue of the above, Section 4 of the Police Act⁹ establishes, the functions of the police as follows: “Prevention and detection of crime, apprehension of offenders, preservation of law and order, protection of life and property, enforcement of all laws and regulations with which they are charged, military duties within or without Nigeria as may be required of the Nigeria police are also accorded wide powers by laws. For example, under the Penal Code, and under the Administration of Criminal Justice Act 2015¹⁰ the police has powers, to grant bail to suspects pending investigation or arraignment in court; to take measures to prevent crime, the police also has the power to investigate¹¹, interrogate, arrest, detain and to search any person as well as premises and interview of witnesses which is an inherent part of the police duty. The purpose of any Police Interrogation should be to determine the innocence or guilt of the suspected person(s) in order to determine whether or not to send the file for legal advice and for subsequent prosecution of the suspect. Before this interrogation however, the police are expected to administer caution

⁷ Section 214(1) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended)

⁸ Section 214(2)(a), *ibid*

⁹ Section 4 of the Police Act, Cap 19, Laws of the Federation of Nigeria, 2004.

¹⁰ Section 31 (1) an (2), Administration of Criminal Justice Act 2015

¹¹ Momodu, B. (2007) *Law and Practice of Criminal Investigation and Prosecution in Nigeria*, Ibadan, Starling Hordon Publishers Nigeria Ltd, p.156

in order to let the person being interrogated know that he has a right to remain silent and is not obliged to answer any question.

Research shows that 69% of the respondents state that statement or confessions made by suspects during police interrogation are under torture, which deprived them of their personal liberty as provided for by section 35 of The 1999 constitution thus-¹² “Every person shall be entitled to his personal liberty and no person shall be deprived of such liberty save in the following cases, in accordance with a procedure permitted by law”

The liberty of a citizen is one of grave constitutional importance and any attempt to curtail it must be done within the strict purview of the law otherwise, it becomes illegal¹³. It must be noted that this right as provided, is not absolute as there are situations in which it may be denied. The section outlines the conditions and situations where a person may lawfully be deprived of his personal liberty outside of which a person would not legally be denied his personal liberty i.e. the right of personal liberty can be deprived in the execution of a sentence of the court for a criminal offence for which a person is found guilty. Section 35 further provide that any person who is detained and awaiting trial shall not be kept in detention for a period longer than the maximum period of imprisonment reserved for the offence he is charged. It is humbly submitted that this provision does more harm than good because the authorities may keep a suspect in detention for the prescribed period and the suspect may at the end of the day be found innocent of the charge. Jamo reiterates this point, in his argument when he says that this provision poses the greatest threat to personal liberty.

In the case of *Gani Fawehem & Ors vs General Ibrahim Babangida*,¹⁴ the Plaintiff, a human rights crusader was arrested on May 29, 1992 in Lagos. The next day, he was

¹² Section 35, Constitution of the Federal Republic of Nigeria, 1999

¹³ Momodu, B. (2007) Op.cit, p. 44

¹⁴ (2003) 3 NWLR (PT. 808),P.604

taken to Abuja and kept in Kuje prison until June 29, 1992 when the detention order was revoked by the Chief Magistrate upon a charge of treason preferred against him by the Respondents. The court's ruling in respect of the duties of the authorities to observe the rule of law was thus: "Those who feel called upon to deprive other persons of their personal liberty in the discharge of what they consider to be their duty must strictly and scrupulously observe the forms and rules of law."¹⁵

In the instant case, the detention order dated 29/5/92 is affirmative evidence that the applicant was to be detained in Kuje Prison. The Applicant was arrested on 29/5/92 but was not taken to Kuje prison until after spending 10 days in police cells in Lagos and Wuse. This in effect means that the detention of the applicant in Police cells for ten days was not in compliance with the laws they are directly charged: By virtue of section 4 of the Police Act and 214 of the 1999 Constitution,¹⁶ the Police are bound to carry out any duty assigned to them by law, The Nigerian Constitution (Section 35) guarantees the right to be brought before a court of law within a reasonable time. If there is a court of competent jurisdiction within 40km, reasonable time is defined as one day; Individuals who are charged with crimes are routinely held in pre-trial detention for extended periods, even when there is little evidence to support the charge, and where the accused person poses little or no risk to society, Amnesty International's interviews are indication, which discover that pre-trial detention routinely exceeds four years. Nevertheless, prison officials report that it is common for them to receive prisoners who bear unmistakable signs of having been tortured at the hands of Police, who uses torture as a method of investigation. In Practice, though, any actions taken by the Nigeria Police Force have failed to end the use of torture in interrogating suspects.

The duty of the Police is not to arbitrarily deny a citizen the fundamental human Rights the constitution enables him/her to enjoy but rather to uphold and protect those

¹⁵ George O.S.A. (2000), *Police Powers in Nigeria*, Afro-Orbis Publication Ltd. Nsukka, p.15

¹⁶ *Ibid*, p. 9

rights, where there is need to infringe upon those rights, it must be done lawfully and cautiously, The Nigerian police is an institution which is an integral part of the society that cannot be Dispensed with and their responsibilities with regard to securing lives and properties cannot be Overemphasized -This is why it is, ironical that the ones who are supposed to safeguard and protect turn around to -trample upon and violate the rights of the citizenry¹⁷. Nigerian police has been accused of being one of the greatest violators of the said rights in Nigeria.¹⁸

3.3.2 Courts

In the triangular relationship of criminal justice system the second most prominent component is the court¹⁹. The placement of the Courts in the protection of human rights is like the heart in the human body without which the body cannot function and where it is corrupted, the whole system fails. The public sees the court as the platform for fairness and impartiality, and the prisoner's perceives the court as the guarantors of their fundamental rights²⁰ Ajomo²¹ says that the independence of the courts is a prerequisite for the meaningful observance of the fundamental rights enshrined in the constitution. That the judicial powers of the courts extend to all matters between persons or between governments or authority and any person in Nigeria, and proceeding relating thereto, for the determination of any question as to the civil rights or obligations of that person. Therefore the Courts are vested with the exclusive powers of hearing matters brought before them and the exclusive powers to interpret the constitution.

¹⁷ Owen, O. (2004) *The Nigeria Police; Predicaments and Possibilities*, Nigeria Research Network(NRN) Working Paper No.15,p.8, Available at www3.qeh.ox.ac.uk,retried on 13/2/2016 at 8;47 pm

¹⁸ Ibid

¹⁹ Abdullah, Y. O. (2011) *The Federal Government and the fiscal Responsibility of Achieving an Efficient Criminal Justice System; the Role of Pre-Trial, Trial and Post Trial institutions*. A paper presented at the First Nigerian Bar Association Criminal Justice Reform Conference held in Nicon Luxury Hotel , Abuja from 17th to 20th July, p.1

²⁰ Etigwe, U.W (2011). *The Litigant and Corrupt Judge; What Remedies*, A paper presented at the Nigerian Bar Association Annual General Conference ,held at Port Harcourt River State, from 17th to 20th July, 2011 at p. 107-125

²¹ Ajomo, M.A. and Okagbue, I. (1991) *Human Rights and Administration of Criminal Justice in Nigeria*, NIALS, p.256.

According to Ajomo and Okagbue²² the problem of the enforcement of human rights confronts the courts in different ways. The major problem concerns adjudication in criminal cases filed in the courts. The courts serve as the venue where disputes are settled and justice administered by the judge. The judge is a professional knowledgeable in the law, and whose function is to objectively administer the legal proceedings and offer a final decision to dispose of a case. In a nutshell, it must be emphasized here that, the judge who is responsible for the final determination of the guilt or innocence of the accused person, must be typically a disinterested person so as to arrive at justice (equity and fairness), particularly where criminal justice system aims at punishment and it is not interested in punishing an innocent person, In the case of *R v Lawrence*²³ it was stated that, the state would rather prefer (ten) criminals to escape than punishing one innocent person. In view of this, the dispensation of criminal justice system must be taken to be a serious business requiring an objective and disinterested judge. However, it is undisputed that, lots of uncalculated challenges militate against judge's ability to adjudicate effectively in certain circumstances where judgments are criticized by the public. Some of these challenges include, enormous load of pending cases before the court and consequently such cases suffer poor coordination between agencies of prosecution and the police; frequent adjournments by lawyers; manipulations of court system by lawyer and law enforcement agent (police) as well as the defendants. The prevalence of any of these challenges, leads in most cases, to pure pervasion of justice, because the entire trial process will be fraught with problems and as such subject to criticisms by the public. In this regard, the World Bank Doing Business Report²⁴ recently ranks Nigeria among the countries with the least efficient systems of enforcing settlement of disputes. In view of this,

²² Ibid, p.256

²³ *R v Lawrence* (1933) 11 LNR 6 and also *English case of Woolmington vs Dopp* (1935) A.C p.462

²⁴ <http://www.worldbankbusinessreport/pdf/Banjul/afrrh.html>

commitment and action plans for reform and improvements with the judiciary are highly expedient at both federal and state levels to produce a modern court system that is not handicapped by structural deficiencies and procedural problems.

There are two levels of courts in Nigeria: federal courts and state courts. All of the courts, except some Northern states' District courts, have Criminal jurisdiction.

The judiciary becomes involved as soon as a suspect is brought before a court, or when the file is sent to the Department of Public Prosecution, the Department has to decide if there is a case to answer. If not, the suspect must be released – but only after the DPP has sent official notification of this decision to the prison authorities. The police brings most suspects before a Magistrate Court, and the Magistrate Courts deal with approximately 80% of criminal cases, magistrates do not have jurisdiction over Capital offences, nor can they grant bail for such cases. Such cases must be tried by the High Court. The Chief Justice of the Federation, Chief Judges of the States and the Attorney General of the Federal Republic of Nigeria have the power to release inmates who have been awaiting trial for a long time. Many prisoners complained about their cases being repeatedly adjourned. Some claimed that they had been to court 20 or even 30²⁵ times without any progress in their Case to the Legal Aid Council statistics²⁶for July 2007, 59 lawyers provided representation in 763 court cases. Over 65% of these were adjourned²⁷ the reasons that were given for this included: the court was not sitting; the witness was not in court;

²⁵ Report from Kuje Prison visited November 2016.

²⁶ Amnesty International Press Release Of February 2008, quoted in Nigeria Prison Report, 2/2/2008, African Sturdy center, Available at <http://www.Africa.upenn.edu.0022608.htm>(last visited march 2016)

²⁷ Babajide, O. O. (2011) *The Lawyer as a Gatekeeper*, A paper presented at the Nigerian Bar Association Annual General 4th Conference ,held at Port Harcourt River State, from 17th to 20th July, p.215

the DPP advice had not yet been given; the judge was occupied in an election tribunal; or the judge or Magistrate was on holiday. Bail was granted in only 2 % of the cases.²⁸

Almost 20% of the cases brought in 2007 were dismissed. Prosecutors secured Convictions in less than 3% of the cases, the right to a fair trial includes the right to receive judgment within a reasonable time.

3.3.3 The Nigerian Prison service

In the triangular relationship of criminal justice system the third leg carries the prison; ²⁹the prison is the last place of contact of the accused person with criminal justice system where the accused person is found guilty after trial. Nigeria Prison Service is charged with the responsibility of ensuring:³⁰

- i. The safe custody of offenders and persons, who are legally detained,
- ii. Identification of the causes of their anti-social behavior, treat and reform them to become law-abiding citizens of a free society,
- iii. Training of offenders towards their eventual rehabilitation on discharge, and
- iv. Donation of funds for the government through prisons farms and industries.

By virtue of the above, it is clear that prisons are expected to serve as detention centers and correctional authorities for persons found guilty (prisoners). Therefore, punishment which is the aim and objective of criminal justice serves a variety of purposes. First, the incarceration of criminals removes them from the general population and inhibits their ability to perpetrate further crimes; second, it serves as a form of revenge or retribution, and any harm or discomfort the prisoner suffers is a “payback” for the harm caused to his/her victim; third, it offers a

²⁸ Roland, I. A. (2011) *Speedy Administration of Justice, Which Way Forward?* A paper presented at the Nigerian Bar Association Annual General Conference, held at Port Harcourt River State, from 17th to 20th July, p.126

²⁹ Vol. 14, Cap 29, Laws of the Federation of Nigeria, 2004.

³⁰ Nigerian Prison Service, Annual Report 1984, p.5

criminal a chance to be rehabilitated because, it is the duty of modern prisons to offer schooling or job training to prisoners as a chance to learn a vocation and thereby earn a legitimate living when they return to the society. In the like manner, religious institutions also have a presence in many prisons³¹ with the goal of teaching ethnics and instilling a sense of morality in the prisoners. Therefore, in view of this benefits attached to the prison, it is expected that when a prisoner is released from the prison he becomes a responsible person to the society according³² to Ladan,³³ the prison as an institution of the state is to perform the function assigned to it by law, and its administration must therefore ensure a sentence of imprisonment imposed on the offender by a court or tribunal is a form of punishment. Note here that the placing of an offender in the prison and curtailing his movement and denying the offender the right to exercise the fundamental right to movement and liberty is the punishment and not subjecting the offender to the almost inhuman standard of living of the prisoners in the prisons today.

Aduba argues that the answer is obvious yet it touches the root of the matter, for the primary object of all prisons is indeed the protection of the society. The trend today is to make the prisons more than just a place to temporarily accommodate state offenders and make it a correctional facility rather than a mere place of custody. It is the duty of the prison to indoctrinate a sense of self-worth and the mind to do well within the society in the mind of the prisoner, so that on the day of his discharge, he will be honest, hardworking, self-controlled man, fit for freedom and no longer the enemy of the society.

³¹ Ibid p.14

³² Ibid p.7

³³ Ladan M.T (1998) *Crime Prevention and control and Human Rights in Nigeria*, by Econet publications ltd, Zaria p.1

But, in most cases the reverse is the case. This is because, the Nigeria Prison Service is saddled with a lot of problems such as: (i) overcrowding in many prisons³⁴ ; (ii) poor and inadequate infrastructure in most prison etc.; Thus, in view of the above practical challenges, the Nigeria Prison system runs contrary to several benchmarks set within the United Nations Standard Minimum Rules for the Treatment of Prisoners. Consequently, the Nigerian prison becomes a relevant area of criminal justice system, needing serious reforms particularly by paying attention to the following issues: generally, improving the standards of basic amenities and introducing jail inspections and parole programs to address high rate of imprisonment.

In the second aspect of this chapter we will also look at some of the rights that a prisoners has while in custody these rights shall be discussed under two major sub headings which includes inalienable rights of a prisoner and the custodian rights of prisoners

3.4 Inalienable Rights

3.4.1 Right to Life

Section 33(1) of the Constitution provides thus: 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.³⁵

Sub-section (2) provides that a person shall not be regarded as having been deprived of his life in contravention of this section, if he dies as a result of the use, to such extent and in such circumstances as are permitted by law, of such force and is reasonably necessary:

- (a) For the defense of any person
- (b) person from unlawful violence or for the defense of property,
- (c) In order to effect a lawful arrest or to prevent the escape of a person lawfully detained; or

³⁴ Nigerian Prison Service, Annual Report 2011, p.5

³⁵ Section 33, (1) Constitution of the Federal Republic of Nigeria, 1999

(d) For the purpose of suppressing a riot, insurrection or mutiny.³⁶

The Right to life is the most important of the rights guaranteed by our Constitution. This right is recognized in most jurisdictions as the most fundamental of all rights. It imposes on an individual the obligation not to deprive another intentionally of his life except in the event of self-defense, suppressing a riot or mutiny or to prevent a lawful arrest. It also imposes on the State to refrain from the intentional and unlawful taking of life save in exceptional circumstances permissible by the Constitution in Section 33(2)³⁷. The State is also obligated by the provision to investigate deaths caused by the actions or omissions of state agents or deaths for which the state might be responsible. In the case of *Joshua vs The State*,³⁸ the Court of Appeal denounced the killing by the police of two suspects who were under police custody before they were charged in court. This extra-judicial killing of the duo led the court to pronounce strongly against such actions exhibited by law enforcement agents who take the law into their hands.

Also in the case of *Ransome kuti vs Attorney General of the Federation*³⁹ Kayode Eso JSC defined right to life thus:

It is a right which stands above the ordinary laws of the land and which in fact is antecedent to political society itself. It is a primary condition to a civilized existence and what has been done by our constitutions since independence is to have these rights in the constitution so that the rights could be immutable to the extent of immutability of the constitution itself.

As an extension of the above principle, the state is under a positive obligation to protect the lives of persons held in prison or police custody. various judicial decisions has stated that 'where an individual is taken into police custody in good health but is later found to be dead, it is

³⁶ Ibid

³⁷ Ibid

³⁸ (2007) NWLR (Pt.1040) 561 at 576 p.32

³⁹ (1985) 2 NWLR (Pt.6) p.211

incumbent on the state to provide a plausible explanation of the events leading to his death failing which the authorities must be held responsible. Thus the right of the defendant or convicted offender to life is, therefore, the basis of the duty of care which the law imposes on prison authorities. The position of the law in Nigeria regarding the entitlement of prisoners to the right to life, with particular reference to condemned prisoners is substantially in accord with the provisions of the United Nations Safeguard Guaranteeing Protection of the rights of those facing death penalty providing that capital punishment may only be carried out pursuant to a final judgment rendered by a competent court after legal process which gives all possible safeguards to ensure a fair trial. In the case of *Aliu Bello vs Attorney-General of the State*,⁴⁰ a convict was executed while his appeal was still pending in the Court of Appeal. The Supreme Court per Oputa JSC reprimanded the state thus:⁴¹

The premature killing of Nasiru Bello in the surrounding circumstances of this case was both unlawful and illegal, it was also wrongful in the sense that it was injurious to the right primarily of Bello to life and secondarily of his dependents who by his death lost their bread-winner; it was needless in the sense that he (Nasiru Bello) was not allowed a just determination of his appeal by the Federal Court of Appeal; it was reckless in the sense that it was done in complete disregard to all the constitutional rights of the deceased, Nasiru Bello.

The main principle emanating from this decision is that the capital punishment shall not be carried out pending any appeal or other recourse procedure or proceedings relating to review, pardon or commutation of the sentence. In other words, every legally available avenue for reprieve must be fully exhausted before a prisoner's right to life can be terminated. The right to life can be rightly being referred to as the mother of all rights for it is the foundation upon which

⁴⁰ (1986) 5 NWLR (Pt.45) p.828

⁴¹ Ibid

the enjoyment of every other right is anchored⁴². Thus, in the words of Justice Field, “life means something more than mere animal existence, and the inhibition against the derivation of life extends to all those limbs and faculties by which life is enjoyed”⁴³ “the right of the accused or convicted offender to life is therefore, the basis of the duty of care which the law imposes on prison authorities”.

The right to life is guaranteed by Article 6 of the International Covenant on Civil and Political Rights, which provides ⁴⁴

- i. Every human being has the inherent right to life. This shall be protected by the law. No one shall be arbitrarily deprived of his life.
- ii. In countries which have not abolished the death penalty, sentence of death is imposed only on the most serious crimes .The penalty can only be carried out pursuant to a final judgment rendered by a competent court.

This much is deducible from the decision of the Supreme Court in the case of *Bello vs. Attorney-General of Oyo state*,⁴⁵ where it was established that the execution of a condemned prisoner on the orders of the Governor of Oyo state while an appeal was pending against his conviction, amounted to a violation of his human right to life⁴⁶.

The sanctity of this right is further confirmed by the pronouncement of the Supreme Court in the case of *Onwuka vs State* that:⁴⁷

The right to life is one of the fundamental rights recognized by our constitution. No one is to be deprived of that intentionally save in the execution of the sentence, of a court in respect of a criminal offence of which he has been found guilty in Nigeria, It is in

⁴² Ajomo, M. A. and Okagbue, I. (1991), Op.cit, p.48

⁴³ Ibid

⁴⁴ Article 6, of the International Covenant on Civil and Political Rights

⁴⁵ Op.cit page 54

⁴⁶ *Kharak Singh vs State*, Air, 1963 SC 1295.

⁴⁷ (1970) LPELR-2722 (SC)

recognition of this basic right that our criminal law and procedure is replete with several statutes governing trial in capital offences.

At the apex of such trials in capital offences is the provision by the constitution of an unconditional right of appeals from the court of Appeal to the Supreme Court in cases of sentence of death it seems that the first person. That one ought to apply to the issues in contention here is the fact that a law which deals with procedural matters such as the Supreme Court, ought not to be so construed as to derogate from the constitution.

The position of the law in Nigeria as regards the entitlement of prisoners to right to life, with particular reference to condemned prisoners is substantially in accord with the provisions of the United Nations safeguard Guaranteeing Protection of the Rights of those Facing the Death Penalty providing that capital punishment may only be carried out pursuant to a final judgment rendered by a competent court after legal process which gives all possible safeguards to ensure a fair trial. Also that capital punishment shall not be carried out pending any appeal or other recourse procedure or other proceeding relating to pardon or commutation of the sentence. In other words every legally available avenue for reprieve must be duly exhausted before a prisoner's life can be legally terminated. The ongoing efforts towards the abolition of the death penalty in Nigeria must be pursued until the aim is realized. It has become clear that the death penalty has failed to accomplish the anticipated result of crime deterrence.⁴⁸

Besides, civilization connotes, among other things, a pull away from ancient and barbaric practice to amore decent way of living. the sanctity of human life demands that while not condoning or encouraging societal deviance, the state must do all that is possible to preserve the lives of its citizen rather than champion its termination for whatever reason Nigeria must therefore, of necessity, adopt the practice of developed countries and several other African

⁴⁸ Landan, M.T. (1998), Op.cit, p.52

countries who has abolished the death penalty. In Nigeria, as it is in all civilized societies the world. The human life is considered sacred and sacrosanct. Thus, the deliberate killing of a fellow being is abhorred. It is in apparent recognition of this fact that the 1999 constitution expressly 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”.⁴⁹

Similarly, the African Charter on Human and Peoples Rights⁵⁰ by Article 4 provides:

- 1) Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right”.

The right to life is guaranteed to every person by the constitution, and this was re-emphasized by the Supreme court in *Aliu Bello vs Attorney-General of Oyo State*⁵¹ this was an action Instituted by the dependents and survivors of a condemned person who was executed on the orders of the Oyo State then Military Governor, Bola Ige while his appeal against his conviction was pending in an appellate court. In declaring the execution unconstitutional, the Supreme Court established that the execution of a prisoner in breach of prescribed constitutional procedure and specifically, when an appeal was pending against his conviction was a violation of the prisoner's right to life.

However, the constitutional guarantee of the right to life is not absolute. There is an exception or limit to the full enjoyment of the stated right as provided in Section 33 (1) of the constitution i.e. “save in execution of the sentence of court.” This provision may therefore imply that a person shall not be deemed to have been intentionally deprived of the right to life

⁴⁹ Section 33 (1) of the Constitution of Federal Republic of Nigeria, 1999

⁵⁰ Cap. 10, Laws of the Federation of Nigeria, 1990

⁵¹ Opcit p.46

in execution of court sentence in respect of a criminal offence of which he has been found guilty in Nigeria. A vivid illustration of this exception by way of example is the case of an official executioner who carries-out executions in pursuance to death sentence imposed by the court on condemned offenders. In Such instances, the executioner is not deemed to have intentionally deprived the condemned offender of his right to life. In an interview with the inmate so many factors pose treat to their lives, The inmates in Kuje and Suleja prisons said the prisons are severely congested; some holding far beyond capacity. Overcrowding, Inmates are housed in dilapidated and poorly ventilated structures dating back to colonial era and lacking basic facilities. They are poorly fed, with most of them relying on outside sources-family and friends for sustenance. Improper nutrition, in addition to lack of potable water, poor sanitary conditions and severe congestion contribute to unhealthy conditions in these prisons. Studies indicate that the health status of the prisoners is disproportionately worse than the general population. There is a chronic shortage of medical supplies and equipment in prisons throughout the country. The little that is available is quite often misappropriated by corrupt prison officials and treatment is frequently withheld from sick inmates as a form of punishment or graft solicitation technique. Consequently, there is an alarmingly high rate of morbidity and mortality among inmates. According to one inmate in Kuje Prison,⁵² I know many inmates died in this prison, because of lack of basic facilities.

3.4.2 Right to Dignity of Human Person

Section 34 (1) of the 1999 Constitution provides that every individual is entitled to respect for the dignity of his person, and accordingly:⁵³

- a) No person shall be subject to torture or to inhuman or degrading treatment;

⁵² In an interview with Bala an awaiting trial inmate of over 8 years in Kuje Medium Prison, on 6th December 2016

⁵³ Section 34, (1) Constitution of the Federal Republic of Nigeria, 1999

- b) No person shall be held in slavery or servitude; and
- c) No person shall be required to perform forced or compulsory labour.

Sub-section (2) specifies what cannot be defined as forced labor under Section 34(1) (c) of the 1999 Constitution.⁵⁴ The above section is aimed at protecting the dignity of the human person. To this end, three major threats to human dignity are itemized by the subsection as:

- (a) Torture or inhuman or degrading treatment;
- (b) Slavery or servitude; and
- (c) Forced or compulsory labour

Many prisoner and pre-trial detainee normally face torture or inhuman treatment while in prison, as can be gleaned in Appendix G with regard to dignity of human person, the achievement is very low, an overwhelming majority (80%)⁵⁵ of the inmate in Kuje and Suleja Prison said they were slapped, beaten, engaged in hard labour while only 20%⁵⁶ said they were not tortured, In the case of *Uzoukwu vs Ezeonu*⁵⁷, Niki Tobi, JSC defined the word 'torture' as putting a person through some form of pain which could be extreme. It also means to put a person in some form of anguish or excessive pain. The torture under the subsection could be a physical brutalization of the human person. It could also be a mental torture in the sense of mental agony or mental worry. It covers a situation where a person's mental orientation is very much disturbed that he cannot think and do things rationally, as the rational human being he is.

⁵⁴ Sec 34(1)(c) Constitution of the Federal Republic of Nigeria, 1999

⁵⁵ Report from the questioner administered on inmate and prison official between September to December 2016 at Kuje Prison.

⁵⁶ Excerpts from questioner conducted on the inmate in Kuje and Suleja Prisons, on December 7th, 12th 2016.

⁵⁷ (2004) 5 NWLR (PT. 306)P.200

In addition, Articles 5 of the Universal Declaration of Human Rights and Article 7 of the International Convention on Civil and Political Rights,⁵⁸ both categorically state that, no person shall be subject to degrading forms of human ill treatment or punishment such as torture or any inhuman punishment. Prisoners are also humans to be treated in a manner that inflicting physical pain through beatings in state institutions shall be seen as a violation of fundamental rights. In the course of the research, questioners were administered on prison inmates and staff and it was discovered that, solitary confinement remains the most frequently applied disciplinary measure in the prisons visited.⁵⁹

Such cells are like cubicles where erring inmates are expected to stay standing throughout the duration of the confinement, in some cases, in Kuje prison, we saw one inmate who had been incarcerated in a dark, solitary cell for three months after an attempt to escape. Another inmate was shackled inside the cell, according to the prison director “to show other prisoners, as deterrence”.

The imposition of draconian, inhuman or degrading punishment which involves housing of inmates in a dark prison cell(s) as a mechanism for discipline or internal offenses committed constitute serious illicit act (crime) against humanity. Dark cells are non-existence today, as resulted in most inmates kept in such cells suffered various forms of blindness⁶⁰. The Bill of Rights prohibits torture and draconian, inhuman, or degrading forms of treatment and provides the right to be free from all forms of violence form either public or private sources; however, prison officials, have been seen, physically torturing, beating and subjecting prisoners to all

⁵⁸ Articles 5 of the Universal Declaration of Human Rights and Article 7 of the International Convention on Civil and political Rights

⁵⁹ Excerpts from questioner conducted on the inmate in Kuje and Suleja prison, on December 7th, 12th 2016.

⁶⁰ Ibid

forms of ill treatment which in certain instances has led to the death of inmates⁶¹, those awaiting trial are refused medical attention, a number of reports state types of degrading forms of treatment prisoners were subjected to, female prisoners become vulnerable to degrading acts such as beatings, sexual harassment and rape inside the prison. In Suleja prison, inmates are punished by “doing frog jumps” or fetching water from the well. Amnesty International witnessed how one prison officer punished a female inmate: she was made to kneel in the burning sun with her hands above her head. Beating is a clear violation of the right not to be tortured or subjected to cruel, inhuman or degrading treatment or punishment. Other physical punishments can also violate this prohibition. This inhuman treatment on the other hand is barbarous, uncouth and cruel treatment; a treatment which has no human feeling on the part of the person inflicting the barbarity or cruelty. The provision of Section 34 of the 1999 Constitution as amended imposes an obligation on the state to safeguard the human rights of persons in detention/prison including those who are detained in respect of criminal offences. Such persons are not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment.

The condition of Kuje and Suleja prisons and police cells visited in the course of this research is such that persons who are detained there undergo terrible physical and mental torture which often deprive them temporarily or permanently, of the use of their sight or hearing. Many even die, as stated by one inmate in Kuje Prison⁶². Some prisoners reported, that they were subjected to chaining and forced to sleep on a wet blanket or put in congested prisons” we also discovered that just one cell in Kuje prison popularly, called Egypt, has about 160, inmates with just one toilet, These practices no doubt violate the dignity of the victims., another problem was

⁶¹ Ibid

⁶² In an interview with Gambo Ali an awaiting trial inmate in kuje medium prison, on 6th December 2016 at 2 pm

prisoners on death sentence, though death penalty remains legally recognized in Nigeria, the practice of keeping prisoners on death row for a prolonged period of time before execution amounts to inhuman and degrading treatment. These categories of prisoners undergo the ordeal of “Awaiting Execution” or waiting for the hangman. Having been condemned to death, they are kept on death row for many years without their death sentence being carried out.

In such a situation, they suffer excruciating and sustained psychological trauma. Some have waited for as long as 20 years and they have been deprived of both life and death. In the case of *Peter Nemi vs Attorney General of Lagos State*⁶³, the appellant had been on death row for eight years. He argued that his fundamental human rights of freedom from inhuman and degrading treatment had been breached⁶⁴. The prosecution counsel asserted that as a condemned prisoner, he had no fundamental human rights after conviction and sentence. In rejecting this argument, Justice Uwaifo queried:⁶⁵

Does it mean that a condemned prisoner can be lawfully starved to death by the prison authorities? Can he be lawfully punished by slow and systematic elimination of his limbs one after another, until he is dead? Would any of these amounts to inhuman treatment or torture? Is a condemned prisoner not a person or an individual?

For to end the life of a condemned person, it must be done according to the due process of law and it is said that the due process of law does not end with the pronouncement of sentence. Another abuse of prisoner’s right noticed was that prisoners with HIV were not given Medical attention in Kuje Prison we have inmates with full blown AIDS, who was not attended to. In the case of *Odofo vs Attorney-General of Lagos*,⁶⁶ the Federal High Court, Port Harcourt, held that failure by the prison officials to give the applicant/prison inmate who was an

⁶³ (2007) 2 NWLR(pt. 208) p.25

⁶⁴ Ibid

⁶⁵ Ibid

⁶⁶ (2004) 5 NWLR (Pt. 205) p.700

HIV/AIDS patients due medical attention and access to medical services while in prison custody violated the rights to human dignity and health under Articles 5 and 16 of the African Charter.

Thus, it is the researcher's humble opinion that the right to dignity of human person covers not only the type of punishment meted out to an offender but also his treatment in prison. Disrespect for the dignity of an offender's person manifests itself in several aspects of prison life and administration, as stated above, this makes rehabilitation as a goal of punishment almost impossible to achieve.⁶⁷ The situation is even more disheartening when it is realized that despite this common knowledge about our prison conditions, nothing much appears to have been done to address these issues. The situation of things as of now is definitely against their rights to dignity of human person and life which Nigeria has an international and National obligation to observe.

In addition to the above, the prisoner has a right to be protected against exploitation (i.e. compulsory labour) or against attacks from fellow inmates. Few of the inmates also maintained that they were at one time or the other denied meals under the pretext that they committed one offence or the other.

An inmate in Kuje⁶⁸ Prison captured the nature of discipline in prison when he remarked thus:

Well I don't know what you mean by discipline. If it means doing the right thing at the right time or being fair to everybody, then there is no discipline here...but if you define discipline to mean meting out harsh and arbitrary punishment to inmates, I would say it is in abundance, especially physical beating (corporal punishment) and back cell punishment (solitary confinement). Any mistake on the part of an inmate would attract instant punishment, especially if the warders don't like your face.

⁶⁷ News watch Magazine Lagos Vol. 9, No. 22 of June 19th 1989.

⁶⁸ In an interview with Peter Tochukwu an awaiting trial inmate of over 3 years in Kuje Medium Prison, on 10th December 2016

Another inmate in Suleja prison, asserted that he was feeling sick and therefore unable to perform his domestic duties at the officer's residence assigned to him. This singular act, he alleged, led to the denial of his afternoon meal. Two inmates who were alleged to have fought were asked to roll in a muddy ditch. In another instance, an inmate in Suleja prison was beaten severely by a warder for refusing to own up to an alleged theft offence. In all these instances, no medical report was obtained before punishment was inflicted on these erring inmates. The claims by prison officials that prisoners are well cared for, is therefore a 'ploy' meant to deceive the outside world and present the institution as humane and caring when it comes to inmates discipline.

3.4.3 Rights to Freedom of Thought Conscience and Religion

Section 38 (1)⁶⁹ of the 1999 Constitution provides thus: 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. This provision of the Constitution⁷⁰ is very important in a multi religious country like Nigeria. The nature of prison population composed of all people of diverse background belonging to various religious backgrounds such as Zion, Christian, African traditional Islam, Buddhism, Hindu, Christianity and other creeds known to mankind, and subscribing to different beliefs are entitled to religious rights such as to practice, wear religious medals, to correspond with religious leaders, to have free access to ministers, to hold religious services and the right to access religious literature; Christians using The Holy Bible whereas Muslims teachings are contained in the Holy Quran, prisoners religious liberty remains cardinal aspect in terms of individual freedom and expression

⁶⁹ Section 38(1), Constitution of the Federal Republic of Nigeria, 1999

⁷⁰ Ibid

as contained in the constitution of the country. As another form of rehabilitation most prisoners come out of prisons changed, converted to religion of their choice. The use of religion by the criminal justice plays and continues to play a fundamental role in the maintenance of prison discipline and order as inmates become more submissive to the authorities. It was noticed in the course of the research that, various religions practiced were given equal opportunity.

Thus many inmates said they were not punished for entertaining or professing their religious belief or disbelief. The right to freedom of religious belief and to observe the requirements of that religion is a universal human right and applies to all prisoners/pre-trial detainees as well as to free persons. Qualified religious representatives visit Kuje and Suleja prisons regularly to meet prisoners. Facilities are also provided to all prisoners/pre-trial detainees who wish to observe their religious duties. Which include the right to pray in private at specified times of the day or night, to carry out various religious practices or to wear particular items of clothing, it was observed that, These provisions apply to recognized religious groups like Islam and Christianity which are the main religions in the country. They were provided with facilities for religious worship, Such as mosque, chapels specially constructed for Muslim and Christian worshippers and where there is none, worshipping accommodation is provided. The only problem however with the right to worship is that, prisoner from minority groups said their right to religion was been violated as there was no provision for them, It is also important to ensure that prisoners who do not wish to practice a religion should not be obliged to do so. Prisoners should not receive additional privileges or be allowed to live in better conditions because of their religious affiliation or practice.

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 opportunities and facilities to exercise their religious freedom, as can be gleaned from Appendix G, in the chat showing the achievement of the rights of inmate in Kuje and Suleja Prisons, with regard to the right to worship, the achievement is very high, as an overwhelming majority (90%)⁷¹ of the inmate Prisons said they were given necessary opportunities and facilities to exercise their religious right, while only 10% of the inmate said, their right to religion was being violated as there was no provision for them.

Finally, the point must be made that the right to worship is not absolute. Accordingly, there is no right to be released for the purpose of attending a religious service i.e. Friday Juma'at prayers for the Muslims or Sunday service for Christians. Also prison officials are not required to provide or avoid provision of certain diet because of religious beliefs.⁷²

A prison staff of Kuje prison gave an idea of how important the prison authorities view this tool of reformation when he stated that:

When people are in prison, they are there because of bad things they have done, the offence they have committed against the law. These preachers can soften their minds and make them think in a different way. So that is why we welcome them. They make the women more humble and they become aware of the glory of God and they learn the lesson of the prison. Without these religious people, it will be very difficult to control them. Because they will not accept their mistakes and will always be challenging wardresses.⁷³

⁷¹ Report from the questioner administer on the inmate and prison officials on 4,5,6, December 2016

⁷² Section 34(1) Constitution of the Federal Republic of Nigeria, 1999

⁷³ In an interview with Mr. Mohammed Sani, a prison officer with Kuje Prison on the 29th October, 2016

3.4.4 Right to Freedom of Expression

Section 39 (1) ⁷⁴ of the 1999 Constitution provides thus: Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference.

Prisoners/pre-trial detainees have a right to freedom of expression. The enjoyment of the right to freedom of expression could be accomplished through the writing and receiving of letters as well as visitation of by family and friends. It also covers the right of access to counsel both by awaiting trial prisoners and those whose convictions have been appealed against, as can be gleaned from Appendix G, in the chat showing the achievement of the rights of inmate in Kuje and Suleja prisons, with regard to the right to counsel, the achievement is very low, as an overwhelming majority (70%) of the inmate in the Prisons their right to freedom of expression and counsel is being violated while only 30% ⁷⁵ of the inmate said, their right to freedom of expression and counsel was being respected, because their family were able to engage the services of a lawyer for them in the course of their proceeding.

The enjoyment of this right is paramount to the maintenance of the sanity of the prisoners because of their basic human need to express their thoughts and feelings about the situation in which they have found themselves. In the course of the research, it was noticed that, Prisoners whose rights and freedoms have been violated were not given the opportunity to make a complaint, regarding their treatment, prison official interview concluded that their complaint is always frivolous, and those who were given opportunity to complain their complaint was not promptly dealt with and, the two prisons visited do not make provision for complaint to be lodged on behalf of the prisoner by their legal representative or family. This practice is against

⁷⁴ Section 39(1) Constitution of the Federal Republic of Nigeria, 1999

⁷⁵ Report from Kuje and Suleja on September 2, 2016.

the United State Standard Minimum Rule for the Treatment of Offenders⁷⁶ as the law provides that, prisoner shall have a right to complain and if a complaint is rejected or not responded to in a timely manner, the complainant shall be entitled to bring it before a judicial or other authority, States shall ensure a prompt and impartial investigation whenever there are reasonable grounds to believe that an act of torture or ill-treatment has been committed, There shall be thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary execution, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances. In the course of the research however it was noticed that both prisons do have any provision for prisoner to make complaints.

In the case of *Silver and Others vs United Kingdom*⁷⁷, the court held that there is a basic need to express thoughts and feelings including complaints about real and imagined hardships. The need is particularly acute in prisons as prisoners/pre-trial detainees have little choice of social contact, hence the importance of having to the outside world by correspondence Similarly, Article 19 of the Universal Declaration of Human Rights states that everyone has the right to freedom of opinion and expression. This right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

The right to freedom of expression in concrete terms depends, on one important point namely; the availability of adequate recreation for the convict such as library facilities. In the prisons visited this prerequisite of informed thought or expression is lacking. For instance, the condemned offender in most instances is being idle, haunted by the certainty of death and the uncertainty also, as to when it will come. Thus, for him the welcome relief of a book or some

⁷⁶ Rule 20(1) of the United Nation Standard Minimum Rules for the Treatment of prisoners,

⁷⁷ 480 F. SUPP. 932 (S.D.N. V. 1972)

other forms of recreation is written off by prison authorities as an invitation for a jail break. According to the report of Justice for All,⁷⁸ on prison condition in Nigeria, it was only at Kuje Prison that they met something that could possibly pass by the name “library” had fewer than twenty books each. What they were told were libraries. Justice For all officials noted in their report that as to access to reading materials, prison authorities allowed only religious materials to convicted prisoners and those on remand.

It was also noted, that the inmates were deprived of the supply of even daily newspapers despite the fact that no necessary relationship has yet been established between prison violence and the reading taste of prisoners. This issue was the subject matter of litigation in the American case of *Fortune Society vs Mcginnis*.⁷⁹ The issue arose out of the refusal of New York State’s prison authorities to allow inmates of the facility to receive “Fortune News”, a Newsletter of the Fortune Society which publishes Articles and information on prison alternatives, ex-convicts rehabilitation and other related activities. The claim of the prison authorities was that the newsletter did not accurately reflect the conditions in the prisons. The court held that the prisoners had a right to receive the journal and declared inter-alia; that however distasteful or annoyed or sensitive those criticized may be to what they consider unjust criticism, half-truths or information, it does not justify a ban of the publication carrying the alleged offending comments.

Another American case of *Sostre vs McGinnis*⁸⁰ dwelt on the same subject. In this case, one Martin Sostre, a radical Black activist had been punished by prison authorities for expressing “radical beliefs” in a letter to his own sister and also for collecting the writings of Black Nationalist revolutionaries. The grounds for his punishment also included an accusation

⁷⁸ Justice for All Report on prison within the Federal Capital Territory, May 20th, 2015

⁷⁹ 319 F. SUPP. 901 (S.D.N. V. 1970).

⁸⁰ 422 F.n 2d.178 (2d. Cir) 1971.

that he refused to answer warder's question about his pet dream of a Republic of New Africa. The Second circuit of the United States Court of Appeal nullified the punishment, holding that it would not permit prison authorities to manipulate and crush though under the guise of prison discipline.

The above cases illustrate most of the problems encountered by prisoners in relation to the freedom of expression. However, it should be emphasized that there could be no meaningful assertion of freedom of expression in a setting where illiteracy and poverty hold way, for expression is a reflection of awareness. Thus Kuje and Suleja prisons inmate are mostly constituted by the poor and illiterate whose prime concern lies with the issues of survival than with the question of expression. The few prisoners who are aware enough to desire to express themselves, are not provided with the means to do so.

3.4.5 Right to Freedom from Discrimination

Section 42 (1) of the 1999⁸¹ Constitution provides as follows:

- a) A citizen of Nigeria of a particular community, ethnic group, and place of origin, sex, religion or political opinion shall not, by reason only that he is such a person:
- b) Be subjected either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of the government, to disabilities or restrictions to which citizens of Nigeria of other communities, ethnic groups, places, of origin, sex, religions, or political opinions are not subject; or
- c) Be accorded either expressly by, or in the practical application of, any law in force in Nigeria or any such executive or administrative action, any privilege or advantage that is not accorded to citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religious or political opinions.

⁸¹ Section 42(1), Constitution of the Federal Republic of Nigeria, 1999

Prisoners/pre-trial detainees' right to freedom from every form of discrimination is provided by the above section. As stated by the Constitution, they should be treated fairly and equally irrespective of their race, tribe, sex, religion, political opinion or place of origin. The practice of favoring some prisoners over others is contrary to the provisions of Section 42. However, it is important to note that where prisoners are isolated on grounds of ill-health or medical conditions, this does not amount to discrimination.

In the case of *Odafe and Others vs The Attorney General of the Federation*,⁸² the ambit of the right to freedom from discrimination was considered as a result of the claim by the applicants that the acts of segregation and discrimination against them by both prison officials and inmates amounted to an infraction of their right to freedom from discrimination under Section 42 (1) (a) of the 1999 Constitution.⁸³ The Court held that the right to freedom from discrimination as enshrined in Section 42 (1)⁸⁴ of the Constitution did not cover discrimination by reason of illness, virus or disease and the applicants could not therefore invoke Section 42 (1)⁸⁵ on the argument that they have a right to exercise under that section. It should be noted that isolation on grounds of ill-health is only for infectious diseases. No other cases are permitted for isolation. It is not right to isolate AIDS patients who are prisoners since AIDS is not an infectious disease.

Article 286 of the African Charter on Human and People's Rights equally contain provisions on the right to freedom from discrimination. It provides that every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present charter without distinction of any kind such as race, ethnic group, color, sex, language, religion,

⁸² (2004) 5 NWLR (Pt. 205) p.700

⁸³ Ibid

⁸⁴ Ibid

⁸⁵ Ibid

⁸⁶ Article 2 of the African Charter on Human and People's Rights

political or any other opinion, national and social origin, fortune, birth or other Status. In this vain, a convicted offender must not be discriminated against all or any of the stated constitutional grounds. Although there is no judicial authority on this point, illustrations exist in other countries.

Thus, In the American case of *Washington vs Lee*,⁸⁷ one white and five Negro citizens on their own and on behalf of other persons similarly situated, instituted an action seeking declaratory and injunctive relief concerning the rights of Negro citizens male, and female, not to be segregated, classified, designated or otherwise subjected to racial distinctions in confinement in the state penal system and in the county, city and town jails of the state of Alabama. Further, plaintiffs assert that various statutes enacted by the legislature of the state of Alabama, requiring segregation by race in the state, county and city penal facilities, are unconstitutional, In defense to the contention that statute involved herein violates the equal protection clause of the fourteenth amendment clause to the constitution of United States, the defendant submitted that the practice of racial segregation in Penal facilities, is a matter of routine prison security and discipline and is therefore, not within the scope of permissible inquiry by the courts.

The United States Supreme Court held that the statute enacted by the legislature of the state of Alabama requiring segregation by race in the State, county and city penal institutions was unconstitutional. The court further observed inter-alia: that it is well established that prisoners do not lose all their constitutional rights and that the Due process and Equal protection clauses of the Fourteenth amendment follow them into prison and protect them from unconstitutional action on the part of prison authorities earned out under colour of states law.

⁸⁷ (1968) 400 F. 2d. 529 2d.Cir

Similarly, in the American case of *Jackson vs Godwin*⁸⁸ where the petitioner, a twenty-seven year old Negro under the sentence of death in the Florida State Prison, filed a complaint against the Superintendent of the State Prison on the grounds that the rules and regulations of the prison deprived him of the equal protection of the laws by denying him the right to receive Negro newspapers and magazine because he was a Negro while permitting white inmates to receive white newspapers and magazines.

In defense, the prison authorities contended inter-alia: that the petitioner's right had not been violated because (1) control of mail was an essential part of the administration and maintenance of prison discipline; (2) administrative power to control the form of reading matter within state institutions for use of prisoners was clearly set forth by the relevant Florida state laws etc. The United States Supreme Court held that the petitioner and other Negro prisoners had the right to full and equal protection of the laws, free from racial discrimination and the fullest enjoyment, within normal prison order, and equal enjoyment of the first amendment rights, free from arbitrary censorship and suppression.

The right to freedom from discrimination extends also to prison discipline.⁸⁹ Thus punishment must not be inflicted on a person on discriminatory grounds as this may at the same time be contrary to his right against torture, inhuman and degrading treatment. The mere fact that special restrictions are imposed upon, or advantages accorded to a class, on reasonable grounds to reflect real and substantial differences between them and other classes is however not discriminatory. For instance, political detainees and common criminals are not treated alike in our prisons. Accordingly while the political detainee is allowed the use of a fan or fridge in his cell, the same privilege is not accorded to the common criminal. Such discriminatory treatment

⁸⁸ (1968) 400 F. 2d. 529 2d. Cir

⁸⁹ *Mclamore vs Stele* 257 S.C. 413, (1972) 186 S. E. ed. 250

takes place in our prison, which is not arbitrary, capricious and oppressive. Mere evidence of inequality is not enough.⁹⁰ as can be gleaned Appendix G in the chat showing the achievement of the right of inmate in Kuje and Suleja prisons, with regard to, right to freedom from discrimination the achievement is high, as an overwhelming majority (70%) of the inmate in the Prisons said their was no discrimination of any foam against them while 30% ⁹¹ of the inmates in Kuje prison said, their right to freedom from discrimination has been violated, when in-depth interview was conducted with one of the inmates, he said our right is violated because some inmates are kept in ‘special cells’. They are two in a cell while we are 300 inmates in our own cell, no matter their ethnic group, place of origin, sex, religion or political opinion; they are human being like us. When the researcher demanded to know from prison officials why there are special cells in prison, the response was curious but obvious.

These cells are created for people of high status in society. For instance governors, ministers, and other well respected members of the society are confined in special cells. It would not be proper to lump them with common criminals, hence a provision is made for them to be secluded in special cells. That man sitting there is a lawyer (pointing towards a man sitting 20 meters away from the interview). He is in a special cell.

Similar view was, expressed by Assistant Comptroller of Prison⁹² in Suleja Prison. According to him, the truth is that the society is divided in strata, the upper, the middle and the lower; this division is replicated in the prison. Just as they live in GRAs and slum areas outside the prison, when they come into the prison, a GRA is created for them⁹³

⁹⁰ Krantz, S. (2012) *The Law of Corrections and Prisoners’ Rights: Cases and Materials*. West.Publishing Co. Minnesota U.S.A, p.628.

⁹¹ Report from Kuje and Suleja, Ibid

⁹² In an interview with Mr. Yahaya Abudullahi, an Assistant Comptroller in Suleja Prison on 5th December 2016 at 2:30pm

⁹³ Ibid

As for the confinement of law enforcement agents like the police, armies etc. in special cells, prison officials believe that they are generally not always in good terms with the citizenry. Considering this fact, “if you put them in the same cell with common criminals, the tendency is that they risked being lynched hence they are separated”. The argument flowing from the above discourse suggests that there is an overt bias against the less privileged inmates.

Thus segregation or special restriction or advantages in prisons on the basis of age or sex is therefore not discriminatory, most Penal Systems recommend the classification and separation of prisoners according to age, sex and degree of criminality.

Another area of discrimination noticed in Kuje and Suleja prisons is discrimination against women; the practice in the prison is against, the provision of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

Article 2 provides that: State Parties condemn the discrimination against women in all its forms. To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation. All over the world, prisons are male dominated. It is estimated that on the average, 19 out of every 20 prisoners are men. What this implies is that prisons tend to be managed from a male perspective. Thus the procedures and program are designed for the needs of the majority male population and adapted (sometimes not) to the needs of women.

Discrimination may be by way of limited availability of prison accommodation for women. There should be equal facilities provided for men as well as women. There should also be equal access to activities. Because of their smaller numbers or because of restricted accommodation the access which women prisoners have to activities is often more limited than that available to men, For example, it was noticed that there was few opportunities for education

and skills training. Women did not have the same opportunities as majority of male prisoners who benefit from education courses and skills training.

3.5 Custodian Rights

Custodian rights are the rights of inmates while in prison custody, which include; right to regular feeding, right to decent clothing, access to bath and other forms of hygiene, accommodation and bedding facilities, access to medical and health facilities, access to vocational training, visits and communications.

3.5.1 Right to Regular Feeding

The Nigerian prison Regulation 22 declares that: “every prisoner shall be allowed a sufficient quantity of plain and wholesome food regard being had to the nature of labour to be performed by him...”⁹⁴

In the same spirit Rule 20(1)⁹⁵ of the United Nation Standard Minimum Rules for the Treatment of Prisoners, states that: “Every prisoner shall be provided by the administration at the usual hours with food of nutritional value adequate for health and strengths of wholesome quality and well prepared and served.”

Subsection (2) further states that drinking water shall be available to every prisoner whenever he needs it.⁹⁶ Despite the provisions above, the feeding right of inmate is been violated in Kuje and Suleje Prisons, in the chat showing the achievement of the right of inmate in prisons, in Appendix G the achievement is very low. On whether they are adequately fed in prison, majority (90%)⁹⁷ of the inmates answered in the negative, while only few (10%) answered in the affirmative. Most of them said they were fed by their families and Non-governmental

⁹⁴ Section 22, of the Prison Act, Cap.P29, Laws of the Federation 2004.

⁹⁵ Rule 20(1) of the United Nation Standard Minimum Rules for the Treatment of prisoners,

⁹⁶ Ibid

⁹⁷ Report from Kuje and Suleja,

Organizations respectively, because they were having medical problems requiring special feeding.⁹⁸ Some of the inmates maintained that what passes for a meal cannot even feed a toddler. In addition to being small in quantity, the quality is also very poor. For instance, while two lumps of bean cake and half liter cup of pap go for breakfast in Kuje prison, a piece of baked bread and a cup of tea go for same in Suleja prison. To this extent, some inmates averred that their relatives procure food for them on a regular basis, in an interview with the prison officials,⁹⁹ for their views on the nature of feeding in prison, most prison officials maintained that prisoners are fed three times a day as specified by the Federal Government, though the quantity may not be adequate. One of the prison officials in Suleja said:¹⁰⁰

It is not healthy to eat bad food; usually the beans are boiled with salt and small oil. Government caused all these because N450 cannot feed an adult 3 times in a day. For this and other reasons the food is generally bad. This is why they easily get sick and lean. In addition they eat their food in the dirty cells with all the bad stench and toilet- buckets.

In the same spirit, in another interview, with the superintendent of prison in Kuje¹⁰¹ prison he also said: The federal government awards contract to a contractor to provide food for inmates based on a particular numbers of inmates in the prison. However, the number of inmates keeps fluctuating every time. For instance, if a contractor makes provision for 1000 inmates in the month of May, and the number increases to 1500, he/she cannot adjust immediately. Hence there will be short fall in feeding in terms of quantity.

He however summed up the position of his colleagues that the quality of feeding is adequate. The researcher's personal observations on the nature of feeding however revealed

⁹⁸ Ibid

⁹⁹ In an interview with Mr. Danlami Yakubu, Assistant Comptroller of Prison in Suleja Prison. on 3rd December 2016 at 10am

¹⁰⁰ Ibid

¹⁰¹ In an interview with Mr. Joseph David, Superintendent of Prison in Kuje Prison 6th December 2016, at 2pm

some contradictions. The pattern of feeding in all the two prisons is almost the same. They are fed three times a day; however the food is poor, both in quality and quantity. For instance, in Suleja prison, garri was used in place of egusi as stew or soup, while half-cooked corn was substituted for rice or beans in Kuje prison. When the researcher commented on the quality and quantity of the food, the welfare officer in Kuje prison¹⁰² pointed that each inmate is fed with N450 per day. That translates to N150 per meal; hence the quantity would be small.

This explains why well-to-do inmates prefer to have their food brought from outside the prison. As we all know a hungry man is never happy person in a society. Many of his thoughts dwell on bad or evil things; and the hope of every man held in prison lies in the hands of the keeper to provide his feeding and other things. In addition, one inmate complaints about the compromise in the standards in the supply of prisoners' rations and the sharing out of rations, which would have made the prisoners look physically healthy and mentally relaxed is avoided. Prisoners are forced to eat food that is nutritionally unbalanced, quantitatively insufficient and prepared under most unhygienic conditions. Their food is mostly carbohydrate with very limited amounts of protein, only overcooked vegetables and no fruit, prisoners who can afford it buy food from restaurant outside the prison, The present prison allocation is inadequate, For instance, in an interview with the officer-in charge in Kuje prison on the right to feeding of the inmate, he said, "food which is one of the essential needs of life is important to inmates, he agreed, that the nature of food preservation and cooking of food for inmates is poor. He however gave reason why it is so, "we receive our foodstuffs as dry ration, as well as the ingredients from ration contractors, and the cooking is done by prisoners who are not trained cooks, though under the supervision of some staff caterers. This has led to poor feedings of inmates, sometimes the

¹⁰² In an interview with Mr. Rambo Magaji, Superintendent of Prison in KUJE Prison on 5th December 2016 at 2pm.

contractors supplying the foods are profit-oriented persons who are mindful of the profits than the quality of foods.

Sometimes, the foods are supplied not on time, adulterated, and of reduced quantity. In most cases, the ration contractors are proxies of highly placed retired and serving prison and military officers, and politicians. Hence, the officers in charge of prisons are powerless. Over 80% of urban prisons are congested with Awaiting Trial Persons. If prisoners complain to the prison authority of the plight of poor feeding of the inmate, the authority does nothing about it, in most cases, prisoners always feel aggrieved particularly when there is no water. They might decide to riot so that they might be transferred to some other prisons where the condition might be better”

Aside from prison death and congestion, feeding the inmate population is the most serious and so far, most Intractable problem facing the Nigerian prison system.¹⁰³ In 2015, Federal Justice Sector Reform coordinating committee, in their quarterly Newsletter, published a report on Nigerian prisons conditions in which it wrote, in connection with the food situation that: “Food is a major problem, the quality of the food served, especially to those awaiting trial, is so nauseating that to talk about quality is to do extreme damage to language. You couldn't call it food really, what they did was mix a little paste of what passed for garri and give you some bitter liquid which is supposed to be soup. Prisoners remain famished and malnourished”.¹⁰⁴

This report was confirmed by another report which recorded the same findings based on surveys of prison officials and inmates.¹⁰⁵ It suffices to say, that the problem is not a recent one

¹⁰³ Tabiu, M (1998) *“The Nigerian Prisons and the Standard Minimum Rules for the Treatment of Prisoners”*, a Seminar Paper delivered at a 2-day Workshop on Nigerian Prisons, 10th-12th, November, ECOWAS Secretarial, Abuja

¹⁰⁴ See New-swatch Magazine, Lagos Vol. 9 No. 25 of June 19th 1989, p.12.

¹⁰⁵ Ajomo, MA. And Okagbue, I.E. (1991) *Human Rights and the Administration of Criminal Justice in Nigeria*, NIALS, Lagos, p.201-202

as evidenced by the Federal Justice Sector Reform coordinating committee, survey, in another quarterly report, which reported that: “Prisoners in most of the prisons are generally fed with some unbalanced diet such as garri with sugar, boiled cassava with palm oil and some other local food stuff. The feeding in the prisons is considered to be quite deplorable”.¹⁰⁶

However, in view of the facts that provision for prisoner feeding is grossly inadequate, the quality of food served in the prisons is bound to be poor. As at the time of carrying out this research, the daily feeding -allocation for each inmate is N450, per day which includes the gas or wood money for the preparation of the food. Laudable as these improvements would appear to be, yet the gains deriving from it are wiped-out by ever rising cost of feeding in the country. A standard plate of meal cost an average of N500. 00 all over the Nation, Even at that conservative rate, several reports indicate that while the provisions by the government for the prison system is grossly inadequate, is because prison officials help themselves with the little that is provided for inmates. Representative of amnesty international, reports on the issue, thus:

The quality and quantity of food available is rendered even more inadequate by the warders who generally help themselves with prisoner food supply. Thus, having examined the various factors militating against the enjoyment of prisoner’s basic right to food, one may safely conclude that the first responsibility for bad prison food goes to government. However, the prison authorities must share in this responsibility also. None the less, wherever the responsibility rests, the fact is that prisoners in the prison with Federal Capital territory are poorly fed¹⁰⁷

The feeding arrangement in Kuje prison was erratic and quantitatively and qualitatively inadequate; two detainees observed were seriously irked that they were losing weight. Furthermore, findings show that many of the detainees did experience loss of appetite. This

¹⁰⁶ Nigerian Law Reform Commission Report and Draft Bill for the Reform of Prisons in Nigeria, Lagos 1983 quoted in Tabiu, M. And Ladan, M.T. (Eds) Op.cit, pp.117-118

¹⁰⁷ Amnesty International Press Release Of February 2008, quoted in Nigeria Prison Report, 2/2/2008, African Sturdy center, Available at <http://www.Africa.upenn.edu.0022608.htm>(last visited march 23 2017)

might have resulted from their uncertain circumstances, a direct result of prisoners losing appetite and other related detention conditions was loss of weight which majority of the respondents said they experienced. These respondents were on special diet that was provided for them from outside the prison by their families and/or Non-governmental Organizations who feed them erratically. In the alternative, these suspects may be on punishment.

Notwithstanding the contents of the above provisions, a prisoner may be ordered to be kept upon reduced diet for any term not exceeding six days as a disciplinary measures, or certain of the constituent diet be omitted if the medical officer is satisfied that such a reduction or omission will not be detrimental to the general health of the prisoner.¹⁰⁸ Thus, what to include or omit from the prisoners' diet is the sole discretion of the prison authorities, and such power can be exercised arbitrarily.

3.5.2 Decent Clothing

Nigerian Prison Regulation 25¹⁰⁹ provides for the right to proper and decent clothing for convicted prisoners. The section reads thus: "Every convicted criminal prisoner shall be provided with a complete prison dress, and shall be required to wear it at all times during the day".

It proceeds to detail this "complete prison dress":

The clothing shall be issuable as follows: a male prisoner on conviction with 2 jumpers, 2 pairs of shorts and 2 caps; at the end of each six months of his sentence with I each of the above Articles: and any time upon the recommendations of the medical officer¹¹⁰

- (a) A female prisoner on conviction with 2 gowns and I wrapper and when necessary, with a further 1 dress and 1 wrapper.

¹⁰⁸ Regulation 49 (1) (b) (ii) Prisons Act, Op. cit, p.77

¹⁰⁹ Section 25, Prison Act, Cap.P29, Laws of the Federation 2004.

¹¹⁰ Ibid

Similarly, Rule 17(1)¹¹¹ of the United Nations Standard Minimum Rules for the Treatment of Prisoners provides that: The prisoner/detainee is entitled to adequate clothing as provided by the United Nations Standard Minimum Rules for the Treatment of Prisoners 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.

The right to decent clothing for prison inmates has suffered tremendously in the two prisons visited. A comptroller of prisons in Kuje Prison testifies to this fact in an interview with him, that:

The statutory requirement of two Pairs of uniforms for each prisoner is almost a luxury at a time like this when it is with great difficulty that one pair is provided for each prisoner. It is not an uncommon sight that convicted prisoners whose single pairs of uniforms are torn cover themselves with blankets. There are other convicted prisoners who cannot find a place in the main stream of prison life because there is no uniforms to issue to them.¹¹²

Describing what has become of the unhappy situation, a report by Justice for All, stated that: The inmate population of Nigerian prisons is the tattered bottom of Nigeria. From our observation, and from accounts given by warders and inmates, it appears never more than 10% of the inmates of any prison are attired in adequately clean and strong clothes. Close to 90% are either always half-naked or clothed in worn and tattered clothes.¹¹³

Representative of Amnesty international reported that:

None of the prisons studied claimed adequate supply of uniforms and clothing for convicted inmates. Infact, it is well known that prisoner on remand are scarcely supplied with prison uniforms or any other forms of clothing, to the extent that there were several cases observed in the prison studied where prisoners were

¹¹¹ Rule 17 (1) of the United Nation Standard Minimum Rules for the Treatment of prisoners,

¹¹² Mato, B. A. Quoted in Behind the Wall, Op.cit.

¹¹³ Report from Kuje and Suleja prison ibid

seen in various stages of near nudity, either as a result of lack of clothing or the ragged nature of what they had on.¹¹⁴

These violations can be gleaned from Appendix G, in the chat showing the achievement of the rights of inmate in Kuje and Suleja prisons, this achievement is very low, when inmates were interviewed on the how many uniform they have, (90%) of the inmates answered in the negative, while only few (10%) answered in the affirmative, and those who answered in the affirmative, said they made the uniform by themselves, another In-depth interview with few inmates in Kuje prison, revealed that: Only few of them (the well-to-do) were issued with blankets and mattresses. They contended that most of them sleep on bare floors and go without soap for weeks. They claimed that although provision is made for these items, but they are not usually given. When views of prison officials were sought on the state of clothing and toiletries for inmates, a deputy superintendent of prison attached to the Suleja prison maintained that they rely solely on the supply from the federal government. He said that whenever such items are supplied, they are given to the inmates, but if the items are not supplied there was nothing individual prisons would do. Another official from Kuje prison asserted that even among prison officers, there is shortage of uniforms. The issue, according to him, was not peculiar to inmates alone, but a societal one which cuts across all military and paramilitary organizations. It is evident from the above reports that the institutional practices of the Nigerian prison system respect neither the prison Regulation nor the United Nations Standing Minimum Rules on the Treatment of Offenders. The situation, therefore, is a flagrant dehumanization of the Nigerian prisoners. Obviously, many a convict has to make his uniform himself.

Even those who are lucky enough to be issued with new uniforms became tattered after few scrubs from prison life. In effect, most convicts are forced to live in their own clothes but

¹¹⁴ Ajomo, M. A. And Okagbue, I. E. Op.cit, p.56

which does not translate into more decent clothing, and even when NGOs, provide cloth, and sanitary towels for inmate it was noticed in the course of this research that, prison officials distributed it among themselves, for their own personal use, thus, it behooves on the Nigerian prison service to make adequate provision of decent prison uniforms for the inmates. However, this may only be possible if government shows serious commitment towards the adequate funding of the Nigerian prison service.

3.5.3 Accesses to Bath and Other Forms of Hygiene

In connection with the right of access to bath and other forms of hygiene, Nigeria Prison Regulation 31¹¹⁵ says that: Prisoners shall be required to keep themselves clean and decent in their prisons. Every prisoner not exempted by the medical officer shall bath daily.

Rule 15¹¹⁶ of the United Nations Standard Minimum Rules for the Treatment of Prisoners also provides that: Prisoners shall be required to keep their persons clean, and to this end they shall be provided with water and with such toilet Articles as are necessary for health and cleanliness, Rule 12¹¹⁷ also provides that sanitary arrangements shall be made adequate to enable every prisoner to comply with the needs of nature.

Sanitation in the two prisons visited, is a serious problem in its own right. Thus, it is well arguable that only inmates deaths, congestion and poor feeding problems that rank ahead of the insanitary conditions in the prisons. A report in 2015 by Justice for ALL, described the situation thus:¹¹⁸

Accounts of the sanitary conditions from prison to prison, from lock-up to lock-up, irrespective of their geographical location, exhibit a depressing consistency in painting a grim picture of grime

¹¹⁵ Section 31, of the Prison Act, Cap.P29, Laws of the Federation 2004

¹¹⁶ Rule 15, of the United Nation Standard Minimum Rules for the Treatment of prisoners

¹¹⁷ Rule 12, Ibid

¹¹⁸ Report from the Justice For All officials, an NGO based in Abuja on 22nd October 2016

and poor personal and environmental hygiene. Naturally the situation is worse in the most crowded prisons and lock-ups. There is no escaping the fact of squalor in all of them however.

In view of the fact that female prisoners constitute a small percentage of the inmate population as contrasted with male prisoners, this problem is not as severe in the female prisons of Suleja as that of male prisons, Among male prisoner the facilities for personal hygiene is in a terrible state there is hardly a prisoner in all the prisons visited who has his bath once in two days¹¹⁹“.

In contrast, it was found that the female prison is usually in a far better state in this connection. Accordingly at the Suleja Prison as in most other female prisons covered by the survey, water supply, was inadequate. However in spite of the supply of water, the toilets and other sanitary facilities at many of the prisons were reported to be every bad.

Most of the inmates were thus, unable to take their baths regularly and many were not supplied with sanitary towels. This situation becomes worse when the inmates are in their menstrual periods. As they are provided with neither soap nor disinfectant so also are they supplied neither with pads nor toilet tissues?¹²⁰ Obviously, this is in clear breach of prison regulation which provides that women prisoners will always be given sufficient supply of sanitary towels when required.¹²¹ Further, every prisoner will receive a weekly tissue of 2 ounces of soap for his personal use (3 ounces in the case of female prisoners) and the washing of his uniform¹²²

Another important aspect of personal hygiene is that of washing their clothes. In the 2015 publication of the Nigerian institute of Advance Legal Studies, it is reported that in the

¹¹⁹ In an interview with Mr. Wasiu Ganiyu, at Kuje Prison August 27th, 2016 at 2pm.

¹²⁰ Tabiu, M. and Ladan M.T. Op.cit.

¹²¹ Section 316 of the Prisons Standing Orders

¹²² Section 322, Ibid.

case of convicted prisoners, 94% of prison officials interviewed claimed that they are allowed to wash their clothes regularly, while only 5% claimed that such access is occasional.¹²³

According to the report, the reasons for restriction of access revolved around basic resources. This fact is corroborated by yet another report which observed that most prisoners wash their clothes only once in a rare while, the length of this rarity being directly proportional to the length of rarity of water, soap and time.

Other major aspects of personal hygiene which suffer from inadequate resources include toilet facilities. Concerning this issue, the Nigerian Law Reform Committee wrote in 2015 that: The state of lavatories or latrines was quite deplorable; cracked, dis-used buckets were mostly used, many exposing stinking excreta. In certain cells, the buckets were without lids and placed side by side with containers for storing drinking water for the use of the prisoners at night.¹²⁴ Eight years after the above findings, the situation did not change as much. This is evidenced by the Nigerian institute of Advanced Legal Studies Report (earlier referred to) which reported also, that: While some of the prisons studied claim that toilet facilities exist for different categories of inmates, interviews and discussion show that they are-either inadequate for the numbers for which they are meant, or exist only as primitive imitation of the facilities referred to.¹²⁵ The report of the findings stated further that accounts by both officials and inmates, of what constitutes toilets for prison inmates show that reference is often to a bucket or any container often placed in one corner of an over-crowded cell, where inmates go to do in the public glare and to the hearing of all present, an activity usually done in private.

¹²³ Ajomo, M.A. and Okagbue, I.E. Op.cit. at p.200

¹²⁴ Nigerian Law Reform Commission Report and Draft Bills for the Reform of Prisons in Nigeria, Lagos 1983 at p.109

¹²⁵ Ajomo, M.A. and Okagbue, I.E. Op.cit at p.201

In view of the above findings, one may safely assert that there exist hardly prisons in which water- closets are in use. Virtually all the prisons have only shit buckets or pit latrines. It is obvious that such a facility will naturally attract cloud of flies to the cells and thus, constitute health hazard to the inmates, especially as they also eat their food in their cells.

On whether they are provided enough toiletries and clothing, 70% of the inmates maintained that they are not given these items on a regular basis. While 30% of the inmate said, they rely on the items provided by their family members and NGO's this can be gleaned from Appendix G, in the chat showing the achievement of the rights of inmate in Kuje and Suleja prisons, this achievement is very low, when inmate do not have accesses to bath and other forms of hygiene then sickness is certain.

3.5.4 Accommodation and Bedding Facilities

The United Nations Standard Minimum Rules for the Treatment of Prisoners: provides inter alia for the right to good living conditions/accommodation. Specifically, Rule 9 (1)¹²⁶ provides for sleeping accommodation in individual cells or rooms to be occupied by one prisoner. Under Rule 9(2)¹²⁷ it is stipulated that where dormitories are used, they shall be occupied by prisoners carefully selected as being suitable to associate with one another in those conditions. Rule 10¹²⁸ provides that accommodation of prisoners/detained persons should meet all requirements of health, which include minimum floor space, lighting, heating and ventilation having due regard to climatic conditions such as cubic air content. Rule 11¹²⁹ provides that in all places where prisoners are required to live or work:

¹²⁶Rule 9(1) of the United Nation Standard Minimum Rules for the Treatment of Prisoners,

¹²⁷ Rule 9 (2) Ibid

¹²⁸ Rule 10, Ibid

¹²⁹ Rule 11, Ibid

- (i) The windows shall be large enough to enable the prisoners to read or work by natural light and shall be so constructed that they can allow the flow of fresh air; (ii) Artificial light shall be provided sufficient for the prisoners to read or work.

On the right to bed and bedding, the SMR further provides in Rule 19¹³⁰ that every prisoner shall be provided with separate bed as well as separate and sufficient bedding which shall be issued clean, kept in good order and changed often enough to ensure cleanliness. On prisoner accommodation, the United Nations Standard Minimum Rule 9 provides that:

- (1) Where sleeping accommodation is in individual cells each prisoner shall occupy by night a cell room by himself. If for special reasons, such as temporary overcrowding, it becomes necessary for the central prison administration to make an exception to this rule, it is not desirable to have two prisoners in a cell or room.

It is further provided in the United Nations Standard Minimum Rules for the Treatment of Prisoners rule 10 that:

All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation. In the same spirit, Nigerian Prison Regulation 17¹³¹ provides thus: Prisoners for whom separate cells are not provided shall be associated in rooms, with not less than three prisoners in each room. And Section 26¹³² provides that “every prisoner shall be provided with suitable bedding.

By contrast between the stipulation of the United Nations Standard Minimum Rules for the Treatment of Prisoners and Nigeria Prison Regulation, it is apparent that while the Standard Minimum Rules prescribe for minimum floor space on the one hand, the prison Regulation on the other, by stipulating a statutory minimum of three prisoners per room, and omitting to

¹³⁰ Rule 19, Ibid

¹³¹ Section 17 of the Prison Act, Cap.P29, Laws of the Federation, 2004

¹³² Section 26, Ibid

prescribe any maximum number of inmates, obviously provides a basis for prison congestion or overcrowding.¹³³

Accordingly, the typical prison cells in Nigeria, holds numbers twice its capacity. Reporting on the issue in 2015 the Nigeria Institute of Advance Legal Studies observed thus: Each of the prisons studied contained inmates beyond their normal capacity.

Hence the basic picture is clearly one which depicts the prisons as being over-crowded. In fact, each prison in Nigeria is a place where inmates practically live on top of each other, as there is not enough room to move the body and limbs freely. In the words of one ex-inmate of Kuje Prison in the cell, because of congestion, there is no space to stretch one's legs we are packed like sardines. In big cells you have above two hundred prisoners, in small cells about eighty, and in single cells about thirteen.¹³⁴

Another ex-inmate of Suleja prison described the situation thus: "I could not believe it for the first time I went there. That was in 2014. The cell was jam-packed, people everywhere. There was even no space to move; that is, to go from one end or comer to another".¹³⁵

In view of the above situation, it is only natural that the existing accommodation facilities are rendered inadequate and extremely over-stretched or even useless. The conclusion to be drawn therefore is that the prisoner is deprived of his right to decent accommodation. Blame however, rests on the shoulders of government. This is because the Nigerian prison system is not considered a high priority area by government, and thus, has been starved of the much needed funds that would have enabled it to either build additional facilities or to modernize existing ones.

¹³³ Tabiu, M. (1998), Op.cit, p.80

¹³⁴ Interview with Idowu Sanusi, a 30 year old ex-inmate of Kuje Prison

¹³⁵ In an interview with Mr. Anthony Rilwan, at Kuje Prison December 7th 2016 at 1am.

The Nigeria prison Regulation provides thus: “Every prisoner shall be provided with suitable bedding.¹³⁶Notwithstanding the above provisions however, congestion in the Nigerian prisons has made the use of beds and bedding practically impossible”; Thus, only very few of the metropolitan prisons had beds. Even where they existed, the beds were grossly insufficient for the prison population. The study further reported that in all the places where they found beds, there were no mattresses.¹³⁷ Suleja Prison which has female inmates was specifically cited in the report as one of the places where the situation had not' changed from that described above. This is because most of the female prisoners had no beds and had to sleep on mats spread on the floor. However the situation was different at Kuje prisons as some of the political detainees were reported to have beds.¹³⁸

As for the main cause of the non-provision of bed and mattresses in female prisons, the report identified non provision of statutory allocation for the purchase of these facilities. However, in the case of male prisoners who suffered the same deprivation, its main cause was the extremely high congestion rates in male prison.¹³⁹ Due to increase in prison population, accommodation has become grossly inadequate with implication for privacy for detainees. Also, findings show that when visited by family members, relations and other associates there is no privacy in the official visiting rooms for reasons already adduced.

The respondents said they faced numerous problems regarding accommodation which include the availability, quality and the required accessories. This contravenes Section 9, Subsection (1) of the United Nations Standard Minimum Rules for the Treatment of Prisoners which provides that each prisoner shall occupy by night a cell or room by himself. If for special

¹³⁶ Regulation 26 of the Prisons Act Op.cit

¹³⁷ Ibid at p. 28

¹³⁸ Ibid

¹³⁹ Tabiu, M. and Ladan, M. T. Op.cit, p.60

reasons, such as temporary overcrowding, it becomes necessary for the central prison administration to provide an exception to this rule, it is not desirable to have prisoners in a cell or room.

The few respondents that stated the contrary about accommodation are older awaiting trials that were given some concession and preference when allocating space. Findings show that despite their low socio-economic and educational background, the detainees generally complained of poor accommodation and its accessories (bed & bedding), and loss of privacy (which were all confirmed by the researcher's physical observation as at the time of field-work)

Our findings show that beds in the prisons covered, were a luxury as they took space, and the few available ones bear no spring at all or the springs were extremely loose. This is the reason why majority of the respondents said they were not given bed and bedding indicating that their rights were abused in this respect. It was found out that, Warders coupled with low morale made bringing in and out detainees difficult; moreover, all detainees have to be in their cells before 6:00 p.m. daily.

Similarly, violation of prisoners' right to privacy was found out in connection with receipt and sending of Idlers which in most cases have to be opened and read to ensure that no security threatening information as passed to the detainees. The researcher also sought the views of the inmates on the nature of accommodation offered them in prison. To this extent, the inmates were asked whether they are given adequate accommodation. Adequate accommodation here refers to a situation whereby less than ten inmates are accommodated in a single room of about 12 by 12 meters. Majority (90%) of the inmates asserted that they were poorly accommodated. Few (10%) however maintained that they were adequately accommodated. The comments of prison officials were also sought on the same issue, and their views were that inmates were poorly

accommodated in virtually all prisons in Nigeria. Summing up the position of prison officials, the welfare officer of Kuje prison maintained that accommodation remains the major problem in the prison system in Nigeria.

Again, Suleja prisons was expected to host 250 but they were hosting 480 inmates as at the time of visit. This clearly shows that the prisons were overcrowded at the time of visit. In the course of observation, a peep into some of these cells revealed that inmates sleep on bare floor. Some had cartons as their mattresses. More than 200 inmates were clammed into a room popularly called Egypt in Kuje Prison. In exceptional cases, in Kuje Prison one or two inmates are kept in one cell called 'special cells'. When the researcher demanded to know from prison officials why there are special cells in prison, the response was curious but obvious:

These cells are created for people of high status in society. For instance governors, ministers, and other well respected members of the society are confined in special cells. It would not be proper to lump them with common criminals, hence a provision is made for them to be secluded in special cells. That man sitting there is a lawyer (pointing towards a man sitting 20 meters away from the interview). He is in a special cell.¹⁴⁰

Similar views were expressed by an assistant comptroller of prison in Suleja prison. According to him, "The truth is that the society is divided in strata, the upper, the middle and the lower. This division is replicated in the prison. Just as they live in GRAs and slum areas outside the prison, when they come into the prison, a GRA is created for them".

As for the confinement of law enforcement agents like the police, armies etc. in special cells, prison officials believe that they are generally not always in good terms with the citizenry. Considering this fact, "if you put them in the same cell with common criminals, the tendency is that they risked being lynched hence they are separated". The argument flowing from the above

¹⁴⁰ In an interview with Mr. Wasiu Ganiyu, at Kuje Prison August 17th, 2016 at 3pm.

discourse suggests that there is an overt bias against the less privileged inmates in terms of accommodation.

3.5.5 Access to Medical and Health Facilities

The United Nations Standard Minimum Rules for the Treatment of Prisoners Rule 22¹⁴¹ deals with the right of access to medical services and facilities. Subsection (1) of the Rule states that:

At every Institution there shall be available the services of at least one qualified medical officer who should have some knowledge of psychiatry. The medical services should be organized in close relationship to the general health administration of the community or nation. They shall include a psychiatric service for the diagnosis, and in proper cases, the treatment of states of mental abnormality.¹⁴²

Subsection (2) of the same Rule further states that:

Sick prisoners who require Specialist treatment shall be transferred to specialized institutions or to civil hospitals where hospital facilities, are provided in an institution, their equipment, furnishing and pharmaceutical supplies shall be proper for the medical care and treatment of Sick prisoners, and there shall, be a staff of suitably trained staff.¹⁴³

On the same issue, the Nigerian prison Regulation 30¹⁴⁴ provides that: An infirmary or proper room or place for the reception of sick prisoner shall be set apart in the prison...¹⁴⁵

Nigerian prison Regulation 32¹⁴⁶ further provides that: If a prisoner complains of illness to any prison officer, the prison officer shall report the complaint without unnecessary delay to

¹⁴¹ Rule 22,(1) &(2), UNSMR, Ibid

¹⁴² Ibid

¹⁴³ Ibid

¹⁴⁴ Section 22, of the Prison Act, Cap. P29, Laws of the Federation of Nigeria, 2004

¹⁴⁵ Ibid

¹⁴⁶ Ibid

the superintendent and no prisoner so complaining is to be compelled to labour until he has been examined and directions have been given.

Accordingly, with regards to the health conditions and medical care in Nigerian prisons, one report described the situation thus: A critical aspect of the deprivation of basic needs in Nigerian prisons has to do with access to good health and medical care. The conditions of incarceration such as overcrowding, the denial of access to facilities for personal hygiene, inadequate food and feeding, all contribute to a questionable health status for inmates.¹⁴⁷ In view of the above unpleasant situation, it is only natural that the prisoner's health status and situation remain a matter of concern among human rights groups and the media. Reports reveal tales of inmate suffering health wise. Major among the health problems suffered by inmates, are tuberculosis, scabies, kwashiorkor malaria and other infectious diseases in the Nigerian prison and an attendant high rate of death. Medical staff and facilities at all the prisons are inadequate to deal with these health problems.

It still falls short of the requirement as prescribed United Nations Standard Minimum Rules for the Treatment of Prisoners¹⁴⁸, that each prison should have the services of at least one general practitioner. Also, of the two prisons covered, drugs were not available, and transport was not provided for patients referred to hospitals outside the prison.¹⁴⁹

Based on the foregoing statistics, the inevitable conclusion to be drawn is that the health care system in the prisons is practically non-existent. It is not surprising therefore; that there is an alarming high death rates among prisoners¹⁵⁰.

¹⁴⁷ Ajomo, M.A. and Okagbue, I.E. Op.cit, pp.202-203

¹⁴⁸ Rule United Nations Standard Minimum Rules for the Treatment of Prisoners

¹⁴⁹ Ajomo, M. A. and Okagbue, I. E. Op. cit. Table 3, p. 191-193.

¹⁵⁰ Ibid

It is evident from the above analysis that the Nigerian prison system treats prisoner's health with levity. It is imperative that detainees and convicts receive regular medical check-up and good medical attention for any ailment they may have at any point in time. Again if a detainee or, convict develops any life-threatening ailment no effort should be spared in seeing that they get the best medical attention available. For, a convict who has not been condemned to death has as much right to life as anyone outside the prison walls.

Findings of this survey show that incarcerating people and the human rights violations emanating from it negatively impact on their health and moral well-being. Evidence in the findings shows that health facilities are grossly inadequate and sometimes non-existent in the research areas covered. A sick detainee will have to take care of his medical needs. Sick detainees that had money could get their medicaments purchased by the prison official. This contravenes Section 22 (1) United Nations Standard Minimum Rules for the Treatment of Prisoners that says "At every institution there shall be available the services of at least one qualified medical officer who should have some knowledge of psychiatry. The medical services should be organized in close relationship to the community or nation. They shall include a psychiatric service for the diagnosis and, in proper cases, the treatment of states of abnormality." Findings revealed that if the illness was serious and severe the detainees were taken to hospital.

Another area where the violation of detainees' rights can be noticed is in the area of medical care and sanitation; the detainees were asked what was done to them when they fall ill from which, inference of violation is made. Findings show that as many of the detainees fell ill at least 3 times and over, 85% of them said they were not provided with medical care. When they fall sick they have to cater for themselves one way or another that include sending for relations

or buying medicines by themselves. While, 15%, of the inmate was provided with medicines when they were sick.¹⁵¹

Although not uncommon to fall ill three times in a year even when living a free life, the conditions of prisons, the inadequacy of facilities, over-congestion coupled with poor feeding make the outbreak of diseases easy in the prisons covered. Another area of human rights violations that exist in the area is medicaments and ambulance for conveyance to other health facilities outside prison. Although detainees' low socio-economic status hinders those from getting better medical care out of prison, they are worse off when sick in it. This is consistent with past data gathered by Gordon in his study of detainees in Argentina where a respondent said: "The detainees here are poor and neglected by the society sometimes we carry the sick ones outside on our backs due to lack of medicine, doctors and transport."¹⁵²

In this regard, it can be asserted that detainees were in unsanitary conditions contrary to Rule 13 & 14¹⁵³ of the United Nations Standard Minimum Rules for the Treatment of Prisoners that says "Apart an institution regularly used by prisoners shall be properly maintained and kept populously clean at all times." It has been established that the majority of the detainees were poor. Thus, what constitutes "satisfactory sanitation" is a matter of perception. Being poor, they were staying in unhygienic neighborhoods before coming to the prison. As such they will consider the prison environment hygienic and the sanitary conditions. Satisfactory, in reality researcher's observation show that the buildings have dilapidated Due to wear and tear and the environment pressurized culminating into violating suspects' rights to a clean environment .capable of elevating their spirits. A prison official said:¹⁵⁴ "in some prisons where bucket system

¹⁵¹ In an interview with Mr. Godwin Samuel at Kuje Prison September 24th, 2016 at 2pm.

¹⁵² In an interview with Mr. Gordon on Monday at Kuje Prison December 4th 2016 at 2: 30 pm.

¹⁵³ Rule 13 and 14 United Nations Standard Minimum Rules for the Treatment of Prisoners

¹⁵⁴ In an interview with Mr. Osinachi John at Kuje Prison September 8th 2016 at 4pm.

is still in use, the problem is that of disposal of human waste. The temporary method adopted to evacuate human waste in such prisons is to evacuate and bury within the prison or nearby...a method that is not healthy for the prisoners and staff and those residing near such prisons particularly when prisoners and such residents rely upon wells for their water supply, interview with some inmates reveals that in most cases, inmates were expected to provide for their treatment. According to them, some of the drugs needed for their ailment are not always available.¹⁵⁵

To corroborate the views of the inmates, prison officials were asked to assess the state of medical facilities in prison. They generally acknowledged the fact that there are hospitals/clinics in prison to take care of inmates. However, most of these clinics lack drugs and equipment. For instance, Suleja prison, there is only one medical doctor, who goes there only on visiting basis and one nurse. According to the medical officer in charge, the hospital is poorly equipped hence most of the inmates are most often referred to specialist hospitals. In view of the above, only minor ailments are treated in these clinics, more complicated ailments are usually referred to specialist hospitals. The problems with the hospital remain the lack of adequate drugs and other medical equipment. Thus, the inmates are forced to go for treatment outside the prison at exorbitant cost. The implications are that poor inmates who cannot afford such treatment are left to suffer and die. Throughout the researcher's visits to these prisons, apart from Kuje, one got the impression that the clinics are there in name. The whole places looked desolate, with spider cobwebs all over the place. Nurses are only seen once in a while.

This reveals clearly that, the facilities provided for the prisoners/detainees are far from the minimum standard described above. However, the problem is not that the facilities are not

¹⁵⁵ In an interview with Mr. Bulus Monday at Kuje Prison December 4th 2016 at 2: 30 pm.

there but rather that the overcrowding of the prisons by awaiting trial detainees has dealt a terrible blow on the facilities, badly overstretching them.

On the question of morality, reports from some of the detainees during the Justice I. E. Bello of Abuja High Court visit to Kuje in October 12 -2016 indicate the existence of homosexuality among male inmates. On the same issue of morality, we also discovered the existence of lesbianism among the female inmates in Suleja Prison.

In accordance with Bernard and McClear, homosexuality in America is caused by overcrowding. Without doubt, this will do some degree of damage to their moral imperatives. Upon release, there is no guarantee that they will stop the practice. With AIDS confirmed in Kuje prison, even the larger society is threatened when homosexuality-addicted-detainees are eventually released into it¹⁵⁶. Discussion with some of the prison authorities in Kuje and Suleja indicated the presence of illegal use of drugs such as marijuana,¹⁵⁷ P-tablet, amphetamines, alcohol, valium, etc. among the detainees. Findings show that while in detention some youth learnt the habit and may carry on with it even after release. Drug addiction in itself is a huge problem to the addicted as it escalates other problems: it was discover during interviews that they access their drugs from some the prison officers.

3.5.6 Accesses to Vocational Training

It is officially claimed that, next to keeping safe custody and the treatment of prisoners, the third and final object and philosophy of the Nigerian prison service is the rehabilitation and reformation of prisoners. Strictly speaking rehabilitation or reformative methods of punishment are best not described as punishment at all, since the aim is not to punish the offender by imposing some unpleasantness upon him, but rather to prevent him

¹⁵⁶ In an interview with Mr. Bulus Monday at Kuje Prison December 4th 2016 at 2: 30 pm.

¹⁵⁷ In an interview with Mr. Bulus Monday at Kuje Prison December 4th 2016 at 2: 30 pm.

from offending again¹⁵⁸. According to Clemmer,¹⁵⁹ rehabilitation involves encouraging the prisoner to abstain from criminal behavior by providing him with social educational or vocational facilities to such an extent as to enable him conform to the social pattern of life outside the prison world.¹⁶⁰

Expatriating on the justification for prisoner rehabilitation programs, the United Nations Standard Minimum Rules states that: The purpose and justification of a sentence of imprisonment or a similar measure derivative of liberty, is ultimately to protect society against crime. This can only be achieved if the period of imprisonment is used to ensure, so far as possible, that upon his return to society the offender is not only willing but able to lead a law abiding and self-supporting life.¹⁶¹ By Rule 77(1)¹⁶² of the United Nations Standard Minimum Rules, provision shall be made for the further education of all prisoners capable of profiting thereby, the education of illiterates and young prisoners shall be compulsory and special attention shall be paid to it by the administration.

Further, Rule 77(2) recommends that the education of inmates should be integrated with the educational system to the extent that this is possible in order to allow them continue their education without difficult after releases.

It should be emphasized here that neither the prisons Act nor the prisons Regulation contain provisions that have any semblance with these provisions of the Standing Minimum Rules. Although regulation 36¹⁶³ provides for employment of all prisoners not employed all hard

¹⁵⁸Jarma, I. M. (2000) "Nigeria Prison Service: Issues, Problems And Prospects" in Giving Balance to the Justice System for Victim, Offender and Society, Compiled by National Human Rights Commission, Penal Reform International and Prisoners Rehabilitation and Welfare Action, Abuja, 8-10 February, 2000

¹⁵⁹ Refer to Rule 58 of the United Nations Standard Minimum Rule for the Treatment of Prisoners.

¹⁶⁰ Ibid

¹⁶¹ Crime and Quality of Life in Nigeria; *Government of the Federal Republic of Nigeria Publication*, Lagos 1980 at p. 35 Quoted in Tabiu, M. and Ladan, M.T. Op.cit, p.140.

¹⁶² Rule 77 (2), Ibid

¹⁶³ Section 36, of the Prison Act, Cap.P29, Laws of the Federation, 2004

labor “in some manner as may be adapted to their skill ability and strength”. However this is not construed to include rehabilitation training, and, in practice, is used to justify the use of prisoners as house helps and farm hands.

Reformation on the other hand is effected by inculcating in the minds of the prisoners, a sense of responsibility and service to the community as well as being a measures of interest, stability and discipline into their lives, and by further inculcating habits of industry self-respect and self-control through manual labour, games, physical training and mental education for example.¹⁶⁴ When inmates were interviewed on their right to vocational training, 70% of the inmates answered in the negative, while only 30% answered in the affirmative. This achievement is very low. In the two prisons visited, in the course of this research we also discovered that there is a relationship between the income of inmates and type of training, they are involved, more than half of the low and middle incomes were involved in vocational training, but, few of the high income were involved in vocational training. Majority of the high income were not involved in any activity. There is a strong association between income and type of training, the possible explanation is that those in the high income cadre may have already been accomplished in their chosen professions; hence prison training may be inconsequential to them. For the low and middle income however, they may want to improve on their occupation by undertaking more training in prison. This may possibly explain their predominance in the latter (occupational training). It could be reasoned that the involvement of low income inmates in occupational training is to enhance their chances of being gainfully employed when they are finally released from prison, while the old inmate were mostly involved in no activity, the correlation between age and type of training is a very weak positive one , It can be reasoned that most of these

¹⁶⁴ Ajomo, M.A. and Okagbue, I.E. Op.cit, p.210

category of inmates who offered themselves for training may have entered the prison without a viable training; hence they seized the opportunity to acquire some training.¹⁶⁵

The data on education and type of training indicate that while majority of inmates with primary education opted for formal education, those with secondary and post-secondary education preferred vocational training. In-depth interviews with some of the inmates reveal that the necessary tools and manpower for their training are always lacking, hence some of them prefer to refrain from any training. However some maintained that they were determined to be involved in one training activity or the other, in order to keep themselves busy. Therefore, to make up for the shortage of teachers/instructors, the more educated inmates amongst them are used as trainers/teachers. In return for this, they are given certain privileges like exemption from manual work such clearing of grasses, hewing of woods, working on prison farms etc. On their part, prison officials maintained that though the prison is expected to provide training to the inmates, the tools and manpower are insufficient. A deputy superintendent of prison in Kuje prison captured the state of training and equipment in prison more succinctly: “We have carpentry workshop, tailoring. But to be frank, all these facilities are there in name, the equipment are lacking considering the number of inmates we have”. Commenting on the shortage of manpower to cater for the educational needs of the inmates, another official in Suleja Prison asserted that:

Though we have an adult literacy class, but as at now, the class is not functioning, we usually get teachers from the government. But they are no longer sending teachers to us. In most cases, we rely on literate inmates to do this job. But once they complete their terms, we are back to square one. These testimonies reveal that there are unlimited training opportunities for inmates. However, the inadequacy of facilities/equipment and qualified personnel are the stumbling block to the training of inmates in the various prisons. On why some inmates are not involved in any training, the Deputy

¹⁶⁵ Jarma, I. M. (2000), p.99

Comptroller of Prison in Kuje maintained that, with the exception of Awaiting Trial Persons, most convicts are expected to belong to one training activity or the other.¹⁶⁶

According to him, “it is necessary that an inmate be engaged in one activity or the other. We do not want idleness in the prison.” On Awaiting Trial inmates, he argued that: They are not yet convicts, so we cannot initiate a training program for them, they can leave the prison anytime so for now they are police property.¹⁶⁷ When reminded of the fact that some ATPS stay in prison for eleven or more years, and in fact, longer than some convicts, hence the need for their training, the officer simply maintained: “But the government has not made provision to that effect. It is assumed that they are here temporarily. In any case, even the real convicts; there is no adequate provision for them. Provisions are only made on paper not in practice”.

The implication of the above discourse is obvious: inmates are not exposed to any meaningful training. This was glaring during field trip observations. Suleja Prison has a tailoring workshop, with only two sewing machines and only one functional; it also has a hairdressing salon with only one machine. The carpentry section has just one working platform and some few tools. The remainder of the space is occupied by spider cow-webs. However, inmates work more on the farm than the latter two which are not functional. In terms of educational facilities the prison visited does not have a classroom for formal education, even though each has a library with scanty and archaic books and ad hoc staff made up of convicts.

The implication again, is apparent: no meaningful education can be obtained under such an atmosphere. One of the major tasks of the prison system is to provide adequate training to the inmates so that on release, such inmates would be gainfully employed or at least self-reliant. The nature of training activities in the various prisons visited show Even though all these prisons

¹⁶⁶ In an interview with Mr. Emmanuel Ugha, Prison Official in Suleja Prison August, 16th 2016 at 12:30pm

¹⁶⁷ Ibid

claimed they conduct formal education classes; there were no formal structures to support their claim. The views of the inmates were sought on the type of training they obtain in prison. The findings reveal that the inmates were mostly involved in occupational when asked to identify the problems associated with their training, majority of the inmates identified lack of equipment as the major stumbling block¹⁶⁸. This is followed by insufficient instructors/trainers, a few however attributed the problem to lack of both equipment and trainers/instructors, According to some of them, the insufficiency of working tools and manpower to train them has made a mockery of their training.¹⁶⁹ The state of training of inmates was generally poor. In virtually all areas of training, there are shortages of facilities/equipment and manpower to train the inmates as shown by data in the various prisons. Thus, having just considered the justification and the existing legal provisions on rehabilitation and reformation, it is only logical to examine as well the facilities that exist in Kuje and Suleja Prisons for after care.¹⁷⁰

Pertaining to prisoner rehabilitation and post release care, Justice For All report ¹⁷¹reveals that three-quarters of the official respondents, 76% maintained that the prisons provide assistance in the form of transport money, or escort to the prisoners home, while others claim that there are no provision at all. Contrary to the above assertions by prison officials, the same report however observed that:

Available evidence from strategic informants, however, show that the position put forward above by official respondents have, little to do with the real situation of the prisoners after discharge. The aftercare provisions claimed by some respondents have never existed in any serious manner and in cases where they were previously available, this is no longer so due to the economic recession.¹⁷²

¹⁶⁸ In an interview with Mr. Bulus Monday at Kuje Prison December 4th 2016 at 2: 30 pm.

¹⁶⁹ Ibid

¹⁷⁰ Report from questionnaire administered on the inmates and prison officials on 17th October, 2016

¹⁷¹ Justice for All Annual Report on Prison September 13, 2016.

¹⁷² Ibid

Another report came to the same conclusion when it reported that upon release, prisoners receive no assistance in re-integrating into society. All the ex-prisoners spoken to reported that they were abandoned as soon as they complete their terms. In the course of the work we interviewed a convicted inmate who has completed his term, but remained in the prison because there was no transport for him to go home.¹⁷³

In view of the foregoing findings, it is submitted in our conclusion that no proper rehabilitation programs exist in the Nigerian prisons, nor there exist a serious attempt at prisoner post-release care. The Nigeria prison service has failed in its reformation and rehabilitation functions, at least, in the face of the absence of tools and materials for vocational training and by the warders resorting to coercion as a means of reformation.

3.5.7 Visits and Communication

On visits and communications, United Nations Minimum Standing Rule 37¹⁷⁴ states 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 visitors. Similarly, Nigerian Prison Regulation 62¹⁷⁵ provides thus: Prisoners shall be allowed all reasonable Opportunities daily of communicating with their friends or legal advisers and they may write or receive letters. Visitors to the Prisoners shall be admitted only to the place appropriated for the purpose, and in all cases, the visits shall take place in the presence of an officer of the prison. Section 42¹⁷⁶ of the Prisons Act also provides that, convicted prisoner shall be allowed to receive visitors and to write and received letters, parcel, or Article. The

¹⁷³ In an interview with Mr. Noso Okoli, at Kuje Prison December 7th 2016 at 1am.

¹⁷⁴ Rule 37, Ibid

¹⁷⁵ Section 62, of the Prison Act, Cap.P29, Laws of the Federation, 2004.

¹⁷⁶ Ibid

prisoner will be so placed that he will be able to see and talk to the visitors but not be able to come in contact with them and care must be taken that nothing is passed either to or from the prisoner.¹⁷⁷

It is evident from these provisions that prisoners are allowed to receive visitors, from their family and friends. These visits play a crucial role in sustaining the prisoners in prison. They are the major sources of basic necessities such as soap, clothes, money and food for many prisoners. This apart, prison visits are the main means by which the emotional and psychological links, which are crucial in habilitation, are maintained. Thus, it is of great value to the survival of the inmate during his or her rehabilitation after release that prison authorities generally allow them.¹⁷⁸

Access to relatives, friends and other visitors should be seen more in the manner of a tool of rehabilitation by prison authority. It is in that regards that, Kuje and Suleja prisons allow inmates to “receive visitors; Sundays for convicts, and every day of the week for Awaiting Trial inmates.¹⁷⁹ The views of the inmates were also sought on whether they are allowed visitors on a regular basis. Majority 80% however said they are ‘occasionally’ allowed visitors while few 20%, maintained that they are not allowed to receive visitors at all. Some of those allowed (mostly the well-to-do) maintained that they sometimes have to ‘settle’ prison officials with some ‘goodies, they would ensure that the visitors pay them each time they visit. This was noticed during data collection and was later corroborated by the detainees during in-depth interviews with some of them. With poor pay and other conditions of service for the Warders, many people see this practice as nothing out of the ordinary. Moreover, salaries as at the time of conducting this study had not been paid to prison service employees.

¹⁷⁷ Ibid

¹⁷⁸ Tabiu, M. and Ladan, M.T. Op.cit., p.136

¹⁷⁹ Justice For ALL Report May 20th, 2014

Findings show that in instances where detainees were barred from seeing visitors, sending or receiving letters, it is because they were undergoing some punishment or violating prison rules, or sometimes because they were accused of certain security related practices: organizing riots, networking on how to escape and smuggling of harmful items needles, sharp bones in food, nails, drugs, and sometimes poison. Other reasons include consistent emotional discharge in the form of crying, yelling and shouting in front of the visitors as was noticed by the researcher in Kuje prison.

When the views of prison officials were sought on why, (certain inmates are denied access to visitors; some officers maintained that this is usually for security reasons. For instance, in Suleja prison, a prison officer asserted that certain categories of offenders are not usually allowed visitors. Cultists, Boko Haram, and armed robbers for example, are mostly not allowed visitors. This is because sometimes the visitors come to facilitate the escape of such inmates, or give dangerous weapon to them. However, if such visitors must be allowed, then they are thoroughly screened. Another prison officer in Kuje prison maintained that the prison system has rules and regulations governing visits. Consequently inmates cannot be allowed visitors at random. Some visits are even censored for the interest of the inmates.

However, the point must be stressed here, that, although the Nigerian prisons allow inmates to receive visits from their family and friends, such visits does not include conjugal visit by partners of prisoners. Majority of the inmate interviewed said their right to conjugal visit has been violated; this is because their sexual life as a prisoner has been terminated by imprisonment.

Closely related to the issue of visit is that of communication with the outside world. Section 45¹⁸⁰ of the Prison Act provide that “A prisoners, other than prisoners under sentence shall be allowed all reasonable opportunities daily to communicate with their friends or legal adviser and they may write and receive letters” in addition, Section 47(1)¹⁸¹ of the same Act provides that prisoners may make complaints. Inmates were asked whether they are allowed unrestricted communication with the outside world. Majority of the inmates (80%) affirmed that they are ‘always’ allowed to communicate with their relatives. However only a few (20%) said they are not allowed same, some who said they are allowed to communicate with the outside world however maintained that their letters are screened by the prison authority before being sent out. The report however revealed that all letters are scrutinized by prison authorities before being handed over to the inmates. These practices are required by prison security as claimed by one prison official in the report.¹⁸²

However, notwithstanding the justification for such practices, it is obvious that the practice is in clear breach of the prisoner's right to privacy¹⁸³. Those who were denied communication with their relatives claimed such denials were sometimes premised on security grounds. The claims by inmates were corroborated by the views of prison officials. Section 38, subsection 3 of the Standard Minimum Rule for the Treatment of Prisoners, on Contact with the Outside World state that “Awaiting trial prisoners are allowed regular, unlimited visits at any time during working hours. Prisoners shall be allowed under necessary supervision to communicate with their family and friends at regular intervals, both by correspondence and by

¹⁸⁰ Section 45, of the Prison Act, Cap.P29, Laws of the Federation, 2004

¹⁸¹ Section 47, Ibid

¹⁸² Ibid

¹⁸³ Tabiu, M (1998) “*The Nigerian Prisons and the Standard Minimum Rules for the Treatment of Prisoners*”, a Seminar Paper delivered at a 2-day Workshop on Nigerian Prisons, 10th-12th, November, ECOWAS Secretarial, Abuja

receiving visitors, it was observed that detainees were allowed to receive visitors by family and friends because economic rewards and other benefits for the officials go with the visits.

CHAPTER FOUR

HISTORY OF KUJE MEDIUM PRISON AND SULEJA PRISON AND THE NATURE OF HUMAN RIGHT ABUSES

4.1 Introduction

The nature, extent and types of human rights violations experienced by the detainees awaiting trial are the focus of this Chapter. Nature of human rights violation refers to the character and essential traits of human rights violations detainees experienced while in detention which include verbal abuse, physical abuse and deprivations that resulted in some effects on the detainees while being processed in the criminal justice system, Extent here is used to cover the volume, range and magnitude of the violations detainees experienced. Types of violations are in reference to policy and practice vis-à-vis respect for or violation of human rights. The nature, extent and types of human rights violations experienced by the detainees awaiting trial are the focus of this Chapter. There is a need to identify these violations in order to prevent the violation of prisoners' rights. We will also be looking at history of Kuje prison, Suleja prison and some of the problems facing these prisons, Relevant qualitative data was obtained from the detainees and criminal justice personnel.

4.2 History of Kuje Medium Prison

Kuje Medium Prison is located in Kuje, Area Council of the Federal Capital Territory. It is one of the famous prisons in Nigeria. The prison has grown in popularity during the military regime in the 1990s as a place for immediate confinement of government critics and pro-democracy activists, Kuje Prison has played host to several prominent Nigerians, including high and low profile personalities, it has only male inmates, this is because there are no facilities to

take care of female inmate at the Kuje Medium Security Prison” All female inmates are taken to Suleja where such facilities exist.¹

When the prison was first opened in 1989, it had a capacity of 80 inmates. Later, the capacity was increased to 320, as at December 13, 2016 when this research was conducted, Kuje prison housed over 837 prisoners, many of whom had been transferred from detention facilities all over the country. The researchers spoke with children as young as 11 who were locked up with adults. Inmates accused of murder and other violent crimes were held together with those charged with less serious offences, which does not comply with Nigeria’s National and international obligations.

Kuje prison has a special category of so-called VIP inmates-usually politicians and wealthy prisoners, which includes police officers, politicians, separated from the general prison population for their own security. Their cells are not overcrowded, and they receive special treatment and privileges.

Kuje prison, which is fairly new,² well maintained and well supplied, could have been an example of good practice for other Nigerian prisons, there are workshops, a school, a library, a church and mosque, In addition, hospital with 25 staff, including one doctor and 5 nurses, 20 beds, medicines and several wheelchairs, in total Kuje prison has 305 staff. Despite the relatively good facilities, prisoner’s right, are being violated.³ It is important at This point to emphasize the following main principles contained in the, Nigeria Prison Act and the United Nations standard Minimum Rules for the Treatment of prisoners; some of the sections relevant to this discussion are;

¹ Nigerian Prison Service, Annual Report 2015, p.5

² Amnesty International Press Release Of February 2008, quoted in Nigeria Prison Report, 2/2/2008, African Study Center, available at <http://www.Africa.upenn.edu.0022608.htm>(last visited march 16th, 2016)

³ Ibid

1. **Classification of Inmates:**⁴ Accused persons shall be segregated from convicted prisoners, Prisoners shall be separated according to sex, age, and criminal record, legal reason for detention and the necessities of their treatment, minor shall be separated from adult and brought to justice as soon as possible.⁵
2. **Accommodation:** Prisoners shall be provided with good accommodation⁶ for their sleeping and the sanitary installations to enable every prisoner to comply with the need of nature when necessary in a decent manner.
3. **Feeding:**⁷ Every prisoner shall be provided at usual hours with food of nutritional values.⁸
4. **Water:**⁹ Drinking water shall be available to every prisoner whenever he/she needs it.
5. **Health and Medical Services:**¹⁰ There shall be adequate medical services for the prisoners' mental and physical health
6. **Clothing:**¹¹ every prisoner who is not allowed to wear his own clothing shall be provided with an outfit of clothing suitable for the climate, not in a degrading or humiliating manner.

Kuje Prison has not been able to meet up with the above stated requirements; this is because the report ¹²from the field work conducted in the course of this research shows that, the conditions in the two dormitories for prisoners awaiting trial are particularly degrading. Inmates spend most of the time locked up in extremely overcrowded and filthy cells. , One cell housed

⁴ Rule 8, of the Standard Minimum Rules for the Treatment of Prisoners

⁵ Section 15, Prison Act. Cap C29 Laws of the Federation, 2004.

⁶ Rule 19, of the Standard Minimum Rules for the Treatment of Prisoners

⁷ Rule 20, Ibid

⁸Section 22 and 23, Cap 29, Laws of the Federation of Nigeria, 2004

⁹ Ibid

¹⁰ Rule 22(1) and (3),Ibid

¹¹ Section 24 , Cap 29, Laws of the Federation of Nigeria, 2004

¹² Report from the questionnaire Administered to inmate and staff at Kuje Prision on November 22, 2016

219 men who shared 50 bunk beds and just one toilet.¹³ Which is often little more than a hole in the ground, this contradicts the above laws, which require that sanitary installations be “adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner”, Inmates slept on the floor and underneath the beds. Despite the relatively good hospital facilities, disease is widespread, perhaps because sick inmates in the cells for prisoners awaiting trial cannot afford to pay the money that the guards demand to take them to the hospital. “There are no drugs. Insects are eating our body, all over our body,” said one inmate.

In fact, the hospital was deserted and seemed unused; there was not a single patient in any of the 20 beds only one nurse was on duty, who said she did not know the whereabouts of others, schooling or work opportunities was offered to a limited number of convicted prisoners, but even these centers lacked sufficient books, educational supplies and vocational training materials. Many workshops and libraries were locked and seemed not to be in use at all. Inmates complained that it was not possible to work towards rehabilitation, saying. “I have spent eight years in Kuje prison. To me, to be here is a waste of time. I have not learned anything. And I have also not achieved anything,” in an interview with the Deputy Comptroller of Prison, Musa Tanko¹⁴ who is in charge of Kuje prison, he stated that the challenge of the protection of prisoners right in Kuje prison are numerous, the challenges are however blamed on several factors, which includes the sudden increase in crimes and criminal activities across the country, as well as slow justice administration. DCP Musa Tanko identified the following as the problems of the Kuje Prison

¹³ Report from the questionnaire administered on inmate and staff December 9th, 2016

¹⁴ Report from Kuje Prison visited November 12, 2016.

1. Acute shortage of drugs, ambulances in prison clinics leading to high incidence of Epidemics, high mortality rates among prisoners.¹⁵
2. Acute shortage of staff resulting from retirement, dismissals, resignations, death.
3. Abandonment of capital project leading to prison congestion.
4. Lack of vehicles to convey staff and prisoners to court.
5. Disappearance of cases files of inmates; thereby forcing them to spend as long as Ten Years or more in prisons without appearing in court for one day.
6. Sexual Abuses among inmates through the practice of homosexual, and Drug abuse through the use of Indian hemp.
7. Lack of promotion to eligible staff with the resultant low morale, frustrations and by extension, low productivity. “The salary is far from sufficient,” one Director said. Unacceptable delays in receiving wages can also lead to other abuses one prison officer said “When I am angry about my own situation, I tend to be aggressive to the inmates”.

He also mentioned overcrowding as the greatest problem which has persisted despite several efforts to check it; he said one of our basic challenges is the problem of those who are awaiting trials. The Increase in crimes have driven us to this level, he said “Even though we are a medium security Prison, we have all kinds of inmates here. We have the condemned prisoners, we have those serving life sentences and we have different others who are serving various jail terms with us “Certainly we are not insulated from the general problems in Nigeria. Our prison has the Capacity of managing only about 320 inmates, but because of the increase in the volume of crime in the society, we are saddled with the responsibility of managing over 852 inmates, about 300 more than the actual capacity” We have only 150 convicted prisoners here, but still

¹⁵ Interview with Mr. Musa Tanko Deputy Comptroller of prison at Kuje Prison November 21st, 2016 at 1pm.

those Awaiting Trials are getting to 700 many of whom had been transferred from detention facilities all over the country.¹⁶

Prisoners awaiting trial in Kuje and Suleja prisons are only allowed out of their cells once, a week and in some cases even less frequently than that. The prison official registers the date of entry and exit of each prisoner. The administration of inmates is very outdated: each day, prison directors register who has been locked up on a blackboard near the prison gate and report to the zonal offices who, in turn, report to the headquarters as few computers are used. The researcher observed that the prison officials were unable to provide data on the prison population. It is estimated that there are almost 616 awaiting trial, and the total number of staff is almost 305.

All prison official interviewed acknowledged the United Nations Standard Minimum Rules for the Treatment of Prisoners; and all stated that the treatment of inmates is based on these rules. Nevertheless, in the course of this work, we discovered that most of these rules, including those relating to welfare of prison staff, are not followed in practice. In Kuje Prison, in fact, in an interview with an awaiting trial inmate¹⁷ who has been in the prison for over 15 years told us, that, there was a riot in Kuje Prison, on 28 March 2007 which resulted in the death of two inmates and left many others injured. According to him the riot was provoked by shortages of food and water. “Before they gave the water, it was late in the evening. They put sand in the rice and gave it us to eat,” a prisoner said. When the Prison authorities were interviewed on the issue, they confirmed this account. Finally, to punish a man because he deserves it, and as much

¹⁶ Ibid, p.21

¹⁷ Interview with Muhammed Yahaya 33 years old, an Awaiting Trial Inmate in Kuje Prison on 12 November 2016 at 1 pm

as he deserve is mere revenge, and therefore, barbarous and immoral.¹⁸ It is maintained that the only motive for punishing is to mend the criminal and the need to deter others by example. Kuje prison staff must always remember that a prison is a rehabilitation center and not a dungeon; and that Prisoners are not those condemned to death rather, they are supposed to be seen as citizens who need corrective measures¹⁹ which require them to be separated from the larger community.

4.3 History of Suleja Prison

Suleja prison is located in the city of Suleja, a city in Niger state, under the administration of the prison within Federal Capital Territory, Abuja, the prison was open in 1914, during the pre-colonial era, under the Emirate Council of Suleja with the capacity of 120, inmates the structure were old, the prison was later transferred to the Federal Government of Nigeria, and it was administered by Nigeria prison service and the capacity was upgraded from 120 to 250 which is the current capacity, and in 2010 an additional structure was added to the prison, under the administration of President Musa Yaradua. As at 14 December 2016 when this research was conducted Suleja prison has open out of 480, out of which 253 are convict, (17 female and 253 male) and 159 awaiting trial persons (11 female and 148 male), the population is also made up of 16 inmates who committed robbery, 11 inmates charged with rape, 19 inmates went for court hearing, one inmate who was sentenced to life in person, which make up a total number of 480, which is almost double of its official capacity, the prison lack running water.²⁰ The flowers in the courtyard cannot hide the fact that life in Suleja prison is very harsh, despite the efforts of director to improve conditions. This prison has a capacity of 250 inmates as stated above without a single workshop (the unused area outside the prison walls cannot be described

¹⁸Toyo, E. (2001) "On Human Rights." Being a lecture delivered at University of Jos lecture series, Organized by ASUU, held on 15th January,

¹⁹Amnesty International Press Release Of February 2008, quoted in Nigeria Prison Report, Op.cit, p.110

²⁰ Ibid

as a workshop).²¹ The prison has few staff and does not allow prisoners out, of their cells during the day. As started by one of the inmates interviewed²² “Sometimes we stay in our cell for weeks,” said one prisoner. The deputy controller explained that²³, they only allowed prisoners out of their cells “on days we have enough prison officers on duty”. “Most days, when staff is accompanying inmates to court, the inmates stay inside.” With over 159 inmates awaiting trial, the prison staffs are few, None of the cells for males has running water; drinking water is stored in large plastic barrels in each cell, with reserves of drinking water in closed containers and in an open air basin in the prison, yard. Since the water system, is not working, the inmates use buckets as toilets. As a result of improper drainage, stagnant water creates a breeding ground for mosquitoes.²⁴

In early June 2007 the cesspool just behind the cell blocks collapsed, creating a possibility of further collapses as well as a serious health risk.²⁵As in most prisons, disease is widespread. According to the officer in charge of medical unit in Suleja Prison, inmates suffer from skin infections such as scabies and fungal infections, fever, malaria and respiratory tract infections. A member of the medical unit in the prison explained: “The problem is how to prevent recurrent infections in this environment. It is difficult for the inmates to maintain hygiene because of constraints here – shortage of soap, lack of access to water, lack of towels.” The sanitary facilities in all prisons are in urgent need of renovation because few cells have running water, and toilets are broken and usually blocked. In some cells up to 100 inmates share a single toilet, which is often little more than a hole in the ground. In other cells buckets are used as toilets. The overcrowding of the cells combined with the inadequate sanitary facilities makes

²¹ Ibid

²² Interview with Mr. Owoyele Kolawole, at Kuje, on 25th, September, 2016 at 3:30 pm

²³ Interview with Mr. Akilu Abdulahi, Deputy Comptroller of Prisons, at Suleja Prison, October 9th 2016 at 2pm

²⁴ Interview with Mrs. Tope Damola, a female inmate in Suleja Prison, July, 3rd, 2016 at 1pm.

²⁵ Ibid

it virtually impossible to keep the cells clean or the prisoners to maintain their dignity. One of the female inmates interviewed said: “Everywhere, this entire place smells, as the toilet is full, for water, we used to get one cup, we can’t get water all the time. Even at times you see the water is very dirty²⁶.”

The Standard Minimum Rules²⁷ require that sanitary installations be “adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner” and provide that “adequate bathing and shower installations shall be provided. Conditions in nearly all prisons visited fell far short of those standards. The prison has small clinic, the clinic does not have mosquito nets to protect the ill inmates from malaria. Inmates suffering from tuberculosis (TB) were not separated from other inmates. The prison authorities transfer seriously ill inmates to prisons with hospitals. In the course of the research we interviewed many inmates who were ill. In the prison they are able to visit the clinic but often they cannot afford to pay for the medicines they need.²⁸

Inmates said they are only allowed to visit the clinic after paying bribe to the warder; those who cannot afford the bribe remain in their cells. This cruel measure has a discriminating effect as it singles out the poor inmates who cannot afford the bribes. The inmates in this prison are suffering from skin problems, malaria, mental illness, diabetes, infections, asthma or lice .Some have HIV/AIDS, TB or wounds for example, an inmate who has been Awaiting Trial for seven years, has had TB while he has been in prison, and the doctor has advised him to eat more healthy food such as fruit and vegetables. The prison cannot provide this diet. The prison house men and women separately; in addition, convicted inmates and those awaiting trial are often in the same cells, In the female wings, however, these categories are frequently mixed up, in

²⁶ In an interview with Miss, Joy Marcus, a female inmate in Suleja Prison on 13th July 2016 at 1; 30 pm

²⁷ Rule 8, of the United Nations Standard Minimum Rules for the Treatment of Prisoners

²⁸ Amnesty International Press Release Of February 2008. Op.cit, p.110

addition, the prison did not also separate inmates according to the nature of the offence²⁹ We also saw minors in cells with adults. This clearly does not comply with Nigeria's National and international obligations.

As a result of the appalling sanitary conditions in the cells, it is very easy for inmates to infect each other. The prison authorities simply cannot guarantee cleanliness inside the cells. Suleja prison, does not uphold the right to health, some facilities visited by researcher offered schooling or work opportunities to a limited number of convicted prisoners, but even these centers lacked sufficient books, educational supplies and vocational training materials. Many workshops and libraries were locked and seemed not to be in use at all. Inmates complained that it was not possible to work towards rehabilitation, one inmate interview said: "I have spent here eight years. To me, to be in this place is a waste of time. I have not learned anything. I never achieved anything," one said. Another put it more simply, telling the researcher "We stay idle."

Prison directors recognized the desirability of education and rehabilitation but told us that they could not achieve those objectives. Suleja prison has two cars with only one functioning the second one had accident and has not been repaired.³⁰ The officer in charge of court further stated that this makes it difficult to transport guards and inmates to court. One inmate described the cell in Suleja thus: "The cell was like a warehouse. It had 120 inmates. I had a bed later on, but at first I slept on the floor. It looks like a classroom or a stall where bags of rice and other things were stored. There is no ventilation ... no fan, no windows, and no light."

Suleja Prison is, in need of renovation: the infrastructure is old, many buildings can no longer be used, ceilings of the building are about to collapse, most cells have only small windows for ventilation. Death row inmates and prisoners awaiting trial face conditions that are

²⁹ *ibid*

³⁰ Interview with Mr. Audu Elias the officer in charge of court at Suleja Prison November 20th 2016 at 1pm.

even worse. Those on death row are held in cells that are tiny, dark and filthy, with almost no ventilation. The Prisons register the date of entry and exit of each prisoner. The administration of inmates is very outdated: each day, prison directors register who has been locked up on a blackboard near the prison gate and report to the zonal offices who, in turn, report to the headquarters. Few computers are used.

All prison directors interviewed in the course of this work acknowledge that United Nations Standards Minimum Rules for the Treatment of Prisoners, is expected to be used in the treatment of prisoners. Nevertheless, we found out that most of these rules, including those relating to welfare of prison staff, are not followed in practice³¹. Inmates worked in the kitchen area, a roofless alcove where they prepared food in large pans over wood fires.

“We don’t have enough space, that’s my concern here,” said the officer in charge. “The buildings are dilapidated. They need to be reconstructed.” most cells are large dormitories meant for 50 inmates but where up to 100 men share a single toilet. Only half of the inmates sleep on a bed. Overcrowding and substandard living conditions increase the likelihood of violence among inmates which can lead to riots.

4.3.1 The Plight of Vulnerable Prisoners in Kuje and Suleja Prison

1 Pregnant and Nursing Mothers in Suleja Prison

The first set of vulnerable prisoners we shall be considering is Nursing Mothers and pregnant women; the situation of pregnant and nursing mothers in Suleja prison is appalling. Pregnant and nursing mothers are also present in the prison. The plight of these women is the lack of antenatal and post natal facilities to attend to pregnant and nursing mothers and they are incarcerated together with the other inmates. The official justification is that, there are few such

³¹ In an interview with Mrs. Rebecca Williams a prison officer, at Suleja Prison December 2nd, 2016 at 3pm.

cases which can be attended to by regular doctors, which is not always, the case in situation of extreme urgency.³²

Unfortunately our courts in Nigeria have demonstrated lack of willingness to consider, the plight of this group of inmates in prisons, this can be seen in the Nigerian case of *Johnson Adeyemi and 5 others vs. Inspector General of Police*,³³ Applicants contended that they were poorly fed; live on unhealthy conditions; insufficient sleeping space and sanitary facilities" to which their health was badly affected. The court merely released them without deciding on these issues. The courts in Nigeria have consistently found that, issues of such nature are not Justifiable. However, the American courts seem to be more concerned about the rights of prisoners. Suleja prison contains female wings, consisting of a small area with few cells; none of them provides sufficient space or activities for the pregnant and nursing mothers inmates.

All the female officers on duty in the women's wings, also did not make any provision for them, despite the United Nations Standard Minimum Rules for the Treatment of Prisoners which makes provision for pregnant and nursing mothers to have accommodation for pre-and post-natal care and treatment, and Babies can stay with their mothers until they are 18 months old. Suleja prison does not have facilities to provide medical services such as immunizations for babies. President Umaru Musa Yar'Adua has reportedly ordered the release of children born in prison. According to the former Attorney General of the Federation and Minister of Justice, Michael Aondoakaa, there are about 5 children and babies who were born in Suleja prison; He questioned how those women became pregnant in prisons.³⁴ And in the course of our research it was discovered that some of the women became pregnant while in the prisons. Either by male inmate or prison official who took advantage of them.

³² ibid

³³ (2010) 17 NWLR (Pt. 1221) 40 C.A p.123

³⁴ Federal Ministry of Justice Annual Report 1990

In general, female inmates are amongst the most underprivileged members of prison in an in-depth interview with a woman prisoner with her 8 month old baby, she said; “Here in prison, there is no facilities for babies. She sleeps in my cell .and we sleep on the floor, as result the doctor told me she has pneumonia and there is no vaccine for her treatment. The court asks me “Whether I was guilty. I said no. They adjourned the case.” The baby is always sick; we share the same cell with adults, who are awaiting trial for various offences.³⁵

When the researcher asked the welfare officer, how they treat children in prison, she said government did not make provision for babies, in the prison, and for children within the age of 13 years, they are transferred to one of the country’s four young offenders’ institutions. In some cases, in an in-depth interview with another young mother with a newborn baby boy, she told us “It is hard. But the wardens gave me baby clothes and baby food.” Officially, the prison does not have a budget to provide care for the babies. “Prison headquarter does not provide us with money,” said one guard. However, guards do bring clothes and baby food for them. The welfare officer in Suleja prison and other members of staff were concerned about the future of the women and the little babies: “There is no aftercare. We try, but ideally there would be an aftercare home for women, because, women have difficulties after their release due to stigma, from the society after the prison life.

4.3.2 Plight of Foreign National Prisoners in Kuje Medium Prison and Suleja Prison

Another set of vulnerable prisoners, to be considered are³⁶ Foreign National prisoners in Suleja and Kuje prisons; special attention is not given to the needs of foreign national prisoners whose families are resident in other countries. Foreign prisoners need special attention, because they are alien to the culture and environment in which they serve their sentence, they are

³⁵ In an interview with Mr.Fidelis Ajia at Kuje Prison on 5th October, 2016 at 4pm

³⁶ Ibid

entitled to certain special rights. A female foreign prisoners interviewed in Suleja prison said they are not allowed to make contact with the diplomatic representative of the country to which they belong. This practice contradicts, Article 6 of Vienna Convention,³⁷ which provides that,

With a view to facilitating the exercise of consular functions relating to nationals of the sending state:

- (a) Consular officers shall be free to communicate with nationals of the sending state and to have access to them. Nationals of the sending state shall have the same freedom with respect to communication with and access to consular officers of the sending state;

Similarly, Rule 38 of the Standard Minimum Rules for the Treatment of Prisoners provides thus:³⁸

- (b) Prisoners who are foreign nationals shall be allowed reasonable facilities to communicate with the diplomatic and consular representatives of the State to which they belong.

For many of these prisoners there may be little or no possibility of receiving visits from family or friends.

The prison authorities should make special arrangements to allow them to maintain contact with their families. This may be permitting additional letters with free postage or it may be by allowing such prisoners to make periodic telephone calls to their families at the expense of the administration. In Suleja prison, contact with the prisoner's diplomatic representative is difficult, the prison authorities also fails to consider whether there are other foreign nationals in the country who could provide a voluntary visiting service which would enable such prisoners to maintain some contact with their own culture.

³⁷ Article 6 of the Vienna Convention on Consular Relations

³⁸ Rule 38 of the Standard Minimum Rules for the Treatment Prisoners

The practice in Kuje and Suleja Prisons contradict the above provision, in an in-depth interview with the welfare officer on why foreign prisoners are denied communication with their family and diplomatic or consular representative, the welfare officer in Suleja stated that, lack of fund is the major problem, provision is not made for airtime here, the telephone is here but does not have airtime and there is nothing I can do about it, because as at the time of conducting this interview salary has not yet been paid.

4.4 Table (1); Capacity, lock up, population of Awaiting Trial Person and convicts in Kuje Medium Prison December 2016

Name of the Prison	Capacity of the Prison	Housing	Number of Convict	Number Of Awaiting Trial Inmates
Kuje Medium Prison	320	837	221	616

Table (2); Capacity, lock up, population of Awaiting Trial Person and convicts in Suleja Prison December 2016

Name of the Prison	Capacity of the Prison	Housing	Number of Convict	Number Of Awaiting Trial Inmates
Suleja Prison	250	480	270	159

4.5 Human Right Violation in Kuje and Suleja Prisons

4.5.1 Lack of Access to Court

It is uncommon among the inmates incarcerated in Kuje and Suleja prisons to have easy access to court and legal representation. Suleja prison with over 480 inmates has only one

functional vehicle (Black Maria) for taking inmates to court, as stated by the prison official³⁹ that other vehicle was involved in accident and has not been fixed. Many inmate were slated to go to court on the 13 of December 2016, when this research was conducted but they could not go because there was no vehicle, and even in Kuje where there is more than one vehicle, in an interview with the officer in charge of court he stated that money was not provided to fuel the vehicle and that most time the vehicle are not serviced which resulted in accident on their way to court, which led to the death of some prison officials and inmate. This is a violation of the right of the inmate to be taken to court, Access to family is another problem, communication and contact to family members is hampered by the obscured prison system.⁴⁰

Family members could be of assistance in arranging for a lawyer if there are no obstacles. Most inmates are indigent and could not afford the services of private legal practitioners. The Nigerian Legal Aid Council has few lawyers to meet up the high population of inmates especially the awaiting trial persons. The factors that marred inmates access to court are enormous which include, the following; even when they get to court there are no witnesses, the investigating police officer goes out fishing for evidence and witnesses where none existed and the suspect continued to languish in detention indefinitely. The problem is aggravated when the matter comes up in court without the prosecuting officer; who may be on transfer or is no longer in the service of the federal Ministry of justice. Worse situation exists where case files are said to be missing⁴¹. The ministry of justice has not helped matter. Delay in giving legal advice at the appropriate time and otherwise of proffering criminal charges. The court system has its own

³⁹ In an interview with Mr. Bulus Monday incharge Court, Superintendent of Prison in Kuje Prions, interview granted on 5th December 2016

⁴⁰ Ibid

⁴¹ Federal Ministry of Justice Annual Report 2016

fault, long adjournment of cases, lack of tracking of cases coming before it thus accumulated back log of cases, most time oblige lawyers' flimsy excuses for an adjournment.

4.5.2 Adjournments

The findings of this study show that the detainees were not regularly taken to court as stated above, and a majority of those taken were taken to Magistrate courts for hearing .This is because it is the court with jurisdiction to try most of the suspects or their kind of offences; and being grassroots in nature it is commonly found in communities. Furthermore, findings show that 93.0%⁴² of the total detainees were taken to court for initial appearance/cognizance while 7.0% was not. Since then these detainees have been experiencing incessant court adjournment of long duration resulting to prolonged detention in the prisons.

4.5.3 Verbal and Physical Abuse of Detainees

Generally the nature of human rights violation was observed to be higher in Suleja prison. This is not far-fetched since Suleja prison is old and less attention is paid to it unlike the Kuje prison. Verbal and physical abuse was found or noticed in the two prisons, as the data in the Table below show.

Table 3: Showing number of inmates shouted at

Shouted at	Number of respondents	%
Yes	167	64.2%
No	93	35.8%
Total	260	100
Slapped	Number of respondents	%
Yes	237	91.2 %
No	23	8.8%
Total	260	100%

⁴² Report from the question Administer to inmate and staff November 22, 2016

Table 4: Showing number of inmates who have received beating

Beating	Number of respondents	%
Yes	28	10.8%
No	232	89.2%
Total	260	100%

Table 5: Showing number of inmates who have engaged in hard labour

Engaged in Hard Labour	Number of respondents	%
NO	36	13.8%
YES	224	86.2%
Total	260	100%

The data in Table above show that an overwhelming majority of the suspects (91.2%)⁴³ said they were slapped, beaten, engaged in hard labour. more than half of the respondents said that prison officials shouted at them (mainly to scare and threaten, instill fear and enforce discipline among (them), while few high class inmate especially in Kuje, prison said they were nether beaten, slapped, nor engaged in hard labour, Findings further show that most of the low class inmate said they were subjected to hard labour while in the prison e.g. cutting grasses, clearing gutters and moving away old roasted vehicles. Going outside to cut firewood, working in the sun throughout the day, this is contrary to the provisions of section 33 and 34(c)⁴⁴ that says “no person shall be required to perform forced or compulsory labour.”

⁴³ Report from Kuje and Suleja Prisons, Ibid

⁴⁴ Section 33 and 34, of the Prison Act, Cap.P29, Laws of the Federation of Nigeria, 2004

It was realized that the gravity of the offence determined the harshness and severity of (abuse) detainees experienced. A notorious armed robbery suspect that was doubly accused of being a member of Boko Haram was brutally beaten and his leg fractured by the police in (SARS) office Abuja, and despite his condition, the prison officials were humiliating and showering abuses on him. Similarly, there were detainees severely beaten in Kuje. This kind of violation can be considered as torture which is contrary to Article 5 of the Universal Declaration of Human Rights that says “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”⁴⁵ Also some inmate interviewed stated that they were being employed in hard labour on Sunday, on Christmas day and on good Friday this practices is contrary to section 35⁴⁶ of the Prison Act which states that prisoners shall not be employed in hard labour on the above stated days.

4.5.4 Feeding Arrangement and Loss of Appetite

Our research findings further manifest that there was insufficiency regarding provision of food in the prisons covered, and detainees without money or relations close by to assist them were found starving for days. The quantity and quality of food offered to the detainees was grossly inadequate as was observed and later confirmed by the detainees. This is contrary to Rule 20⁴⁷ subsections 1 UNSMR that says “Every Prisoner shall be provided by the administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served.” The feeding arrangement in Suleja prison was erratic and quantitatively and qualitatively inadequate, too⁴⁸. Detainees observed were seriously irked that

⁴⁵ Article 5 of the Universal Declaration of Human Rights 1948.

⁴⁶ Ibid

⁴⁷ Rule 20, United Nations Standard Minimum Rules for the Treatment of Prisoners

⁴⁸ Tabiu, M (1998) “The Nigerian Prisons and the Standard Minimum Rules for the Treatment of Prisoners”, a Seminar Paper delivered at a 2-day Workshop on Nigerian Prisons, 10th-12th, November, ECOWAS Secretarial, Abuja

they were losing weight, Furthermore; findings show that many of the detainees (74.2%) did experience loss of appetite. This might have resulted from their uncertain circumstances, concern for their plies, friends and the outside world they were denied interacting with. A direct result of losing appetite and other related detention conditions was loss of weight which majority of the respondents (81.4%)⁴⁹ said they experienced.

4.5.5 Medical Facilities

In the area of medical care, there is a clinic in the prison, but the clinic has no drug, no medical official was seen throughout the time of conducting this research only one nurse was on duty, according to her, a sick detainee will have to take care of his medical needs, else lie or stays like that. Sick detainees that had money could get their medicaments purchased by the prison official, this contravenes Section 22⁵⁰ subsection I United Nations Standard Minimum rule for the treatment of offenders that says “At every institution there shall be available the services of at least one qualified medical officer who should have some knowledge of psychiatry. The medical services should be organized in close relationship to the community or nation. They shall include a psychiatric service for the diagnosis and, in proper cases, the treatment of states of abnormality.” Findings revealed that if the illness was serious and severe the detainees were taken to hospital. The prison official⁵¹ did complain of lack of transportation and money to buy certain prescribed drugs for the detainees affected, and to take sick detainees to the hospital when there is Emergency.⁵²

When the cells in the prisons covered were observed, a general inadequacy was discovered, lack of enough sleeping space, sleeping materials like mats, blankets and bed-sheets;

⁴⁹ Report from the Kuje, Ibid

⁵⁰ Rule 22 UNSMR, Ibid

⁵¹ In an interview with Mr. Akilu Abudullah Deputy Comptroller of Prison, on 5th December 2016 at 3; 30 pm.

⁵² Ibid

the environment was severely pressurized owing to congestion and unsanitary practices; and the cells smelt badly. As a result of congestion, detainee personal privacy was absent in all the prisons covered by this research. This practice is contrary to Article 12⁵³ of the Universal Declaration of Human Rights that says “No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, or to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.”

In conformity with Section 38, subsection 3, United Nations Standard Minimum Rule for the Treatment of prisoners on Contact with the Outside World that says “Awaiting trial prisoners are allowed regular, unlimited visits which are restricted to any day of (the week and can be taken at any time during working hours. Prisoners shall be allowed under necessary supervision to communicate with their family reputable friends at regular intervals, both by correspondence and by receiving visits, it was observed that detainees were allowed to receive visits by family members, close relations, friends and others because economic rewards and other materially oriented benefits for the officials go with the visits: money, food and other gifts like wrist watches, glasses and so on as was witnessed at Kuje prison. Where a prison officer was eating the food brought by a visitor meant for one of the inmates.

From the foregoing, it can be inferred that human rights violation occurred in the two prisons covered. Due to the practice and attitudinal dispositions of the prison official towards the detainees and government neglect of the justice administration agencies (in this case the prison) whose problems adversely affect the health of the inmate, and which can lead to jail break

4.5.6 Policy-Related Violations

It should be understood that Nigeria is bound by the provisions of Standard Minimum Rules for the Treatment of prisoners and those of African Union Charter on Human and Peoples’

⁵³Article 12 of the Universal Declaration of Human Rights

Rights. Therefore, it will be worthwhile to review some of the provisions relevant to this Section of this Chapter with a view to seeing which local policies contravene aspects of the provisions of the Standard Minimum Rules and the African Union Charter on Human and Peoples' Rights.

It is relevant to do this because the instruments are accepted as good principle and practice in the treatment of detained prisoners i.e. Standard Minimum Rules⁵⁴ is divided into two major parts. The two that are more relevant to this study cover points of general application: physiological, (food, clothing, shelter, personal hygiene, medical care, etc.) social-educational issues (visits, discipline, library facilities, religious counseling, etc.) and (non-discrimination, their proper classification and separation and legal reasons for detention and so on.

It is provided for by Rule 33⁵⁵ of the Standard Minimum Rules that; the use of irons and chains shall be prohibited. Handcuffs, restraint-jackets and other body restraints shall never be applied.' However, Rule 345⁵⁶ of the Prison Standing Orders encourages handcuffing of the detainees by requiring the Superintendent to, in case he extends the use of mechanical restraint beyond 24 hours, get medical certification and record it in his journal. The findings of this research show that to avoid escape some male detainees had to be chained or handcuffed because using such mechanisms is allowed by policy in Nigeria. This explains why the data show that 34.7% of those surveyed said they variously experienced the application of this policy on them where some prisons use chained and handcuffs on them. This contravenes section 37 of the Criminal Procedure Code⁵⁷

Prison Regulation 49 (1) permits Warders to punish erring detainees as a disciplinary measure (e.g., keeping prisoners in solitary confinement for up to six days). This gives room for

⁵⁴Rule 94 and 93 of the Standard Minimum Rules for the treatment of offenders

⁵⁵ Ibid Rule 33

⁵⁶ Rule 345 of the Prison Standing Orders

⁵⁷ Section 37 Criminal Procedure Code

or lures cruel, inhuman and degrading treatment. On corporal Punishment, it is provided for and sanctioned by Rule 342-344⁵⁸ of the Prison Standing Orders. This policy is a violation of the provisions of Section 34 (a) of Nigeria's Constitution and further Contravenes Rule 31⁵⁹ of The Standard Minimum Rules that are all against corporal Punishment and torture, The Prison Standing Order under consideration also violates Article .5 of the United Nations Code of Conduct for Law Enforcement Officers. This code fights against inflicting, instigating or tolerating any act of torture or other cruel, inhuman or degrading treatment or punishment.

Additionally, the Code says that no person is allowed to invoke superior orders or exceptional situations like war, national security, internal instability, etc. as justification for human rights violations in the form of lure or other cruel, inhuman and degrading treatment or punishment.

Furthermore, Policy induced human rights violations can happen in Nigeria because the Inspector General of Police has been given the power to detain a person by the provisions of the State Security (Detention of persons) Decree No. 2 of 1984 as amended by the State Security (Detention of Persons) Amendment Decree No. 11 of 1994. It is clear from the provisions of the Decree that courts cannot question the legality of (the Detention Order. The Decree purports that even-though The African Union Charter on Human and peoples' Rights has been, domesticated in Nigeria's Municipal laws, its provisions on (The defense of human rights cannot be enforced as a distinct law as such. This is because it is to be subjected to domestic law and ouster clauses.

The Nigerian courts are given powers to endorse 'hard labour' for people taken to prison indicating that it is a policy lapse that encourages human rights violations by putting prisoners to

⁵⁸Rule 342-344 of the Prison Standing Orders.

⁵⁹ Rule 31 SMR Ibid

hard labour. As shown by our findings most of the inmates were put to hard labour while awaiting trial.

4.5.7 Practice-Related Violations

The Standard Minimum Rules and The International Covenant on Civil and Political Rights of 1966 and Article 13(1)⁶⁰ require that detained persons be involved in selecting their national leaders to ensure that they are not entirely forgotten. Furthermore, a statement of the Federal Government Policy on the re-organization of prison service in Nigeria⁶¹ says: “Detainees have a right to participate in the political life of the society, including a right, to vote when he has attained the requisite age, and join political parties, and to have inmates unions in prisons”.

In practice however, the democratic rights of all the prison covered are being violated in this connection since the structural problems of (the prisons covered and the low socioeconomic status of the respondents makes it impossible for the detainees to agitate for, belong to or form association to protect their interests. This explains why they cannot enforce certain rights like the right to vote or join a party of their choice whose leadership may visit them, show them support and offer hope for their release and re-integration. This practice is not in compliance with Article 21⁶² of the Universal Declaration of Human Rights which says “everyone has the right to take part in the government of his country, directly or through freely chosen representatives”.

Section 35(4)⁶³ further provides that any person arrested and is not tried within a period of 2 months from the date of arrest or detention if he is in custody must appear in court for trial. The same applies to a detainee that is not entitled to bail. Besides, the provision also provides for the “release” of a person detained for 3 months without charge from the date of his arrest in case

⁶⁰ Article 13(1) of the African Union Charter on Human and Peoples’ Rights

⁶¹ (FGP/No.1668 (70)/471/750)

⁶² Universal Declaration of Human Rights

⁶³ Section 35(4) of the Constitution of Federal Republic of Nigeria, 1999

of a person detained, but granted bail. However, respondents were denied this right as findings show that 73.9% of the detainees had spent six months and above awaiting trial which is contrary to the above Constitutional requirement. The practice also violates section 340 regarding when bail is to be granted and 42 of the Criminal Procedure Code that encourages speedy trial. The findings further show that length of delay is a function of type of offence. In this respect a detainee while responding to interview questions said: “I fought with my girlfriend. I pushed her and she fell on iron. She had a deep cut. After being admitted into hospital she died later, I was arrested, taken to court once in two years and never again with no bail”. Furthermore, other factors include prolonged detention, poverty, educational attainment, economic status, availability of reliable surety for bail, information on when and where a prisoner is detained, misfortune, but more importantly availability of legal services.

Also, findings indicate that detainees not favored by prison authorities can have their right to legal services violated by conspiracy, the lawyer is told that the detainee has been transferred and since not many lawyers insist on seeing transfer documents, they may not bother to follow up for a case that is monetarily not very rewarding resulting in long duration under detention.

4.5.8 Lack of Bedding Facilities

Another area where prisoners right is violated is lack of bedding facilities, According to the provisions of the Rule 9(2),⁶⁴ “every prisoner shall, in accordance with the local and national standard, be provided with separate bed, and with separate and sufficient bedding, which shall be clean when issued, kept in good order and changed often enough to ensure its cleanliness”.⁶⁵ Contrarily, findings show that 90.8% of the respondents said they were not given bed and

⁶⁴ Rule 9(2) of the Standard Minimum Rule for the Treatment of Prisoners

⁶⁵ Ibid

bedding, indicating that this provision is not respected in the two prisons covered. The failure or inability to respect detainees' rights to decent accommodation is due to the economic realities of the country, bad Government and corruption. As stated by one of the prison officials in Suleja, with the caveat “.local and national standard” benchmark to respect for human rights will be difficult to set as governments can rationalize human rights abuse using the economic realities of a country as a basis. Thus, findings show that beds in nearly all the prisons covered were a luxury as they took space, and the (few available ones had no spring at all or the springs were extremely loose. Although not the case in practice, implicit in the prison regulations.

4.5.9 Poor Medical Facilities

Similarly, Section 30⁶⁶ of the Prison Regulations says “...an infirmary or proper room or place for the reception of sick prisoners shall be set apart in the prison.” Also, Section 32 of the Prison Regulations provides that “...if a prisoner complains of illness to any prison officer, the prison officer shall report the complaint without unnecessary delay to the Superintendent.” However, findings show that the realities of the detainee' experiences are different as they were completely dissatisfied with medical care in the prisons surveyed. The Welfare Officer of the Suleja Prison said skin diseases are the most common illnesses here due to congestion, shortage of water for bath and washing, and lack of items for personal hygiene, it is not seen as a serious malaise to call for hospitalization. Due to poor medical facilities prisoners and detainees do not complain about it, because even if they do nothing will be done about it. The situation needs careful consideration.

The findings further indicate that up to 80.0%⁶⁷ of (the respondents fell ill and lodged a complaint during which the prison health workers treated them with pain relievers and sedatives

⁶⁶ Section 30, Prison Regulation

⁶⁷ Report from questionnaire administered on prison inmates and officials on 4th October, 2016

to make them sleep and forget their problems. This practice, the Welfare Officer of Kuje Prison,⁶⁸ said was necessary because they consider the bulk of the prisoners' problems to be psychological as a result of frustration requiring rest and sleep that sedatives offer. However, prescribing sedatives to almost all ailments constitute drug abuse that results in drug dependence. If care is not taken, the detainees' condition can get worse with probable disastrous consequences while under detention or even after release.

4.5.10 Lack of Necessary Amenities

In addition, another area that prisoner's right was violated was lack of necessary amenities; incarceration conditions that include denial or absence of access to amenities for personal hygiene contribute to the deteriorating health conditions in prisons.

The Standard Minimum Rules for the Treatment of Offenders, Sections 14 and I 5⁶⁹ require the authorities to give detainees appropriate clothing, taking "note of the climate and environment. It is provided by Prison Regulation 31⁷⁰ that prisoners are required to keep themselves clean and decent so that prisoners not exempted by the medical officer shall bathe daily for the promotion of personal hygiene, furthermore, Section 322⁷¹ of Standing Orders says that "Every prisoner will receive 2 ounces of soap for his personal use (3 ounces in the case of female prisoners) and for the washing of his clothes". Similarly, Section 320⁷² of the Standing Order provides that "Every prisoner will be offered a tooth brush upon reception...powder dentifrice will be issued as required. Chewing sticks will be issued as and when required. From practical observation, all the detainees do not get the chance to bathe and change clothes daily;

⁶⁸ In an interview with Mr, Adetuin E, T the Welfare Officer of Kuje Prison, on 5th December 2016 at 1pm.

⁶⁹ Section 14 &15 Standard Minimum Rules for the Treatment of Offenders

⁷⁰ Ibid

⁷¹ Section 322 of the Prison Standing Order

⁷² Section 320, Ibid

and all of them were not provided with soap to bath and wash clothes. For this reason, detainees' bodies were observed to be full of rashes brought about by scratching.

The condition was made worse because cells and the prison environment in general were rarely treated with insecticides and germicides. Furthermore, investigation shows that nearly all of the detainees did not have (the chance of brushing their teeth as required by the Prison Standing Order. It was discovered that for certain security reason, shaving blades, nail cutters and/or razor blades were prohibited. Thus, personal Hygiene dealing with shaving and nail cutting were neglected or made impracticable.

4.6 Non-Classification of Inmates

Prison Regulation 16 provides that people in prison should be separated based on offence type. Although Prison Regulation 24 on inmate classification says accommodation should be offered taking note of age, race, sex, etc., findings show that detainees were not classified according to age. The practice of mixing detainees is endemic due to poor and limited accommodation; and findings reveal that with the caveat “.in accordance with the local and national standard...” and the proviso “...only as far as prison accommodation renders it practicable” the import of the provision gets defeated as shortage of accommodation can be rationalized and mixing detainees of distinct and different backgrounds can happen. To buttress this point, a detainee during Chief Judge⁷³ Parole visit in Kuje prison said:

Because of congestion people have no means of even stretching their legs. Over 219 people occupy a cell meant for 20 people. A single cell can contain 20 people of different offences...you cannot move from one end to another without stepping on somebody. This can lead to a light or punishment from O.C torture, they mix all kinds of suspects due to lack of space.

⁷³ In an interview with I.E. Bello, Abuja High Court Judge on the 5th December, 2016 at 3pm.

Although Section 1 (i) of the Prison Act, intended to decongest the prisons, an intention that will ultimately reduce human rights violations or the potentialities for abuse, provides that in relation to all prisons, (the Chief Justice of Nigeria and other Justices of the Supreme Court shall come as official visitors”, there was practically little use of official visits as mechanisms for prison decongestion. Findings on privacy and visits reveal that in the two prisons covered, prison officials are misusing the provisions of Section 44 (a)⁷⁴Of the Constitution empowering them to breach privacy if it is “...in the interest of defense, public safety, public order, public morality or public health.”

The regime of the prison institution should seek to minimize any differences between prison life and life at liberty which tend to lessen the responsibility of prisoners or the respect due to their dignity as human beings However, findings show that life in prison entails loss of liberty in all its ramifications as adduced by all the respondents. Observation by Amnesty international⁷⁵ regarding liberty in American prisons is that:

From the moment of arrest to the time of release and beyond, prisoners undergo rusticated liberty, humiliation, inner turmoil, racism, violence, monotony, stigma, fear, and anger...we are treated as less human and degraded constantly The discrepancy between policy and practice on human rights stipulations in Nigeria require further enquiry to offer insight as to the socio-economic and political status of victims of human rights abuse.

4.6.1 Physical and Mental Effects of Detention

Additionally, respondents said they suffered deprivations resulting from their detention; and these deprivations culminated in certain physical and mental effects on them. Data show that the physical and mental effects include (elementarily speaking) depression, sleeplessness, loss of appetite and loss of weight.

⁷⁴ Section 44 (a) of the Constitution of Federal Republic of Nigeria, 1999

⁷⁵ Amnesty international Press Release of February 2008.

The data collected show that majority of the sampled respondents (82.5%) experienced depression while in prison custody, a condition not unconnected with confinement, boredom, uncertainty and idleness. Furthermore, findings indicate that the depression items from some of the detainees' worry Unit (they were detained on trivial or even non-existent charges. In (this connection a respondent said:⁷⁶

I was arrested in the night after I had misunderstanding with a friend at a club. I happened to injure him. I was arrested and tortured by the police. I could not bear the suffering, so I falsely confessed. They said since I can stab somebody with a knife, then I must be notorious and among the armed robbers disturbing the area and since then I have been in prison without any formal charges against me.

Another frustrated respondent said he was not supposed to be in detention because he did nothing at all. He said:⁷⁷ "I was just on my way to the hospital. The police arrested me. I know nothing about stealing I have been in prison for a long time no charge against me".

The depressive situation of the detainees was made worse because they were always under lock and key with only 30 minutes for sunlight to avoid deficiency in vitamin D that may result in eye problems for the suspects. Findings further show that the sampled respondents experienced sleeplessness due to their detention. The sleeplessness is attributable to worries, depression, insecurity, fear, congestion/lack of space, filthy rooms, bed bugs and other inconveniencing insects brought about by dirty and improper environmental conditions.

It should additionally be noted that the above variables (depression, sleeplessness, loss of appetite and loss of weight) are inseparable aspects of one another. Thus, a detainee can be adversely affected by a combination or all of the mentioned effects; and these effects are bound to engender or enhance existing human rights violation. Being poor and uneducated (in the

⁷⁶ An interview with Mr. Awaluali Mohammed an awaiting trial inmate in Kuje prison, on 5th December 2016 at 1pm.

⁷⁷ An interview with Mr. Mohammad Ibrahim a convicted inmate in Suleja prison, on 5th December 2016 1;30 pm

Western sense), coupled with prison congestion, the detainees were unable to mitigate the effects mentioned above via reading, writing, watching movies or other social practices (where possible and available) capable of elevating their spirits. Also, their status as detainees that have not been classified might have made matters even more difficult for them

4.6.2 Detentions in Prison over Trivial Cases

Another area of human right abuse is the detention of suspect with trivial offences, prison official's interviewed stated that it was not necessary to detain this class of suspect, they saw no reason for detaining suspects whose cases are trivial (e.g., fighting over girlfriend, failure to greet the village head, etc.) while others are detained only because of missing case files and delays in getting legal advice from the Director of Public Prosecution.

Table: Prison Officials' View on necessity for Detention

Necessity for Detention of suspects with trivial offences	N	%
Detention over trivial offences e.g. theft (whether necessary)	25	62.5
Detention over capital offences e.g. murder, terrorism offences.	15	37.5
Total	40	100.0

From the table above majority of the officials (62.5%) stated that it was not necessary to detain them. In this regard, a respondent said:⁷⁸

...courts concerned have not decided their cases due to prosecutor's or judges' delay resulting from lack of facilities like transportation, stationeries, case diaries, etc... And because the judiciary is not just, cases like armed robbery are hardly tried at all and the police are not fast in their investigation and do not seem to grant bail free of charge

To another official in Kuje prison commenting in the same vein:⁷⁹

⁷⁸ In an interview with Mr. Ado Hussaini an awaiting trial inmate in Kuje prison on 4,5,6,7, December 2016 at 3pm.

⁷⁹ In an interview with Mr. Adetuin, E. T. the welfare officer of Kuje prison, on 5th December 2016 at 3:30pm

...they do not deserve to be in prison custody because most of them if they've money at police stations or court, they will not visit prison...and detaining them will not help because government must spend a lot for their feeding, and welfare...and in most cases their offences are not in line with their charges.

It was in line with the above that one male prison official in Suleja⁸⁰ said this class of suspect should not be detained, he further stated that the only group of suspect that is essential to be detain are suspect with complex cases,

.because their cases are complex, they cannot be disposed of immediately, e.g. Homicide, robbery, rape, drugs, etc. Some of them are repeaters...so nobody wants to bail them and the authorities cannot trust them... and the nation has its laws and order... whenever you violate any you will face trial...also detention is good for it gives room for proper police investigation so that the right judgment could be passed on them.

The respondents that had no qualms with detention were influenced by the professionalism thesis: all alleged offences must be thoroughly investigated and appropriately punished; had the government cared to provide necessary equipment for optimal performance, criminal justice officials would have performed better; were the larger society saner, the justice system would have been sane; and should suspects be left without enquiry, even if human rights were going to be violated, society will be worse off as crime may increase. However, the system should have made ample use of bail to curtail likely violations. On the contrary, findings reveal limited use of bail while processing detainees. Many inmate were granted bail but were unable to use it because of their inability to produce reliable sureties. Some respondents said they were not granted bail because the offences were not billable. To a majority of the prison officials, suspects were usually granted bail unless the offence was not billable or there was a breach of the conditions for bail by suspect(s).

⁸⁰ In an interview with Mr. Danjuma Suleman, the welfare officer of Suleja prison, on 5th December 2016 at 3:15 pm.

In line with this finding, the problem however is that the bail condition are too high, for example requesting for a director as a surety many of the inmate especially those who are not working cannot get director and other very high government official to stand for them, which make majority of the inmate on bail still stay back in prison. In one of the visits of the Chief Judge of federal capital territory to kuje Prison he notice that majority of the inmates were on bail but they were still in prison because they could not meet the condition of their bail. He however, encouraged judges and magistrates that granting of bail with a very high condition for the bail amount to granting bail with one hand and taking it back with the other hand. Bail condition should not be too high so that inmate who is granted bail will be able to make use of it.

4.6.3 Legal Presentation and Court Processes

While being prosecuted in court, legal representation is a right. Where the accused can afford and is interested in getting a lawyer to defend him, he has the right to do so and where he cannot afford one, especially if charged for capital offence, it is required that the government provide him one to defend him as provided for by the law. The data indicate that fair hearing and legal representation were denied to detainees Thus, their rights were being violated because many of them could not get legal services despite their right to be considered innocent until otherwise proved. This contravenes Article 10 of the Universal Declaration of Human Rights which to the effect, “Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.” Furthermore, lack of fair hearing and legal representation detract from the provisions of Section 36 (c) of the Constitution of the Federal Republic of Nigeria 1999 that provides that whenever a person is charged with a criminal offence, he shall “defend himself in person or by legal practitioners of his own Choice.”

4.6.4 Conditions of Prison Detention (Leaking Roof in Suleja Prison)

Another area of violation is the condition of the prison, while in prison detention the detainee is entitled to certain things as a matter of right: food, medical care, prison sanitation, good accommodation, bed and bedding, personal privacy and visit by family members. In prisons the conditions are bad;⁸¹ no food, sporting facilities, and good counseling services. The condition of the prison where inmates are kept is a violation of their right for example it was reported recently Suleja prison roofs are leaking, when it is raining season this inmate will be exposed to cold this is a clear violation of their right to good accommodation⁸².

4.7 Problems in Kuje Medium prison and Suleja Prison

The state of the criminal justice system in Nigeria is chaotic making it increasingly an avenue for human rights violation, and irrelevant in the reformation and rehabilitation of offenders. Even though all the criminal justice agencies are beset with problems, their problems become more pronounced when an accused has appeared in court to answer the charge against him/her, and it has been decided that pending the conclusion of the trial,⁸³ he should be remanded and not bailed. Also, there are some suspects, who, though granted bail cannot fulfill the requirements for bail and would, therefore, have to remain in prison. This explains why the “untried prisoners” have become a sizable number of prisons’ population in Nigeria. The situation is believed to be worsened by delays in trials which have led to the inability of the prison authorities to respect laid down rules that, for instance, awaiting trial inmates, should be kept separately from convicted prisoners his family should be promptly informed of his detention, he should be allowed communication with his family, he should be allowed free

⁸¹ Gyong, J.E (1994) *“The Neglect of Victims of Crime: A case Study of Kaduna State”* Unpublished PhD thesis submitted to the Department of Sociology, A.B.U Zaria, p.44

⁸² In an interview with Mr. Anthony Rilwan, at Kuje Prison December 7th 2016 at 1am.

⁸³ Ibid

access to legal assistance, particularly his own lawyer, where he already has one; and he should be guaranteed fair hearing. These requirements are hardly met and it is because of this and the general deplorable condition of Nigerian prisons that many Non-governmental Organizations became interested in the matter. Prisons have continued to be garbage bins of society, and the decibel-volume of their voices is increasing without proper attention given to them.

The following are the problems, confronting Kuje and Suleja prisons⁸⁴.

1. Overcrowding: From the chat above, it is noticed that the two prisons are housing more than their capacities. It was reported by National Human Right Commission in 2016 that,⁸⁵ Kuje and Suleja prisons are overcrowded, because the prisons house more inmates than their capacities and the inmates have one common attribute (they are poor) as rich are hardly found in prison either as detainees or convicts because they use their money to avoid it. Moreover, they can pay imposed fines and get good lawyers, to show how the prisons are congested. Due to congestion, the prisoners sleep in batches especially in Kuje prison. In the course of our survey, a respondent in Kuje medium prison said: “my cell is called Egypt, we are 219 in number we sleep in batches, we have 3 batches in my cell, and other cells have 4, even 5 when there are many prisoners. When it is time to sleep, we all make space for the first batch. We stand at one end of the cell or sit. Some of us sleep while standing, but you do not lie down”. Only the batch lies down. After four hours, they get up. And we lie down to sleep. After four hours, we get up, and the third batch will sleep.⁸⁶
2. There are no functional vehicles for the movement of detainees and convicts. This creates a big problem especially when inmates are going to be moved from one prison to another

⁸⁴ Report from Kuje and Suleja Prison, Ibid

⁸⁵ In an interview with Mr. Ifeanyi John, an inmate in Kuje Prison on the 14th November, 2016 2.30pm

⁸⁶ In an interview with Mr. Bright Samuel, at Kuje Prison August 17th 2016 at 3pm.

or when they are going to be taken to the hospital. It also worsens detainees problems when they are going to be taken to court for hearing⁸⁷.

3. The prisons face the problem of inadequate staffing, which necessitate mounting beats by one person. This makes it impossible to satisfy the United Nations requirement for inmate/staff ratio of 1:3. Also, when food is going to be taken to some sick inmates in the hospital (when the need arises) staff have to be borrowed from other beats that are mounted by two warders, and in this situation two or more beats are left to be manned by one person.⁸⁸
4. The prisons do not have power-generating plants, which makes surveillance at night difficult, and increases the insecurity prevalent in total institutions like prison. The problem has become worse with the collapse of National Electric Power Authority (N.E.P.A).⁸⁹
5. Another serious problem is shortage of water for the use of people in the prisons. This problem becomes compounded due to poor performance of the state water board and or when workers are on strike. The prisons lack reliable bore-holes and the wells are not hygienic enough. Since there is congestion in the prison shortage of water has the potential of generating diseases because of the prisoners' inability to maintain personal and environmental hygiene. It was gathered from the interview conducted with inmate⁹⁰ that it was lack of water that course the prison break in Kuje which led to the death of inmates and staff.

⁸⁷ Ibid

⁸⁸ Ibid

⁸⁹ In an interview with Mr. Akilu Abdullahi Deputy Controller of prisons at Kuje Prison October 16^h, 2016 at 10am.

⁹⁰ In an interview with Mr. Solomon Yakubu an awaiting Trial inmate at Kuje Prison December 14th, 2016 at 11am

6. The prisons lack watchtower, which can enable the warders on beat to effectively monitor happenings in the prison. Absence of the tower renders the warder [s] on beat ineffective if not incapable during raining season or winter because they may have to go and squat elsewhere.
7. There is the problem of poor/lack of communication equipment in the prison because there are no such communication networks as telephone, inter-com, and walkie-talkie, and so on, to assist in linking the different wards with the prison officials. These make communication impossible, especially when the warder on beat is alone, or are few late in the night. The welfare officer in Kuje prison stated that even when there is telephone, provision is not made for airtime in the phones which make it impossible for inmate to communicate with their relation or lawyer as the case may be, he also stated that some time out of sympathy he allows inmate to call with his personal phone but that he can no longer do that because salary has not been paid at the time of conducting this interview.⁹¹
8. Another problem relates to the few personnel posted as Prison Armed Squad to engage in surveillance duties around the perimeter walls of the prisons. This increases insecurity and risks in the prison especially when there is prisoners uprising⁹².
9. The prisons suffer from shortage of mechanical restraints like handcuffs, leg chains, gang chains, etc., a situation that is worsened by congestion.⁹³
10. The prisons are practically congested making a bulk of the problems mentioned above to remain so. This problem is compounded because of wrongful arrest, delay in trying cases,

⁹¹ In an interview with Aliu Usman, the welfare officer at Kuje Prison 29th August 2016 at 11: 30am

⁹² ibid

⁹³ ibid

unnecessary court adjournment, prolonged investigation, lack of witnesses, inability to obtain bail, and so on.⁹⁴

11. The prisons suffer from inadequate buildings and shortage of space to erect more buildings to house the inmates (both convicted and awaiting trial) and provide offices for the prison officials. The available structures are not well renovated and maintained as some roofs are leaking and buildings cracked as evidenced in some wards observed in Suleja prison. This is why inmates are crammed in one cell, which is suspected to assist in spreading communicable diseases; it is also said to encourage homosexuality, which could spread Sexually Transmitted Infections (STI) and even HIV.⁹⁵
12. There are numerous problems facing the Nigerian youth in general. These problems include lack of educational opportunities and unemployment, which motivate some youth to get involved in crime resulting in their arrest and eventual detention in the prison. It was observed that, majority of those detained in the prisons are youth in their mid-20's and early 30's, which may be attributable to the promotion of gerontocracy in Nigeria.
13. In the prison there are facilities for religious worship. However, sporting and other recreational facilities like football, table tennis, loud cards, etc. are grossly inadequate. And the library services are extremely poor.⁹⁶
14. Suleja prison is located in the center of the town due to development, which gives the prison officials problem in effectively providing security to the prison⁹⁷.
15. Delay in the Dispensation of Justice: another major problem notice in the course of the research is the delay in the dispensation of justice; it was crystal clear in the analysis from

⁹⁴ In an interview with Mr. Akilu Abdullahi, Deputy Comptroller of Prison on 20th October, 2016 at 10am.

⁹⁵ Ibid

⁹⁶ In an interview with Mr. James Idoko at Kuje Prison 14th December, 2016 at 3:30pm.

⁹⁷ In an interview with Emir of Suleja at Suleja Niger State October 5th, 2016 at 2pm.

the preceding section that more than 65% of the total numbers of inmates are awaiting trial persons. The administration of justice is directly responsible, inadequacy of courts and supporting staff coupled with lack of equipment cause overcrowding. The influx of people into cosmopolitan cities is not matched with increase of court buildings. Information technology is completely nonexistence. Cases are hand written without case flow management. Some magistrates and judges are lazy and incompetent, no refresher courses and on the job training, while some are not committed and adjourned cases because of flimsy excuses coupled with legal practitioners who come ill-prepared only to apply for an adjournment.

16. Another dimension to this problem is over reliance on pre-trial detention by courts, especially magistrates over indulged in remand orders, accused persons must be sent to prison at all cost on every trivial and minor offences, difficult bail conditions. The indifference of the court secretarial staff whose duty is to compile record of proceedings does not help matters. Magistrates and judges are frequently transferred to different jurisdictions cases affected in this process are to start from the beginning by the new judge⁹⁸. Criminal Procedure Law of Lagos State Section 419 requires the investigating police officers to procure “disputed documents, specimen hand writing and signature to be examined and analyzed in the laboratory”. In cases involving possession of ammunition, cartridges have to be sent to a ballistic laboratory and requiring a ballistic expert, it takes a minimum of a year before the criminal case could be ripe for hearing. However, the Chief Judges of a state and the federation who are empowered to conduct jail or gaol delivery hardly release inmates who have over stayed without trial, juveniles in prison, and over aged prisoners. Prisons in urban centers continued to be overcrowded

⁹⁸ Amnesty International Press Release Of February 2008, Op.cit, p.110

without any effort to transfer inmates to some other prisons with enough space or for appropriate treatment. lack of legal assistance to indigent persons; delay by the Ministry of Justice in giving legal opinion and shortage of staff in the Legal Aid Council in Nigeria to adequately render legal assistance to the poor who cannot afford the services of private legal practitioner orors is one reason responsible for congestion in prisons covered,⁹⁹ Apart from these, a critical examination of the rate of incarceration in the Nigerian prisons justifies this position. About one fourth of the population are interned for the offence of stealing without causing harm, 50% of which are sentenced, for offences for a period less than 2 years, there are juveniles, over aged, civil lunatic, children, nursing and pregnant mothers in Nigerian prisons which buttress this position. But never the less, there has been increase in criminal activities, drugs trafficking, kidnapping, child trafficking which has Contributed to overcrowding but this is due to the deteriorating economic situation, behaviors, such as Arson of public building, Damage to public property, electric cables, oil pipelines vandalism, tempering with telephone wires, forgery and false pretense, cybercrime, prostitution, wondering, disrespect to parents, aiding and abetting and conspiracy to commit any of the mentioned offences. It cannot be gain said that, criminalizing offences such as vendor selling on the street, crossing the road, improper dressing, wondering, in which the police arrest and remand has tremendously contributed to prisons population.¹⁰⁰

Efficiency and effectiveness, of prison as an avenue for inmate correction and rehabilitation in Nigeria, From a philosophical viewpoint punishment via imprisonment is expected to offer general as well as special prevention to the victim and society in general which

⁹⁹ ibid

¹⁰⁰ ibid

are yet to be seen in Nigeria. Goodstein and Mackcinc¹⁰¹ believe that the multitude of problems permeating prisons encourage their current privatization or what they call proprietary prisons- these are secure confinement facilities that are managed by privately owned companies, under contract to government.

The practice that is promoted by American capitalism is negative to correction and quite irrelevant to countries like Nigeria and Africa in general. Many commentators see no end in sight of using prisons for punishment, some argues that imprisonment was seen as worthwhile due to its capacity to withdraw and isolate the offender from the larger society; thus it was very much associated with the denial of human rights and fundamental freedoms¹⁰². While some stated that imprisonment is used around the world which creates a vacuum for purposive and enforced punishment. With the passage of time imprisonment came to be seen as not an end but rather as a means to an end (i.e., rehabilitation and reformation). The current trend globally has demonstrated the incapacity of prisons to achieve these ends due, largely, to their being avenues for gross human rights violation typified in poor prison conditions¹⁰³.

The grim realities of the Nigeria's criminal justice system informs the current famous advocacy for penal reform with a view to evolving new methods of punishment, away from a system that is stagnant, disproportionately class based, parasitic. According to Adeyemi¹⁰⁴ the instrument of punishing offenders in Nigeria, especially prison, lacks both dickens and reformative value, it is psychologically, physiologically and emotionally destructive, it has

¹⁰¹http://www.osf.org.za/File_Uoloads/docs/Offender-Reintegratioi>Coiiference-Report4.pdf last visited November 12, 2017

¹⁰² http://www.osf.org.za/File_Uoloads/docs/Offender-Reintegratioi>Coiiference-Report4.pdf last visited September 4, 2017

¹⁰³ ibid

¹⁰⁴ Adeyemi A.A., (2000) *Towards Victim Remedy in Criminal Justice Administration in Nigeria*, University of Lagos press, p.125

become very costly to the economy; it is socially damaging, it is culturally abhorrent, and it is Penalogically disastrous.¹⁰⁵

4.7.1 Condition of Kuje and Suleja Prison Staff

The Nigerian prisons personnel have a civil service status and enjoy "security of tenure subject to good conduct". The prison service is channeled as a professional career a standard set out in the rules of the United Nation Minimum Rules. The working conditions of prison personnel is deplorable, uniforms are mostly procured by the warders. Communication and transport and communication equipment is inadequate, no car loan except for few senior officials cadre. Accommodation is a problem, there is no prison barracks in most prisons, warders are forced to live far off from prisons, making it difficult to be punctual to work, few accommodation provided are obsolete and dilapidated which are preserved for senior officers.¹⁰⁶

The remuneration is poor; the take home basic salary is so meager, that the welfare of warders is compared to that of prisoners. This makes it hard to accomplish the reformation, rehabilitation and reintegration of offender. Staff mobility is very poor, promotion is solemnly given which revolves around staff with God fathers to lobby for them. A warden can remain in a particular rank for more than ten years without promotion and refresher courses thus making staff development low key. The combination of these inadequacies dampens the morale of Nigeria Prison staff resulting to, dereliction of duty and indiscipline.¹⁰⁷

4.8 Poor Administration of Prisons within the Federal Capital Territory

Most significantly, recalling that one of the fundamental social functions of prison is to treat and rehabilitate prisoners. Realizing too that prisoners sent to prisons would ultimately

¹⁰⁵ibid

¹⁰⁶ In an interview with Aliu Usuman, the welfare officer at Kuje Prison 7th November, 2016 at 11: 30am

¹⁰⁷ ibid

return back to society.¹⁰⁸ The Nigerian prison personnel lack the requisite competence and have woefully failed in its responsibility. The criminal justice system has no commitment to develop and sustain programs which will assist offenders re-enter the community and live a worthwhile, self-reliance and life free from crime. There is no effective “after care” programs, the society is hostile to released prisoners; above all, stigmatization had led to re-offending and re-arrest. According to Justice for All Report in 2016, it was observed that is reluctant to assist the department in its programmes of rehabilitation and reintegration and it is therefore difficult for ex-offenders to be employed, to get loans and to get meaningful support from their families and community in prison “suppresses correctional institutions and tasks its ability to provide basic needs” in facilities like health care, “food” and accommodation.¹⁰⁹

It equally undermines rehabilitation programs, vocational and educational training, and recreational activities”. It also violates the basic rights of prisoners such as “right to an adequate standard of living and highest attainable standard of physical and mental health”. Overcrowding condition results to physical and mental problems and creates room for self-infliction of injury, high risk of contracting HIV/AIDS, Tuberculosis, respiratory tract infections, Asthma and other communicable diseases due to “poor hygiene and poor medical care¹¹⁰”.

Overcrowding create acute accommodation problems, inmates scramble for space, making classification of inmates a mirage. It turns to where there is available space, without bed and beddings, ventilation, excessive lock up without time for recreational activities or contact with family members and friends. Overcrowding apart from causing strain and stress, prisoners' are fed with poor diet, due to influx of persons in prison, inmates struggle for any available food,

¹⁰⁸ Gyong, J.E (1994), Op.cit,142

¹⁰⁹ http://www.osf.org.za/File_Uoloads/docs/Offender-Reintegratioi>Coiference-Report4.pdf last visited November 12, 2016.

¹¹⁰ ibid

malnutrition is prevalent. Poor nutrition and sanitation make body resistance to disease impossible leading to "high death and morbidity rate" in Nigerian prisons without a reliable medical care. Cells are poorly ventilated, no toilet facilities, most cells have pit and bucket as toilets without bath rooms, which have been converted to rooms, few beds without beddings. In the awaiting trial cells, no mattresses, beds at all are provided; inmates have to sleep on bare floor or use cartons and mats. As a result of congestion beds are considered as occupying space and inmates have to sleep "one head up and one leg down". In this situation, inmates bath and defecate openly without any privacy.¹¹¹

While some prisons, tanker supply water to inmate which is not regular, and the toilet dirty and stinking without water. Tissues, soap and disinfectants are not provided and inmates are shabbily dressed, uniforms are not supplied to awaiting trial persons at all, and few sentenced prisoners are provided with old uniforms. Literacy level is very low, prisoners are twenty three hours locked up for security reasons, some in dark and solitary cells, no time for recreation, vocational and educational training is so limited. Prisons staff is over strained with high population to contain with, there is little or no time to treat or rehabilitate the prisoners. In such situation, inmates are idle resulting to frustration, "uncertainty", "interpersonal conflict" and "violence"; especially in cases of juveniles mixed with adults result to assault, suicide, rape and sexual exploitation.

4.8.1 Effect on Prison Management

Overcrowding causes strain and over stretched prison facilities, affects prison management to a level of undermining 'international human rights standards, it questions the competence of Prisons management to effectively "provide basic needs for the prisoners" such as classification, balance diet, sanitation, safety environment and addresses educational needs in

¹¹¹ ibid

which most prisons are found wanting. It hinders prison officials from addressing the special needs of vulnerable prisoners like mentally ill, children and pregnant women, nursing mothers, juvenile and old prisoners. Overcrowding creates unsafe working environment for prison personnel due to deteriorating facilities over stretched by overcrowded prisons, leading to "disciplinary infraction," violence, riot and assault. It exposes prison staff to infectious diseases and breed corruptive tendencies by officers to extort money from prisoners to provide basic needs like food, water, space and overcrowding issues in prisons.¹¹²

4.9 Essence and Nature of Prison Discipline in the Selected Prisons

The nature of discipline in the two prisons visited in the course of this research is solitary confinement, about 60 % of the inmate interviewed in the course of this research said they are aware of the existence of isolation cells in the prison, but has never been in it. While 40 % said, they are aware of the existence and they have also been there. A female inmate in Suleja prison interviewed said she has been sent to the isolation cell and that she was the only one in the cell, the experience was horrible and I felt bad, because there is no toilet, no bed, and bedding facilities in the isolation cells. The entire inmate who has been to the isolation cell said they slept on the floor and that the cells have no light and has no windows. Some of the inmates interviewed stated that they were sent to solitary cell because of space constraint, a condemned convict is regularly put in solitary cells, which according to the Prison Act,¹¹³ is a violation of the right of that inmate and the cell is meant for convicts serving punishment.

In Kuje Prison the prison authorities said arrested members of the Boko Haram sect are regularly sent to the cell;¹¹⁴ even when the Constitution of the Federal Republic of Nigeria still presumed them to be innocent until they are prove guilty. The female inmate interviewed also

¹¹² <http://www.globaldetentionproject.org/laW/legal-frames/principles-guidelines.html>

¹¹³ Section 17, Prison Act, Cap. P29 of the Laws of the Federation of Nigeria, 2004

¹¹⁴ Report from Kuje and Suleja Prison.

stated, that most of the sexual harassment that happen in prison is in the solitary cell by male prison official, because no one is there, and that the sexual act is without their consent, the inmate who are victims of sexual abuse stated that it is difficult to report these incidents immediately,¹¹⁵ either, written or verbally, to any agency member or medical personnel, because prison official in the act will make life difficult for you after the report, and Medical personnel who are supposed to get the report and arrange for treatment and counseling for the inmates involved may never be aware of the act since the inmate has been threatened never to report. Since the inmate fails to report there is no criminal charge against the perpetrator(s). This act is a clear violation of the prisoner's right, and it is against the Prison Rape Elimination Act of 2003, that protect inmates from sexual abuse and staff sexual misconduct, the Act also ensure proper investigation of any claims of sexual abuse, and ensures that those who perpetrate Staff Sexual Harassment are dismissed from the Nigerian prison service.

The Act also, ensures proper investigation of any claims of sexual abuse, and those who perpetrate it are punished. This practice is also against Rule 45 of the Standard Minimum Rule which prohibits the use of solitary confinement, except as a last resort, and for a short time as possible, subject to independence review.

4.10 The Role of Non-governmental Organizations and Churches in Prisons

Both NGOs and Churches actively work inside and outside the prison to compliment the Nigeria Prison service which has the oversight function of keeping in safe custody, rehabilitate, and reintegrate offenders back to the society¹¹⁶. NGOs engage on programmes depending on their mission statement. They embark on educational and vocational training and render other services. The Governor General and the Director of prisons were empowered to make regulations

¹¹⁵ Ibid

¹¹⁶ Oguogho, M.J. (1992) *The Nigerian Church and Human Rights*, being a report of a workshop organized by the Human Rights Committee, of the Ijebu-ode Anglican Diocese 29 to 31 of October 1992.

and standing orders under sections 7 and 8 of the 1916 Prisons Ordinance. The first were made in 1917 and revisited and published as legal notice No. 17 of 1955.¹¹⁷

An Appraisal Report on the Human Right support services like aftercare of prisoners and ex-prisoners, this is to rehabilitate and re-socialize offender and prevent recidivism.¹¹⁸ Some NGOs take up specialized roles in prison such as protecting prisoners' rights, juveniles, women and health issues and some do so to decongest prison overcrowding and conditions of detention. Churches on the other hand provide both physical and spiritual wellbeing for prisoners through individual and group counseling for reformation, change of attitude and behavior.¹¹⁹ Some churches provide food, clothing, reading materials and condom to prevent transmission of HIV/AIDS and other transmittable diseases¹²⁰. There are pastoral and catholic ministries in prisons, preaching to recover lost souls. Prison Fellowship of Nigeria has designed "ones Imus project" which is to give hope, self-esteem and recover life for prisoners and ex-prisoners. Though it has not taken off, it is hope to provide life skills and job placement for effective 'transition back to main stream society.'¹²¹

The Nigeria prison service is one department of the criminal justice sector that has suffered from century neglect. Most prisons-facilities were built by colonial administration and native authorities before independence in 1960 with dilapidated infrastructure. Those constructed by federal government were built with inferior materials in the same state of disrepairs without renovation. Prison inmates are confined in the most appalling and inhumane conditions without neither access to justice nor special provision to vulnerable groups like juveniles and pregnant

¹¹⁷ http://www.osf.org.za/File_Uoloads/docs/Offender-Reintegratioi>Coiference-Report4.pdf last visited November 12, 2016.

¹¹⁸ Justice for All Report January 2016, Abuja

¹¹⁹ ibid

¹²⁰ http://www.globaldetentionj3roject.org/laWlegal-fram_principles-_guidelines.html last visited on the 2 May 2017

¹²¹ http://www.globaldetentionj3roject.org/laWlegal-fram_principles-_guidelines.html last visied 3rd June 2017

women. The prison staff are badly affected by this neglect without job motivation, promotion and refresher courses. The 1945 Prison Ordinance and its accompanying regulations have not since been reformed. The role of NGOs and churches in prisons is yet to attract attention on job creation and placement for ex-offenders and little has been done on restorative justice and community service programs. It is recommended that the prisons should be renovated to give humane treatment to inmates, prison personnel be adequately motivated and education, providing education and life skills is to enable offender live a fulfilling life and contribute to the society instead of going back to criminal activities. Prisoners' Rights and Welfare Action "PRAWA"¹²² work to rehabilitate and provide after care services, Society for the Welfare of Women Prisoners "SWEWP" work specifically for women prisoners, Constitutional Rights Project "CRP" work to decongest prison population through litigation and criminal law reforms, Human Right Law Service "HURILAWS" equally work to decongest prisons and instigate criminal reforms, and counseling was considered as a tool to empower prison inmates to change their thinking. the Nigerian NGOs and churches should learn their lesson from their counterpart not to provide temporary measures but proactive toward treatment of prisoners the challenges confronting these organizations towards achieving the set goals of rehabilitation, offender-victim reconciliation, reintegration back to society and community service option as alternative to imprisonment. It is necessary for a proper assessment of the role played by this organization.¹²³

There have been no consensus on what the term Civil Society connotes, a working definition adopted by London School of Economics Centre for Civil Society refers to Civil Society as a diversity of spaces, actors and institutional forms, varying in their degree of formality, autonomy and power. Civil societies are often populated by organizations such as

¹²² Prawa report on Prison, May 6th 2016

¹²³ http://www.osf.org.za/File_Uoloads/docs/Offender-Reintegratioi>Coiiference-Report4.pdf last visited November 12, 2016.

registered charities, development non-governmental organizations, community groups, women's organizations, faith base organization, professional associations, trade unions, self-help groups and social movement, coalition and advocacy From this definition the word civil society could be used interchangeably as either nongovernmental organization NGOs, Faith base hereafter referred to as “FBO” or community base organizations hereafter referred to as “CBOs” depending on the context, they enjoyed enormous independence quiet distinct from government and operate both in developed and in developing countries providing social services and improving the quality of life depending on the level of operation.¹²⁴

Some function mainly in the grass root, there are also national organizations operating in the whole country while some are internationally based providing services in more than one country. Civil Society Organizations and non-profit organizations, which played a pivotal role ranging from policy formulation to rehabilitation and restorative programming.¹²⁵ The creativity of Civil Society Organization and NGOs in addressing overcrowding is perhaps premised on the notion that positive intervention is essentially for treatment of prisoners, attend to offender unique needs and rehabilitate offenders which ultimately reduces the likely possibility to recidivate. Thus preventing ex-offenders from going back to criminal behavior, this has the potential effect of reducing the number of persons sent back to prisons.¹²⁶ It is predicated on this that the Civil Society and Non-governmental Organizations within the Federal capital territory continued to be engaged on educational, vocational training, life time skills, job counseling and job placement programs to persons and families affected by imprisonment to ensure a smooth transition from prison back to free society. The essence is to give the prisoner skills and abilities

¹²⁴ <http://www.globaldetentionproject.org/laW/legal-frame-principles-guidelines.html>

¹²⁵ Ibid

¹²⁶ Amnesty International Press Release Of February 2008, Op.cit, p. 44

that are self-sustaining to lead a fulfilling life, free from crime and positively contribute to the community to which he returns.¹²⁷

The social role of civil society and non-governmental organizations are complimentary and where necessary fill the void created by inadequate programs by correctional institutions which has the statutory responsibility to custody rehabilitates, re-socialize offenders and ensure public safety. Thus where prisoners could not participate in programs offered by prisons, they could readily attend those offered by Civil Society and Non-governmental Organizations. It is equally documented that some prisoners prefer programs offered by non-governmental organizations which is said to be more effective in rehabilitation and reintegration process of offenders. The rationale is that most CSOs programs are designed and operated in a free community. In CSOS America provide both post and pre-release educational training and both work for offender re-entry back to society.¹²⁸

Both NGOs provide job counseling and job placement, It provides startup capital for participants through (NACRO Finance Enterprise (NFE) and Economic Opportunity Project (EOP) began in 1998 arrange a visit once a week to establish family contact; restore self-esteem and hope to offenders; give drugs abuse, anger and stress treatment.. CSPRI had stimulated the use of noncustodial sanction as alternative to incarceration but are beset with myriad of challenges; funding and capacity building “constitute the major challenges; most NGOs depend solely on donor agencies without government support, Lack of accommodation and space in Correctional Institutions hinders the activities of CSOs and NGOS in prisons. Most prisons facilities do not have a conducive functional environment with space enough to enable CSOs

¹²⁷ Ibid

¹²⁸ Cure (2015) *Human right of prisoners and the Role of Non-governmental Organizations and Churches*, A pamphlet produced by Prison Rehabilitation and Welfare Action and the Federal Ministry of Justice, printed by Silver Digital press Enterprise, Abuja p.44

embark on elaborate rehabilitation programming and the obscured nature of prisons hinders prisoners from benefiting from programs designed outside the prison except those released. These programs lack coordination and structure, there is a problem of access to prison access to penal institutions by CSOs, NGO and FBOs making most of them not to be critical of correctional activities, this pose an enormous set back coupled with the 'tax attitude of society'.¹²⁹

Concluding this chapter, Civil Society Organizations embraces other organizations working on promotional activities distinct and independent from government. Nigeria is blessed with many CSOs, and NGOs, who actively work both inside and outside prisons on diverse areas such as health, pregnant women, juvenile, re-offenders, drug addicts and a host of other issues in reducing prisoners' rights violation, They utilized various methods. While some are research based others are rights focus with litigation as its tool, some as well are advocacy center, policy initiators and those lobbying for criminal justice reform.

All these groups engage on programs and projects gearing towards rehabilitation with programs that customizes individual needs; re integration; community services and suspended sentences as alternative to imprisonment; restorative justice- focusing on victim/offender reconciliation and restitution; crime prevention through moral and spiritual rebirth to reduce recidivism and abrogation of mandatory minimum legislation on the notion that if less persons are sent to prisons and offenders sentenced for lesser period prisoners rights violation will be minimized. It is perhaps strongly suggested that there should be a powerful partnership and collaborative effort between correctional institutions and these organizations for effective net working to minimize prisoner's rights violation in prison.

¹²⁹ PRAWA (2015) *prison and Penal Reforms Fact –sheet* , A pamphlet Dealing with reforms produced by Prison Rehabilitation and Welfare Action, p. 5-26

4.10.1 Untapped Potential of Alternative Sentencing

A custodial sentence is a judicial sentence, imposing a punishment consisting of mandatory custody of the convict, either in prison or in some other closed therapeutic and/or, educational institution, such as a reformatory, maximum security, psychiatry or drug detoxification facility¹³⁰.

It is an established fact that the major forms of sentence readily used by Nigerian magistrates and judges are imprisonment or fine without the alternative of imprisonment.¹³¹

“The goals of imprisonment which are treatment and rehabilitation, including the provision of vocational and educational training for incarcerated convicts are articulated largely as theories and unimplemented”. While imprisonment is necessary in many cases involving violent offenders, it does not constitute an absolute solution with regard either to crime prevention or to the social reintegration of offenders. The problems associated with our prisons before the reforms that started in 1999 are yet to be eradicated. Such problems have been well documented by penologists as including, deplorable situation in terms of treatment of prisoners, the structure and operations of the prisons, the state of prison staff, the profile of the prison service, inadequate funding, overcrowding, high rates of awaiting trial population, lack of speedy trial, high prison mortality rates, poor feeding/clothing and sanitary conditions, poor complaints and disciplinary procedures, torture and gross human rights abuse of prison inmates, lack of adequate rehabilitation/reformation and resettlement activities for inmates to reduce re-offending behavior.¹³² There is an almost unanimous agreement amongst penologists, criminologists, prison welfare officers and human rights workers that the prison has failed in its assigned tasks of

¹³⁰ <http://www.globaldetentionproject.org/laW/legal-frames/principles-guidelines.html> last visited July 26, 2017

¹³¹ Odekunle, F (2000) “Cost Benefit Analysis of Alternative to Imprisonment” A paper delivered at a two-day workshop, organized by PRAWA, July 1st 2000, Abuja.

¹³² Champion .D.J (2002) *Probation, Parole and Community Corrections*, by prentice Hall International press p. 25

identifying sources of anti-social behavior, reforming offenders into useful citizens in a free society, keeping prison inmates in safe custody and helping to reduce the incidence of crime in the society.¹³³

Alternative sentencing options are assumed to be more restorative in nature, perhaps only because they are less retributive than imprisonment. The use of non-custodial sanctions and measures has been acknowledged as one of the most effective methods of encouraging social reintegration. In Nigeria, the most frequently used non-custodial sentence is fine. Despite the numerous non custodian rules mentioned by Tokyo Rules which include the following; Overview of the UN Standard Minimum Rules for Non-Custodial Measures (The Tokyo Rules) Non-custodial sentencing dispositions mentioned by the Rules are as follows:¹³⁴

- i. Verbal sanctions, such as admonition, reprimand and warning,
- ii. Conditional discharge
- iii. Status penalties;
- iv. Economic sanctions and monetary penalties, such as fines and day-fines;
- v. Confiscation or an expropriation order;¹³⁵
- vi. Restitution to the victim or a compensation order;
- vii. Suspended or deferred sentence;
- viii. Probation , judicial supervision, or Community service order
- ix. Referral to an attendance Centre , House arrest;¹³⁶

Some combination of the measures listed above, may also be used. Universally, imprisonment is still the cornerstone of penal systems. Despite- its wide use, its drawbacks both

¹³³ *ibid*

¹³⁴ Rule 8, of the Standard Minimum Rules for the Treatment of Prisoners

¹³⁵ Rule 17 *ibid*

¹³⁶ Rule 15(1) *ibid*

to the offender and society have become increasingly recognized and a search for alternative/non-custodial sanctions has been conducted for more than one century.¹³⁷ Prison congestion with its attendant negative aspects is a problem in most nations of the world including Nigeria. However, developed countries realize the great danger this situation portends and they do all within their means to curtail the situation. Our judiciary has over the years, relied very heavily on imprisonment and fine as sentencing measures almost as if no other disposition measure is available for their application. While some jurists blame this on the absence of any clear sentencing policy in the criminal legislation/ others believe that there is a sentencing policy embodied in the law, which although may appear to be deficient in detail, needs to be made more comprehensive and definite in terms of imprisonment to be imposed in any given circumstance.¹³⁸

The absence of a clear policy on sentencing is evident in the failure of the state to provide infrastructural support or most of the other sentencing options available in the statute books. The result of the absence of a clear sentencing policy in Nigeria is the over reliance on imprisonment, leading to prison congestion, which is a major problem bedeviling our criminal justice system.¹³⁹

Non-custodial alternatives to imprisonment have been recognized as an effective means of treating offenders within the community to the best advantage of both the offenders and society¹⁴⁰. If appropriately applied they, facilitate the social reintegration of offenders within the community rather than subjecting them to the unnecessary de-socializing and harmful effects of

¹³⁷ <http://www.globaldetentionproject.org/laW/legal-frames/principles-guidelines.html> last visited 23 rd july 2017

¹³⁸ PRAWA (2014) *Prison and Penal Reforms Fact –sheet* , A pamphlet Dealing with reforms produced by Prison Rehabilitation and Welfare Action, p.22

¹³⁹ Ibid

¹⁴⁰ Othmani, A.O.(2000) *Alternative to custody in Giving Balance to the Justice System for Victim, offenders, and society*, by National Human Right Commission, Penal Reform, and Prisoners Rehabilitation and Welfare Actions, Abuja 8-18th February 2015.

prison'. It addresses all of the aims of traditional incarceration -including retribution, reparations, deterrence, and incapacitation in addition to rehabilitation. Some of the measures imposed may include a condition to undergo treatment for an addiction, while others may include referral to an educational or personal development Centre, or oblige offenders to undertake unpaid work beneficial to the community, on the understanding that, as well as being penalized, they are acknowledging and repaying the damage they have caused to the community by committing an offence. They may also be required to pay compensation or make restitution. Research has shown that most victims of crime in Nigeria prefer restitution and compensation by their victim to imprisonment or fine.¹⁴¹

¹⁴¹ *ibid*

CHAPTER FIVE

SUMMARY AND CONCLUSION

5.1 Summary

This study is divided into five chapters. Chapter one is the introductory chapter that introduces the work, states the problem, defines the scope of the research, reviews the available literatures in the field and the justification of the study.

In chapter two key terms that occur and reoccur in the Dissertation are defined for instance, human rights, inmates, Prison, etc. The dissertation examined whether or not prisoners in Nigerian prison suffer any deprivation in terms of their basic needs within the context of human rights provisions and also examined the custodial right and alienable rights or safeguards guaranteed to an offender under the 1999 constitution and other instruments in relation to post-trial rights, Such right include; the right to life, the right to dignity of human person, right to food and regular feeding, decent clothing, access to medical and health facilities etc.

Chapter four focuses on the history of Kuje Medium Prison and Suleja prison. It discusses the origin, establishment of prisons, the capacity of the prisons, and the challenges that prevent the enforcement of human rights in the prisons.

In this regards, the study was concluded by recommending among others that the judiciary should adopt a modern approach of the use of none custodian sanctions such as community service, restitution to the victim or a compensation order, forfeiture as the most effective methods of encouraging social reintegration and by so doing the prisons would be of less use and only to be reserved for serious cases.

5.2 Findings

The study found that from both the international human rights obligations and constitutional duties of Nigeria, there is a strong nexus between human rights protection and the administration of criminal justice especially as it relates to prisoners or accused persons, therefore, there is a need to strengthen the stakeholders of criminal justice, especially the prison service,

From the above analysis the general findings of the study are as follows:

- i. Findings revealed many variables as the reason of human rights violations: poor education, ignorance of rights, incessant court adjournment, shortage of judicial officers frustration of prison officials,
- ii. Findings show low rate of conjugal visits. Were conjugal visits allowed to happen, personality stabilization and emotional composure for the detainees would have been engendered. Lack of these visits increases detainees' psychological and physiological problems that will require medical attention in the face of poor or absent medical facility in the prisons covered. However, most prison Warders see having this quality time as a luxury detainees should not have as the denial will make the difference between prison life and life at home.
- iii. The findings show that being self-employed is positively correlated with committing property offences due to the incapacity of being self-employed to generate enough income that could be used to purchase property. No public and private sectors employees were detained for armed robbery. What is instructive is that there is little connection between employment status and committing violent offences.

- iv. Majority of those awaiting trial were young, in their mid 20s, and early 30s. The findings show that majority of the suspects were held for property offences. Another sizeable proportion of the detainees were held for minor offences. Furthermore, there were detainees accused of armed robbery. However, personal/ violent offence charges were common with women.
- v. The police, the courts, and the Federal Ministry of justice can be held responsible for the bulk of the awaiting trial problem due to structural and (the negative atitudinal dispositions of the officials. Prisons contribute to the suffering of detainees by keeping them in extremely poor conditions. Sharp practices in discharging prison duties worsen the problems of the detainees. Gross under funding from the government complicate the entire problem.

The Specific Findings of the Study are as follows: The study from the above analysis reveals the following findings; an examination of the findings on individual law enforcement agencies would be necessary.

5.2.1 The Nigerian Prison Service

The Nigeria prisons services system has from the onset had its own problems; the most glaring being that it was a result of colonialism therefore was copied verbatim from the colonial masters. From the structures to the system of administration, one thing stands out- i.e. borrowed system. Some of the problems being faced by the Nigeria prisons today include:

- i. Over stretched resources; one of the major problems of Kuje and Suleja prisons is that the resources are overstretched. Resource in this context includes: food, accommodation, beddings, blankets, medical facilities, toilet facilities etc.

- ii. Over population of the prisons due to remanded persons; awaiting trial (who account for almost two third of the prison population) those, whose case dairies are missing, accused persons unable to meet up their bail terms, minor offenders etc.
- iii. The prison seriously lacks funding
- iv. Another major problem discovered in the course of the research is lack of working equipment for staff, i.e. office Tables, office chairs, fans, or air condition for hot weather, record books, office shelves, etc.

5.2.2 The Judiciary

Generally, the problems relating to the proper administration of justice include the delay in the adjudication of cases.

- i. The major problem that affect their timely dispensation of criminal cases include incessant requests for adjournments by lawyers who have either failed to do their work properly or are forced to so do due to circumstances beyond their control; the practice of remand; the shortage of adequate courts staff, lack of witness these factors goes a long way in preventing the court from giving judgment on time.
- ii. The practice of remand in prison custody or Holding charge needs to be addressed so that infringement on the human rights of citizens would be promoted in the light of the practice
- iii. Another problem that has caused prisoners right abuse is that, our judiciary has over the years, relied very heavily on imprisonment and fine as sentencing measures almost as if no other disposition measure is available for their application.
- iv. The practice of remand (which means an order of the court to keep a suspect in detention pending his bail or advice from Director of Public Prosecution) ought to be dealt away

with in the Nigerian system of criminal justice. This is because it leads to untold hardship on the suspect who may later be found innocent. Structural adjustments ought to be put in place to ensure that the remand of suspects is not abused e.g. putting a timeline for the release of suspect even if investigation are yet to be concluded if the timeline for the release would exceed the sentence on conviction; making it mandatory for the prosecution to show a connection between the suspect and the crime before the court can rule to detain the accused, and the flexibility in the accused persons exercise to right to bail.

- v. The staff of the judiciary especially staff with the Federal Capital Territory should be engaged in periodic training this is very important in order to standardize their output with world class practice. Continuing legal education is now mandatory so it is necessary for judicial staff to be trained on the prisoners right and the progress being made every day in the legal profession
- vi. Non-custodial sentences should be ordered by magistrates and judges in cases of first offenders, juvenile and adult offenders with minor and nonviolent offences which do not constitute a threat to public safety. As alternative to imprisonment, sentences with option to pay fine, parole, probation, treatment facilities, house arrest and community service be 'Ordered'. There should be a mass public campaign team to sensitize the public that Community services are as effective as imprisonment.

5.2.3 The Nigeria Police

- 1. One of the major problems that hamper the administration of criminal justice in Nigeria is that the police is ill equipped to handle complete and thorough investigation of crimes within a reasonable time and to effectively conduct a lawful arrest and detention of

suspects without necessarily infringing on the fundamental human rights of the said individual. The longer the investigation, the longer the period of detention of suspects and this would automatically translate in the denial of the fundamental rights of that individual to move freely. The tools for carrying out their duties like patrol vehicles; helicopters and horses are inadequate in the present circumstances.

2. Another major problem facing the Nigeria police today is lack of awareness or continued education. Once an officer is not properly trained to carry out tasks assigned to that officer, then the result would be defiantly not being up to standard.
3. The Nigeria Police need to be fully equipped to handle all situations, be it fighting armed robbers or forensic examinations; vehicle s (cars, trucks, helicopters, etc.) standard ammunition, it is only when they have the necessary equipment's that they can give timely results of their investigations. In essence, the duty to conduct timely investigations and prosecution ultimately depends on their capacity and ability to do so being well equipped is of paramount importance. It is recommended here that the annual budget should be made in order to conduct timelt and investigations and prosecution.
4. The police officers need to be trained on their jobs and the right of accused person; the Nigeria police needs a complete professional reorientation in order to offer professional conduct. The civil service attitude should be completely eradicated. In this line, it is recommended that a code of conduct for police should be promulgated with stringent measures for noncompliance specified; like the lawyers have continued legal education, the police also need such forum where they are mandatorily educated on work ethics and the latest work ethics as it obtains worldwide or civilized polity.

5.2.4 The National Assembly

- i. Amendment of the Prison Act, which should provide for special budget committee who will review the budgetary needs of the prisons, the office of the Attorney General of the Federation, the judiciary and the police.
- ii. The need for the implementation of the international standard on human rights must be emphasized by the National Assembly
- iii. The activities of CSOs, NGOs and Churches should be streamlined and well defined to ensure effective coordination providing an enabling environment for “interactive engagement” with other key actors in the criminal justice sector. This has to be sustained by political well articulating a robust policy promoting "collaborative partnership" between Ministry of justice, Ministry of interior, Correctional Institutions and other service providers such as CSOs, NGOs FBOs working on overcrowding related issues in prison.

5.3 Recommendations

- i. The prisons ought to be funded properly, their medical facilities ought to be the best because while there may be justification in denying a person the fundamental right to freedom, there is absolutely no justification in denying, for instance an HIV positive inmate from access to anti-retroviral drugs because that would be killing the person before his time.
- ii. The prison should have the right to turn away inmates when the maximum limit has been reached or that the Government provides extra funds for every extra inmate the prison would accommodate. The Prison Act should incorporate this in order to legalize it.

- iii. The filing system in Kuje and Suleja prison today is backward. There are papers in cabinets which are not kept in an orderly manner. With the latest technologies in the world, the prisons need to computerize their records, enter data of all inmates, their pictures, names, gender, age, the nature of their offences, the next adjourned dates that their matters would be heard, the courts, handling their matters, names of prosecutors, their medical record, the number of times they have been in amount of the prisons etc, this will to a large extent, reduce the number of missing files for inmate because although the hard copy of the file may be missing, recourse may be had to the soft copy.
- iv. Alternative punishments to imprisonment in respect of minor offences or offences that attract imprisonment for 0-6 months also ought to be provided by the law so that an offender may be punished by being sentenced to community service or hard labour but would not have to be burden on the prisons of accommodating inmates and over stretching their resources.
- v. A change in attitude by the courts in respect of the conditions that are imposed before bail is granted would be a welcome development because while an accused person may be granted bail by the court that accused person may be unable to meet that bail requirements, therefore, will be kept in custody overpopulating the already overpopulated prisons.
- vi. An amended Prisons Act would go a long way in protecting the human rights of inmates. This Prison Act must specify the minimum standards for all aspects of the life of an inmate also the new Prison Act must conform to the International Covenant on Political and Social Rights, African Charter on Human and Peoples' Rights, etc. these all provide the standard for the treatment of rights, etc.

- vii. There should be accelerated trial, remand orders and pre trial detention should not be the role. But should be considered as a last possible option, pre-trial detention should be made subject to periodic review to prolong or release detainees to avoid detention in perpetuity.
- viii. Plea bargain should be introduced in criminal trial especially on drugs, property and economic offences to attract compulsory compensation, forfeiture and restitution. This has the potential of empowering victims, reduces court workload and checkmate back logs of cases.
- ix. Rehabilitation of offender should be focused on individual special needs to discover what is responsible is for his or her criminal behavior, reform and reintegrate back to society. Punishment should not be the ultimate consideration for imprisonment. Concession should be given to victim rehabilitation and offender /victim reconciliation, the net effect is to prevent re-offending and stimulate forgiveness.
- x. The Civil Society; the civil Society is a public space between the state, the market and the ordinary household, in which people can debate and take actions that try to do right and struggle to right wrongs non-violently. In this definition, civil society includes charities; neighborhood, self-help schemes; international bodies like the Red Cross; religious-based pressure-group; human rights non-governmental organizations and professional bodies like the Nigerian Bar Association (NBA) and Federation of Women Lawyers (FIDA). It is hereby recommended that the civil society continues with voluntary contributions to the prisons including offering “pro-bono” services to destitute inmates, to facilitate the speedy trials of accused person in Kuje Medium prison and Suleja prison within the FCT. Especially inmate with babies in Suleja prison; Bodies like Red Cross are also invited to

actively participate in the creation of awareness of prisoners rights and the promotion of its protection; FIDA on the other hand has shown great concern for women whose rights have been violated. It is important that their efforts are intensified especially in respect of women in detention who have no legal representation.

- xi. The UNODC also has a role to play, the amnesty international and all this body should work together with the Nigeria prison service in collaboration with the above bodies should ensure that every prisoner as they enter the prison either literate or illiterate is conversant with the rights, he or she has by virtue of the statutes given to him as a human being this will promote a consciousness within the prison that would curb the excesses of the prison officials.

BIBLIOGRAPHY

a. Books

- Adeyemi, O. A. (1972) "A Day in the Criminal Court" in Elias, T.O (1972) *the Nigerian Magistrate and the Offender* (Ethiopc Publishing Corporation, Benin City, Nigeria.)
- Agbakoba, O. and Asuzu, E. (2000) *Model Civil Procedure Rules*, HUR1-LAWS (Human Rights Law Service, Maritime Complex, 34 Creek Road, Apapa, Lagos)
- Ajibola, B. and Osibanjo Y. (ED) *Towards a Better Administration of Justice System in Nigeria*, Published by Federal Ministry of Justice 198
- Ajomo, M. A. and Okagbue, I. E. (1991) *Human Rights and the Administration of Criminal Justice in Nigeria* (Infect Printers Ltd., Ibadan, Nigeria.)
- Allen, R.E. (1984) *The Oxford Dictionary of Current English* London: Oxford University Press.
- Babyak, (1988) *Eyewitness on Alcatraz: Interviews with Guards, Families and Prisoners who lived on the Rock* (Ariel Vamp Press, California)
- Bent, A. (1974) *The Politics of Law Enforcement: Conflict and Power in Urban Communities* (D O Heath and Co. London).
- Bernard T. J. and McClearly, R. (ed.) (1996) *Life without Parole: Living in Prison Today*. (Roxbury Publishing Company, Los Angeles).
- Blackstone, T., (1990) *Prisons and Penal Reform* (CTiatlo and Windus, Ltd., London)
- Brownlie, I. (1971) *Basic Documents on Human Rights* (Clarendon Press, Oxford University)
- Ciinard M.B and Abbot, D.J (1973) *Crime in Developing Countries: A Comparative Perspective* (John Wiley, New York)
- Clemmer, D (1938) *the Prison Community* (Boston, MA: Christopher.)
- Daglish, R (1982), *the Fundamentals of Marxist-Leninst Philosophy*
- Eze, O.C (1992) *Perspectives on Human Rights* (Infbdata Bureau Services, 84, Opebi Road, Ikeja Lagos)
- Fagothey, A (1963) *Right and Reason* (St. Louis, The C.V Mosby Company, NY)
- Gaines, L.K, Kaune, M & Miller, R.L (2000) *Criminal Justice in Action* (Wadsorth, Belmont)

- Haas, K.C and Alpert, G.P (1991) *The Dilemmas of Corrections: Contemporary Readings* (Wave-land Press Inc. United States).
- Haralambos, M. (1983) *Sociology: Themes and Perspectives* (Richard Clay the Chucer Press Ltd, Bungay Suffolk, U.K)
- Hartjen, C.A (1974) *Crime and Criminalization* (Praeger Publishers Inc. U.S.A)
- Heffernan, E (1972) *Making it in Prison: The Square, the Cool, and the Life* (New York: John Wiley & Sons. Inc.)
- Hornby, A.S., Cowie, A.P. & Gimson, A.C. (1974) *Oxford Advanced Learner's Dictionary of Current English*. London: Oxford University Press.
- Ige, T. and Lewis, O. (1999) *Human Rights Made Easy (Third Edition)*, Published by Legal Research and Resource Development Center, Lagos
- Isaacs, A., Alexander, F., Law, J. & Martin, E. (editors) (2000). *A Dictionary of World History*, London: Oxford University Press.
- Johnson, R (1996) *Hard Time: Understanding and Reforming the Prison*. (Wordsworth Publishing Company).
- Legal and Judicial Sector Reform, HURI-LAWS (Human Rights Law) (2000) Service, Maritime Complex, 34 Creek Road, Apapa, Lagos)
- Neser, J.J. (Ed) 1993. *Penitentiary Penology*. 2nd edition. Johannesburg: Lexicon Publishers
- Palmer, J. W. (1991) *Constitutional Rights of Prisoners*, 4th edition, Cincinnati: Anderson Publishing Co.
- Peters, E. (1985) *Torture: Expanded Edition*. Philadelphia: University of Pennsylvania.
- Prison Administration in South Africa. 1969 Cape Town: Department of Foreign Affairs.
- Rubin, S. (1973) *The Law of Criminal Correction*, 2nd edition, St Paul: West Publishing Co.
- Toch, H. (1997) *Corrections: A Humanistic Approach* (Harrow and Heston Publishers, New York.)

b. Journal Publications

- Hagan, J. and Juleigh Petty (2001) Returning Captives on American War Drugs: Issues of Community and Family Re-entry, in *Crime and Delinquency*, Vol. 3.

Oppler, S. (1998) Assessing the state of South African Prisons. *African Security Review* Vol. 7, No 4, Halfway House: Institute for Security Studies.

Pelser, E. (2000) Correction Challenges: A new manager for South Africa's prisons. *Nedbank ISS Index* Vol4 No.4 July- August.

c. Conference/Seminar Papers

Adeniyi, A. A. (1998) “*Overlaps in the Right to Arrest: The Legal and Social Implications of the Curtailment of Individual Rights and Liberties*” A Seminar Paper delivered at a 2-day Workshop on Nigerian Prisons, 10th-12th, November, ECOWAS Secretariat, Abuja.

Adeyemi, A. A. (2000) “*Alternatives to Imprisonment in Nigeria: Problems And Prospects*” in *Giving Balance to Justice System for Victim, Offender and Society*. Compiled National Human Rights Commission, Penal Reform International and Prisoners Rehabilitation and Welfare Action, Abuja, 8-10 February, 2000

Akande, J. (1989) “*Problems of victims in the administration of justice: Legal perspective*” a seminar paper delivered at Abuja, Organized by Federal Ministry of Justice, 28th – 30th June

Barker, T. and Chukkol, K. S. (1998) “*The Philosophy of Imprisonment: Rehabilitation or Abodes for Punishment?*” A Seminar Paper delivered at a 2-day Workshop on Nigerian Prisons, 12th, November, ECOWAS Secretariat, Abuja

Jarma, I. M. (2000) “*Nigeria Prison Service: Issues, Problems And Prospects*” in *Giving Balance to the Justice System for Victim, Offender and Society*, Compiled by National Human Rights Commission, Penal Reform International and Prisoners Rehabilitation and Welfare Action, Abuja, 8-10 February, 2000.

Nwankwo, C “*Prison Congestion*” in *Giving Balance to the Justice System for Victim. Offender and Society*, Compiled by National Human Rights Commission, Penal Reform International and Prisoners Rehabilitation and Welfare Action, Abuja, 8- 10 February, 2000.

Odekunle, F (2000) “*Cost Benellt Analysis of Alternative to Imprisonment*” A paper delivered at a two-day workshop, organized by PRAWA, July 1st 2000, Abuja.

Tabiu, M (1998) “*The Nigerian Prisons and the Standard Minimum Rules for the Treatment of Prisoners*”, a Seminar Paper delivered at a 2-day Workshop on Nigerian Prisons, 10th-12th, November, ECOWAS Secretarial, Abuja

Toyo, E. (2001) “*On Human Rights*” Being a lecture delivered at University of Jos lecture series, Organized by ASUU, held on 15th January, 2001.

United Nations Human Rights Instruments and Criminal Justice Norms and Standards. (1989) Seminar paper presented at a Conference on “Rule of Law and Administration of Justice

in Nigeria” held at Royal Tropicana, Kano, July 24-27. “Custodial Rights of Prison detainees.” in United Nations Human Right instruments, (1974) pH8.

d. Internet Materials

Human Rights Watch. 2001. *World Report 2001 Entry*. Available at: <http://www.hrw.org/pubweb/Webcat>

The Bureau of Democracy, Human Rights and Labor. 2001. *1999 Country Reports on Human Rights Practices*. Available http://www.state.gov/www/global/human_rights/

Odekunle, F. on Protection of Human Rights in African Criminal Proceedings <http://books.?id=dyrFriJXL0C&1pg=PA51&dq=protection+0fhuman+rights+in+administr ationcriminal&source=web&0ts=QSi8h9xFgg&sig=g9jrjz50mng8kxntjtdRChMrhoPPA5 1,M1>. Visited 17 January 2015

<http://allafrica.com/stories/200711080241.htm1> visited January 17 2016

<http://www.prisons.gov.ng/about.php>.last visited January 2016

Amnesty International <http://tinyurl.com/2fzwr9> visited 15 January 2016

<http://www.prison.gov.ng/about.php>. Visited 12 January 2016

Amnesty International Press Release of February 2008, quoted in Nigeria Prison Report, 2/2/2008, African Sturdy center, available at <http://www.Africa.upenn.edu.0022608.htm> (last visited march 2016)

e. Unpublished Materials

Gyong, J.E “*The Neglect of Victims of Crime: A case Study of Kaduna State*” Unpublished PhD thesis submitted to the Department of Sociology, A.B.U Zaria, 1994

f. Magazines/Newspapers

McLaughlin & Muncie Misbach, W. & SAPA. (2001) Parole for Boesak. In *Sowetan*, Tuesday 22nd May 2001.

APPENDIX A

**QUESTIONNAIRE ON THE VARIOUS INSTITUTIONS RESPONSIBLE FOR THE
PROTECTION OF PRISONERS RIGHT IN NIGERIA**

INTRODUCTION

I am Bada Oluwafunke Rebecca a Masters student in the faculty of Law, Ahmadu Bello University Zaria I am interested in Nigeria Criminal Justice system with emphasis on the protection of prisoners right in the Nigeria prison Service; A case study of Kuje medium prison and Suleja prison. One of the objectives of the research is to analyze the major factors responsible for the problem of detention without trial, and some infringements on the rights of the inmates in the selected prisons.

This questionnaire is designed to address the above problems with a view to finding solution to them. Your contribution in this regard is highly required. This is a purely academic exercise; whatever you say is confidential but will surely assist in policy formulation and implementation to the advantage of the public, the Government and the prison inmates. You do not need to write your name.

Please fill where it is applicable to you.

Thank you Sir/Madam

Date of Interview: 14th, December 2016

Place of Interview:

APPENDIX A (QUESTIONER FOR AWAITING TRIAL INMATES)

SECTION A: TO BE COMPLETED BY AWAITING TRIAL INMATES.

PERSONAL DATA

Sex.....

Age

Education Background.....

INDEPTH INTERVIEW GUIDE FOR AWAITING TRIAL INMATES

- 1 How long have you been remanded? (a) 4-6 months (b) 7-11 months (c) 1-2 years (d) 3 years to 5years (e) others specify
- 2 How many times have you been taken to court in this particular case? (a) 1-3 times (b) 4 – 10 times (c) 11- 15 times (d) 15 times and above?
- 3 Why do you think your case has not been decided? (a) lack of witnesses (b) Absence of judge (c) Absence of the Lawyer(d) court Adjournment (e) others (specify)
- 4 Have you been granted bail, if yes why are you still in prison? (a)unable to meet the conditions for bail (b) No sureties (c) others (specify) (d)not applicable
- 5 Have you ever committed any offence since you got to prison, if yes, what was the corrective /disciplinary measure taken against you (if any)? (a) Solitary confinement (b) whipping (c) Denial of meal (d) Guidance and Counseling (e) Verbal warning and Caution
- 6 How often are you allowed to receive visitors? (a) once a week (b) once a month (c) each time a visitor come to see me (d) visitor is not allow at all
- 7 Rate the following services provided by the prison authorities?
(a) Accommodation: (1) bad (2) fair (c) good

(b) Feeding, in terms of quantity and quality? (1) very satisfactory (2) satisfactory (3) not satisfactory

(c) Health care, how are you treated when you are sick? (1) Rushed to the hospital (2) purchased my own medicine (3) Attended to at the prison clinic (4) Nothing was done

(d) Communication to relations (1) bad (2) fair (c) good

8 Do you have a baby, if yes how are you feeding the baby.....

9 How many uniforms do you have? (a) One (b) two (c) three (d) none

10 How comfortable is the car used for conveying inmates to Court for trial?

A. Comfortable B. Very Comfortable C. Uncomfortable D. Very Uncomfortable.

APPENDIX B (QUESTIONER FOR CONVICTED INMATES)

SECTION B: TO BE COMPLETED BY CONVICTED INMATES

PERSONAL DATA

Sex.....

Age

Education Background.....

INDEPTH INTERVIEW GUIDE FOR CONVICTED PRISON INMATES

1. How many months did it take before your trial commenced? (a) 1-5 months (b) 1-6 months (c) 2-12 months (d) 2 years -35 months (e) 3-5 years and above
2. How many months did your trial take from arraignment to conviction? (a) 1-5 months (b) 6-12 months (c) 2 years -35 months (d) 2 years -35 months (e) 3-5 years and above
3. Were you represented by a counsel (lawyer) at all the stages of your trial? (A.) Yes (B.) No
4. How many vehicles is available for taking inmates and staff to court? (a) one (b) two (c) three (d) none (e) not aware
5. Are you detained for lack of payment of compensation? (A.) Yes (B.) No
6. Are Prison inmates with communicable diseases separated from healthy inmates? Or minors separated from adults? A. Yes B. No
7. Have you undergone any vocational training since you came to prison? if yes which of the training (a) tailoring (b) hair dressing (c) carpentry (d) bricklaying (e) electrical and welding (f) others specify
8. What do you do every day? (a) work in the sun (b) pray (c) play (d) idle (e) others specify

9. Do you experience any form of discrimination in respect of your religion, place of origin, sex, disability? A. Yes B. No, if yes specify
10. Are you aware that you have a right of appeal to a court of higher jurisdiction to review your judgment? (a) aware(b)not aware

APPENDIX C (QUESTIONER FOR POLICE OFFICERS)

SECTION C: TO BE COMPLETED BY POLICE OFFICERS.

PERSONAL DATA

Sex.....

Age

Education.....

Background.....

Rank.....

Years of Service.....

INDEPTH INTERVIEW GUIDE FOR POLICE OFFICERS

1. What is the average period average period of time between arrest and charging a suspect to Court in your station? (a)1- 2 days (b) 3-7 days (C.)7 days and above.
2. Have you recorded any death of suspect in your detention? (a) yes (b)NO
3. An accused person should not be held in police custody for more than 24 hours before been taking to court? (a) aware (b) Not aware
4. Have you ever attended any training on prisoner’s right, since you were employed? (a) yes (b)NO
5. As an experience officer what do you think is the reason for the physical and verbal abuse of the defendant by law enforcement Agent? (a) lack of training (b) frustration (c) poor remuneration (d) disregard for the rule of law (e) others specify
6. Identify some factors responsible for the delay of criminal trials in Nigerian courts
 - (i) lack of defendant counsel
 - (ii) inability of prison officials to produce defendants for trial

- (iii) Health status of the defendant, the lawyer or the Judge
 - (iv) Unavailability, of witnesses
 - (v) Unavailability of the prosecutors
7. How often do you settle minor cases in the police station, and what category of offenders are you likely to recommend, to be taken to court, if asked to make suggestions to that effect. (a)often(b) very often (c) rarely (d) very rare
 8. What do you think can be done to reduce awaiting trial population (a) liberation of bail (b) goal delivery (c) quick dispensation of cases (d) others specify
 9. What do you think can be done to reduce human rights abuse of accused person / prisoners?
 10. Do you think alternative measures to imprisonment; can help reduce human right abuse of prisoners? Yes/ NO, if yes which of this alternative measures do you think can be suitable? (a) community service (b) compensation (c) restitution (d) fine (e) forfeiture (f) others please specify

APPENDIX D (QUESTIONER FOR PRISON OFFICERS)

SECTION D: TO BE COMPLETED BY PRISON OFFICERS

PERSONAL DATA

Sex.....

Age

Education Background.....

Rank.....

Years of Service.....

INDEPTH INTERVIEW GUIDE FOR PRISON OFFICERS

1. In your prison are there as many people awaiting trial as those who have been convicted?

(a) More than..... (b) about the same..... (c).Less than.....

2. How often are inmates allowed to have their baths, wash their cloths and receive visitor?

a. Daily

b. Occasionally

c. Never

d. On request.....

e. Others specify.....

3. Do inmate, have rights? (a) yes (b) No

If yes Identify and elaborate the rights which, in your opinion, are accruing to inmates?.....

4. To what extent do inmates enjoy these rights you mentioned above?

.....

5. With justifications, could you kindly identify and discuss the single most dominant corrective discipline measure the prisons usually apply on erring inmates?

.....

6. What is your assessment of the following services provided by the prison authorities?
- (a) Accommodation: (1) bad (2) fair (c) good
 - (b) Feeding, in terms of quantity and quality? (1) very satisfactory (2) satisfactory (3) not satisfactory
 - (c) Health care, what provision is made for referring seriously sick inmates for medical treatment outside the prison? (1) Rushed to the hospital (2) purchased my own medicine (3) Attended to at the prison clinic (4) Nothing was done
 - (d) Communication to relations (1) bad (2) fair (c) good
7. Are there educational/vocational training facilities for inmates in your prison? A. Yes
B. No.
8. What provision is made for referring seriously sick inmates for medical treatment outside the prison? (a) rushed to the hospital (b) purchased my their own drug / medicine (c) attended to at the prison clinic (d) nothing was done (e) others specify
9. Do you think that the policies and local legislation for the treatment of prisoners are adequate in dealing with the problem?
10. Are you aware of the provisions of the standard minimum rule or any other human right instrument for the treatment of prisoners? (a) aware (b)Not aware

APPENDIX E (QUESTIONER FOR JUDICIAL OFFICERS)

SECTION E: TO BE COMPLETED BY JUDICIAL OFFICERS

PERSONAL DATA

Sex.....

Age

Education Background.....

Designation.....

Years of Service.....

INDEPTH INTERVIEW GUIDE FOR JUDICIAL OFFICERS

- 1) How often do you grant bail to defendants?
A. Often B. Very Often C. Rarely D. Very Rare
- 2) How regular do the prisons produce defendants in Court for trial?
B. Often B. Very Often C. Rarely D. Very Rare.
- 3) What is the average period from arraignment to conclusion of trial in your Court?
A. 1 – 2 years B. 3 – 5 years. C. 5 years and more.
- 4) Identify some factors responsible for delay of criminal trials in Nigerian Courts.
 - i. Lack of defendant Counsel
 - ii. Inability of prison officials to produce defendants for trial
 - iii. Health status of the defendant.
 - iv. Unavailability of witnesses.
 - v. Unavailability of prosecutors.
 - vi. Others.....
- 5) How often do you use other forms of sentence apart from prison terms?

A. Often B. Very Often C. Rarely D. Very Rare

6) With reasons, what category offenders are you likely to recommend for prison term, if asked to make suggestions to that effect.....

APPENDIX F (QUESTIONER FOR PROSECUTORS/ DEFENCE COUNSEL)

SECTION F: TO BE COMPLETED BY LAWYERS (PROSECUTORS/ DEFENCE COUNSEL)

PERSONAL DATA

Sex.....

Age

Education Background.....

Designation.....

Years of Service.....

INDEPTH INTERVIEW GUIDE FOR LAWYERS (PROSECUTORS/ DEFENCE COUNSEL)

1. Identify the factors responsible for delay of criminal trials in Nigerian courts
 - (a) Lack of defendant counsel
 - (b) Inability of prison officials to produce defendants for trial
 - (c) Health status of the defendant
 - (d) Unavailability of witnesses
 - (e) Unavailability of prosecutors
2. what do you think can be done to reduce awaiting trial population
 - (a) liberalization of bail (b) goal delivery (c) quick dispensation of cases (d) others specify
3. Have you encountered any form of prisoner's right violation in the course of your practice? (a) yes (b) No

- 4 What are the challenges you encountered in the course of performing your duty as a prosecutor or as a defence counsel (a) unavailability of witnesses (b) inadequate funding (c) lack of proper investigation of cases by police officers (d) others please specify
- 5 Do you think alternative measures to imprisonment; can help to reduce human rights abuse of prisoners? (a) YES (b) No, if yes which of this alternative measures do you think can be suitable? (a) community service (b) compensation (c) restitution (d) fine (e) forfeiture (f) others please specify

APPENDIX G GRAFT

Plate 1: showing the Achievement of the right of inmate in Kuje Prison





