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EXAMINATION OF THE LEGAL AND INSTITUTIONAL FRAMEWORKS ON PRISONERS' RIGHTS AND PENAL REFORM IN NIGERIA

By
Oyovwikerhi Imoni-Ogbe Ph.D[*]

Abstract

Despite constitutional guarantees under Chapter IV of the 1999 Constitution, statutory protections under the Nigerian Correctional Service Act 2019 and the Administration of Criminal Justice Act 2015, and binding international obligations arising from instruments such as the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights, the conditions within Nigerian correctional facilities continue to fall far below acceptable standards. The aim of this article is therefore to examine the legal and institutional framework on prisoners' rights and penal reform in Nigeria. The Researcher adopted the doctrinal legal research methodology, using both primary and secondary sourced materials. The article founds that key challenges to reform include chronic underfunding, a historically punitive institutional culture, endemic corruption and impunity, weak oversight mechanisms, and insufficient legal aid services. The article concludes that Nigeria's deficit lies not in the articulation of normative standards but in the institutional architecture required to give those standards practical effect. It recommended significant increased budgetary allocations for correctional facilities, strengthening of the National Human Rights Commission with enhanced financial and operational independence, and strengthening of the Legal Aid Council with adequate finance.

Keywords: **Prisoners' Rights, Penal Reform, Nigerian Correctional Service, Access to Justice, Correctional Administration.**

1.0 INTRODUCTION

The protection of the rights of prisoners and the reform of the penal system constitute one of the most pressing but consistently neglected areas of legal scholarship and policy discourse in Nigeria. The Nigerian State, as a constitutional democracy, is obligated by the Constitution of the Federal Republic of Nigeria 1999 (as amended) (CFRN) to uphold the fundamental rights of every person within its territorial jurisdiction. Therefore Prisoners in Nigeria also retain most fundamental human rights guaranteed under Chapter IV of the CFRN, except for the right to personal liberty, which is lawfully restricted upon conviction or lawful detention. Rights to life, dignity of the human person, freedom from torture or inhuman/degrading treatment, fair hearing, and access to healthcare remain intact. Yet, in practice, many inmates, particularly awaiting-trial persons (ATPs), face violations due to prolonged pre-trial detention, congestion, and resource constraints.

* Oyovwikerhi Imoni-Ogbe, LL.B, BL, LL.M, PhD; Lecturer, Department of Jurisprudence and International Law, College of Law, Western Delta University, Oghara, Delta State; kimoniogbe@wdu.edu.ng; +2347033154054 ORCID: https//orcid.org/0009-0002-6207-0680.

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At the international level, prison overcrowding, inhumane conditions of detention, and the systematic violation of prisoners' rights have been identified as global concerns that demand urgent legislative and administrative responses.[1] The Nigerian experience is particularly acute, characterised by grossly inadequate correctional facilities, a disproportionate population of awaiting trial persons (ATPs), and a penal philosophy that has historically prioritised punishment over reformation and rehabilitation.

The enactment of the Nigerian Correctional Service Act 2019, which repealed the colonial-era Prisons Act, signalled a paradigmatic shift in Nigeria's approach to custodial administration, rebranding the institutional framework from a punitive 'prison' model to a rehabilitative 'correctional service' model.[2] This legislative development was long overdue, given that the Prisons Act had remained substantially unchanged since its colonial origins and had become manifestly incompatible with contemporary international standards, particularly the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).[3]

Despite these legislative reforms, the practical conditions within Nigerian correctional facilities continue to fall far below acceptable standards. Facilities designed to hold several hundred inmates routinely accommodate thousands, sanitary infrastructure is grossly inadequate, access to medical care remains largely inaccessible, and vocational rehabilitation programmes exist largely on paper.[4] The gap between legislative aspiration and institutional reality forms the central problematic of this article.

The historical trajectory of Nigeria's penal system is deeply rooted in the colonial experience. The British colonial administration established prisons primarily as instruments of social control, designed to suppress dissent, enforce labour obligations, and segregate persons deemed threatening to colonial order.[5] This retributive and repressive colonial inheritance has proven remarkably resistant to post-independence reform, and continues to shape institutional culture within the Nigerian correctional system.

Nigeria has ratified several regional and international human rights instruments that impose binding obligations with respect to the treatment of persons deprived of their liberty, including the African Charter on Human and Peoples' Rights.[6] The domestic domestication and enforcement of these obligations, however, remains patchy and uneven, underscoring the need for a sustained, systematic examination of the legal frameworks governing prisoners' rights.

It is in lieu of the foregoing that this article undertakes an examination of the legal and institutional frameworks on prisoners' rights and penal reform in Nigeria. It explains the meaning of prisoner and prisoner's right. It gives the historical development of prison

1 Penal Reform International, *Global Prison Trends 2023* (Penal Reform International, 2023) 4.
2 Nigerian Correctional Service Act 2019, s 1.
3 United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), UNGA Res 70/175 (17 December 2015).
4 United Nations Office on Drugs and Crime, 'Prison Reform and Alternatives to Imprisonment' (UNODC Report, 2021) 12.
5 Akin Ibidapo-Obe, 'The Reform of Criminal Justice Administration in Nigeria' (2005) 1 *Journal of Law and Criminal Justice* 45 & 47.
6 African Charter on Human and Peoples' Rights (Banjul Charter), adopted 27 June 1981, OAU Doc CAB/LEG/67/3 rev 5, 21 ILM 58 (1982), entered into force 21 October 1986.

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administration and penal system in Nigeria. It made recommendations which if implemented would help to eliminate the suppression of prisoners' rights in Nigeria.

2.0 CONCEPTUAL CLARIFICATIONS

The conceptual clarifications herein form the bedrock of this article. A precise understanding of the key terms deployed in this work ensures analytical coherence and enables the reader to appreciate the scope and limitations of the study. Each term is examined from multiple perspectives: definitional, statutory, and jurisprudential.

2.1 Meaning of Prisoners

The word 'prisoner' has been variously defined by legal scholars, international instruments, and domestic legislation. In its most basic sense, *Black's Law Dictionary* defines a prisoner as 'a person who is kept in a prison, especially a person who is serving a sentence after being convicted of a crime'.[7] This definition, though concise, reveals the dual nature of imprisonment: the state of confinement and the underlying judicial act that justifies such confinement.

At the international level, the United Nations Standard Minimum Rules for the Treatment of Prisoners, popularly known as the Nelson Mandela Rules, describe prisoners as all persons deprived of their liberty who are held in correctional facilities under the authority of the State, pending trial or following conviction.[8] This broader understanding is significant because it encompasses not only convicted persons but also suspects awaiting trial, a category that constitutes the overwhelming majority of Nigeria's prison population.

Under Nigerian law, the now-repealed Prisons Act 2019 defined a prisoner as any person lawfully committed to prison in lawful execution of any order or warrant of any competent court.[9] This definition is overly narrow and for restricting the concept of prisoner to persons committed by court order, thus potentially excluding persons in administrative detention or those held by security agencies outside the conventional prison system.

A more nuanced appreciation is offered by Owoade, who argues that in the Nigerian context, the term 'prisoner' must be understood functionally to include all persons whose physical liberty has been curtailed by the coercive power of the State, regardless of the institutional label attached to the place of confinement.[10] This functional approach aligns with the broader framework of human rights protection and is particularly relevant in a jurisdiction where extrajudicial detention remains a persistent problem.

2.2 Meaning of Prisoners' Rights

Prisoners' rights refer to the bundle of legal entitlements and protections that accrue to persons in confinement by virtue of their humanity, their citizenship, and the dictates of applicable law.

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7 Bryan A. Garner, *Black's Law Dictionary* (10th edn, West Publishing Co, 2014) 1382.

8 Nelson Mandela Rules – United Nations Standard Minimum Rules for the Treatment of Prisoners, Adopted by the UN General Assembly, A/RES/70/175 (17 December 2015) Rule 4.

9 Prisoners Act, Cap P29, Laws of the Federation of Nigeria 2004, s 2.

10 A. Owoade, 'The Nigerian Prison System and the Challenge of Reform' (2019) 10 Nnamdi Azikiwe University Journal of International Law and Jurisprudence 45 & 47.

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The theoretical premise of prisoners' rights rests on the recognition that incarceration deprives a person of liberty but does not strip them of other fundamental rights.

The CFRN provides the primary domestic legal framework for prisoners' rights. Chapter IV of the CFRN including the right to life, dignity of human person, personal liberty, fair hearing, and freedom from torture.[11] These rights do not ordinarily abate upon conviction or detention; rather, they continue to apply, subject only to the lawful restrictions necessarily attendant upon the state of imprisonment.

Internationally, Article 10 of the International Covenant on Civil and Political Rights (ICCPR) mandates that all persons deprived of their liberty shall be treated with humanity and respect for the inherent dignity of the human person.[12] Nigeria ratified the ICCPR in 1993, thereby incurring international legal obligations in respect of prisoners' rights. Similarly, Article 5 of the African Charter on Human and Peoples' Rights prohibits torture and cruel, inhuman, or degrading treatment or punishment and protects the inherent dignity of every person.[13]

The Nelson Mandela Rules set out the minimum standards for the humane treatment of prisoners globally, covering aspects such as accommodation, food, healthcare, religion, education, and work.[14] While these rules are not legally binding in the strict sense, they have been widely relied upon by courts and legal scholars as authoritative statements of customary international law and soft law obligations.

Eze captures the essence of the concept succinctly, noting that prisoners' rights 'represent the normative boundary between legitimate punishment and the abuse of State power'.[15] This formulation is instructive: it positions prisoners' rights not as privileges to be dispensed at the discretion of correctional authorities but as legally cognisable entitlements enforceable through appropriate mechanisms.

3.0 BRIEF HISTORICAL DEVELOPMENT OF PRISON ADMINISTRATION

The history of prison administration and the penal system in Nigeria is a complex tapestry woven from indigenous customs, colonial imposition, and post-independence reforms. Understanding this historical development is essential to appreciating the current legal and institutional framework governing prisoners' rights and penal reform in Nigeria. This heading would be better dealt with under the following sub-headings.

3.1 Pre-Colonial Era

Prior to the advent of colonialism, the peoples of the territory now known as Nigeria maintained distinct systems of social control and conflict resolution rooted in communal values, customary law, and traditional authority structures.[16] These pre-colonial societies,

11 The CFRN, ss 33 - 46.

12 International Covenant on Civil and Political Rights (ICCPR), adopted 16 December 1966, GA Res 2200A (XXI), 999 UNTS 171 (entered into force 23 March 1976), art 10.

13African Charter on Human and Peoples' Rights (Banjul Charter), adopted 27 June 1981, OAU Doc CAB/LEG/67/3 Rev 5, (1982) 21 ILM 58, art 5.

14 Nelson Mandela Rules (n 3) rr 21 to 23.

15 Chukwuemeka Eze, 'Awaiting Trial Detainees and Prison Congestion in Nigeria: A Critical Appraisal' (2018) 6(2) *Journal of Law, Policy and Globalization* 34 & 38.

16 Toyin Falola and Matthew M. Heaton, A History of Nigeria (Cambridge University Press, 2008) 1–20.

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including the Yoruba, Igbo, Hausa-Fulani, and the numerous minority ethnic nationalities, each possessed elaborate mechanisms for enforcing social norms, resolving disputes, and sanctioning deviant behaviour.[17]

In most pre-colonial Nigerian societies, the primary objective of sanctioning was not imprisonment or physical confinement but rather the restoration of social harmony, restitution to victims, and the reintegration of offenders into the community.[18] Punishments ranged from fines, ostracism, exile, corporal punishment, and in extreme cases, death. The concept of detaining individuals in a purpose-built facility as a form of punishment was largely alien to pre-colonial Nigerian jurisprudence.[19]

Communal detention did exist in limited forms; hostages were held during inter-community conflicts, and debtors could be held in the compounds of creditors until obligations were discharged. In the more centralised polities such as the Oyo Empire and the Sokoto Caliphate, rudimentary detention facilities existed to hold accused persons pending trial or execution of sentence.[20] However, these facilities bore no resemblance to the modern prison as an institution of organised incarceration. The absence of a formalised penitentiary system in pre-colonial Nigeria underscores the fundamentally restorative and communitarian character of indigenous justice.

3.2 Colonial Era

The formal prison system in Nigeria was a colonial construct, introduced and developed by British colonial authorities to serve the administrative, economic, and political imperatives of empire.[21] The earliest colonial prisons were established in the coastal areas of Lagos and Calabar in the latter half of the nineteenth century, primarily to hold individuals who resisted colonial authority or violated trade regulations.[22]

The promulgation of the Prisons Ordinance of 1917 marked a significant milestone in the formalisation of prison administration in colonial Nigeria.[23] The Ordinance established a centralised prison administration, defined the powers of prison officials, and set out rudimentary provisions for the treatment of prisoners.[24] However, these provisions were more concerned with maintaining order and discipline within prisons than with the welfare or rights of incarcerated persons. Prisons served primarily as instruments of colonial control, housing political detainees, resisters of colonial rule, and persons convicted of offences under the imposed criminal codes.[25]

17 Hakeem O. Yusuf, Colonial and Post-Colonial Constitutionalism in the Commonwealth: Peace, Order and Good Government (Routledge, 2014) 38.
18 E. A. Keay and S. S. Richardson, *The Native and Customary Courts of Nigeria* (Sweet and Maxwell, 1966) 45.
19 O. Igbinovia, *Prison System in Nigeria* (University of Benin Press, 1989) 8.
20 ibid., 12.
21 Annual Report of the Prison Department, *Colony of Southern Nigeria* (Government Printer, 1909) 7.
22 T. O. Elias, The Nigerian Legal System (Routledge, 1963) 24.
23 Prisons Ordinance 1917 (Colony of Nigeria), s 2.
24 ibid., s 5.
25 Annual Report (n 21) 4.

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The colonial prison regime was characterised by overcrowding, forced labour, corporal punishment, and racially discriminatory treatment. European prisoners and African prisoners were subjected to markedly different conditions, reflecting the broader racial hierarchies of colonial administration. The conditions in colonial prisons were largely inhumane and inconsistent with any conception of the inherent dignity of the human person. This legacy of neglect and repression has continued to cast a long shadow over the post-colonial prison system in Nigeria.

3.3 Post-Colonial Era

Nigeria attained independence on 1 October 1960, and the post-colonial government inherited a prison system that was structurally deficient, overcrowded, and ill-equipped to serve rehabilitative objectives.[26] The Prison Act of 1958, which had replaced the earlier Prisons Ordinance, continued in force and was re-enacted as part of the Laws of the Federation of Nigeria.[27]

In 1972, the Nigerian Prisons Service was formally constituted under military decree, establishing the institutional structure for prison administration that would persist for several decades.[28] The Nigerian Prisons Service Act, which was later consolidated as Cap P29 of the Laws of the Federation of Nigeria 2004, vested the management of prisons in a Director-General and provided for the establishment of various categories of correctional facilities.[29] Despite these legislative developments, post-colonial Nigeria continued to grapple with endemic problems of prison overcrowding, prolonged pre-trial detention, inadequate healthcare, poor sanitation, and pervasive human rights abuses.[30]

The successive military regimes that governed Nigeria between 1966 and 1999 exacerbated the crisis in the prison system by using detention as a tool of political repression, by undermining judicial independence, and by failing to commit adequate resources to prison reform. The return to civilian constitutional governance in 1999 created new opportunities for reform, though these were slow to materialise in any meaningful structural change.

3.4 Modern Developments

The most significant modern development in the history of Nigeria's penal system is the enactment of the Nigerian Correctional Service Act 2019, which repealed the Nigerian Prisons Service Act and rebranded the institution from the 'Nigerian Prisons Service' to the 'Nigerian Correctional Service'.[31] This nomenclature change was not merely cosmetic; it reflected a deliberate policy shift from a purely custodial and punitive orientation towards a system that emphasises reformation, rehabilitation, and reintegration of offenders into society.[32]

The Act introduced a range of non-custodial measures including community service, probation, and parole, in addition to maintaining provisions for custodial corrections. The Administration

26 C. O. Okonkwo, *Introduction to Nigerian Law* (Sweet & Maxwell, 1980) 112.
27 Prison Act, Cap 366, Laws of the Federation of Nigeria 1958.
28 Nigerian Prisons Service Act, Cap P29, Laws of the Federation of Nigeria 2004, s 1.
29 ibid., s 3.
30 Femi Falana and Funmi Falana, *Prisoners' Rights Under Nigerian Law* (Clef Publishers 2010) 18.
31 Nigerian Correctional Service Act 2019, s 1.
32 ibid., s 2.

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of Criminal Justice Act 2015 had preceded this development by introducing important reforms to criminal procedure, including provisions aimed at reducing pre-trial detention and ensuring the prompt dispensation of justice. Together, these legislative instruments represent the most ambitious attempt at penal reform in Nigeria since independence, though significant implementation gaps remain.

4.0 INTERNATIONAL LEGAL FRAMEWORK ON PRISONERS' RIGHTS

Nigeria's obligations under international law constitute an important layer of the normative framework governing prisoners' rights. The international legal framework is comprised of binding treaty obligations as well as persuasive soft-law instruments that set standards for the treatment of persons deprived of their liberty. This heading examines the principal international instruments relevant to prisoners' rights in Nigeria.

4.1 Universal Declaration of Human Rights 1948

The Universal Declaration of Human Rights (UDHR), adopted by the United Nations General Assembly on 10 December 1948, constitutes the foundational document of the international human rights system.[33] Although the UDHR is not a legally binding treaty in the strict sense, it has achieved the status of customary international law in many of its provisions and remains the authoritative statement of the fundamental rights and freedoms to which all human beings, including prisoners, are entitled.

Several provisions of the UDHR are of direct relevance to the rights of prisoners. Article 5 prohibits torture and cruel, inhuman, or degrading treatment or punishment, a guarantee that must extend with full force to the prison environment.[34] Article 9 prohibits arbitrary arrest and detention and guarantees the right of every person to liberty and security of person.[35] Article 10 ensures the right to a fair and public hearing by an independent and impartial tribunal, while Article 11 establishes the presumption of innocence and prohibits retroactive criminalisation.[36]

The above provisions establish a basic normative floor for the treatment of prisoners and persons deprived of their liberty. They inform the interpretation of Nigeria's constitutional guarantees and provide a standard against which the practices of the Nigerian Correctional Service and other relevant institutions must be measured.

4.2 International Covenant on Civil and Political Rights 1966

The ICCPR is the principal binding international treaty for the protection of civil and political rights, including the rights of persons deprived of their liberty.[37] Nigeria ratified the ICCPR, thereby assuming binding obligations under its provisions. As a State-Party, Nigeria is required to ensure that its laws, policies, and practices conform to the standards prescribed by the Covenant.

Article 7 of the ICCPR prohibits torture and cruel, inhuman, or degrading treatment or punishment, and explicitly provides that no one shall be subjected to medical or scientific

33 Universal Declaration of Human Rights, GA Res 217A (III), UN Doc A/810 (10 December 1948).
34 Universal Declaration of Human Rights (n 89) art 5.
35 ibid, art 9.
36 ibid, art 10.
37 International Covenant on Civil and Political Rights (ICCPR), opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976).

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experimentation without free consent.[38] Article 9 guarantees the right to liberty and security of person, prohibits arbitrary arrest and detention, and requires that detainees be promptly informed of the reasons for their detention and brought expeditiously before a judicial officer.[39] Article 10 imposes a specific obligation that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person. It further mandates the separation of accused persons from convicted prisoners and the separation of juvenile offenders from adults.[40]

Article 14 of the ICCPR guarantees the right to a fair trial, which encompasses the presumption of innocence, the right to be tried without undue delay, the right to legal assistance, and the right of appeal.[41] These guarantees are particularly significant in the Nigerian context, where prolonged pre-trial detention has been identified as one of the most pervasive violations of prisoners' rights.[42]

4.3 United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)

The United Nations Standard Minimum Rules for the Treatment of Prisoners, revised and adopted by the General Assembly in 2015 and dedicated to the memory of Nelson Mandela, represent the most detailed and comprehensive international standards governing the conditions of imprisonment and the treatment of persons deprived of their liberty.[43] Although they are not binding in the manner of treaty obligations, the Nelson Mandela Rules carry significant normative weight and are widely regarded as the authoritative articulation of minimum acceptable standards for prison administration worldwide.

Rule 1 establishes the foundational principle that all prisoners shall be treated with respect for their inherent dignity and value as human beings.[44] Rules 12 to 17 set out detailed standards for accommodation, including requirements for adequate floor space, lighting, ventilation, and sanitation facilities.[45] Rules 43 to 45 contain absolute prohibitions against certain forms of solitary confinement and disciplinary punishments that constitute cruel, inhuman, or degrading treatment. Rules 58 to 68 address the obligations of prison administrations with respect to medical care, mental health treatment, and the prohibition of medical experiments on prisoners.[46]

The Nelson Mandela Rules are directly relevant to the evaluation of prison conditions in Nigeria and provide a detailed benchmark against which the performance of the Nigerian Correctional Service can be assessed. The Rules have been formally incorporated by reference

38 ibid., art 7.
39 ibid., art 9.
40 ibid., art 10.
41 ibid., art 14.
42 Nigeria ratified the ICCPR on 29 July 1993: United Nations Treaty Collection <https://treaties.un.org> accessed 1 April 2026.
43 Nelson Mandela Rules (n 3), preamble.
44 ibid., Rule 1.
45 ibid., rules 12 - 17.
46 ibid., rules 58 - 68.

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in various policy documents of the Nigerian Correctional Service and have influenced the provisions of the Nigerian Correctional Service Act 2019.

4.4 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is a landmark human rights treaty that establishes a comprehensive international framework for the prohibition and prevention of torture.[47] The Convention defines torture in Article 1 as any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for purposes such as obtaining information, punishing, intimidating, or coercing, when such pain is inflicted by or at the instigation of or with the consent or acquiescence of a public official.[48]

Article 2 of the Convention imposes an absolute and non-derogable obligation on States-Parties to take effective legislative, administrative, judicial, and other measures to prevent acts of torture within their jurisdictions.[49] Article 15 provides that any statement made as a result of torture shall not be invoked as evidence in any proceeding. Nigeria ratified the Convention against Torture in 2001, thereby assuming binding obligations to enact comprehensive anti-torture legislation, investigate allegations of torture, prosecute perpetrators, and provide adequate remedies to victims.[50]

The relevance of the Convention to prisoners' rights in Nigeria is acute, given the wide-spread and well-documented allegations of torture, ill-treatment, and extra-judicial punishment in Nigerian correctional facilities and police detention centres. Nigeria's compliance with its obligations under the Convention remains a subject of ongoing scrutiny by the Committee against Torture.

4.5 African Charter on Human and Peoples' Rights 1981

The African Charter on Human and Peoples' Rights, commonly known as the Banjul Charter, is the principal human rights instrument of the African Union and is of particular significance as a binding regional treaty to which Nigeria is a party.[51] The African Charter has been domesticated in Nigeria through the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, which gives the Charter the force of law in Nigeria and allows its provisions to be enforced in domestic courts.[52]

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47 The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, opened for signature 10 December 1984, 1465 UNTS 85 (entered into force 26 June 1987).

48 ibid., art 1.

49 ibid., art 2.

50 Nigeria acceded to the Convention against Torture on 28 June 2001. See United Nations Treaty Collection <https://treaties.un.org> accessed 23 June 2026.

51 African Charter on Human and Peoples' Rights (Banjul Charter), adopted 27 June 1981, OAU Doc CAB/LEG/67/3 rev. 5, 21 ILM 58 (1982) (entered into force 21 October 1986).

52 Z O Shittu-Adenuga, 'A Critical Examination of Prisoners' Rights in Nigeria' (2024) 1(2) *Fountain University Law Journal* 13–31. Available online at https://fountainjournals.com/index.php/FULAJ/issue/view/50 (accessed 20 October 2026)

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Article 5 of the African Charter guarantees every individual the right to the respect of the dignity inherent in a human being and prohibits all forms of exploitation and degradation, including torture, cruel, inhuman, or degrading punishment and treatment.[53] Article 6 protects the right to liberty and security of person and prohibits arbitrary arrest or detention.[54] Article 7 guarantees the right to have one's cause heard, encompassing the right to an appeal, the presumption of innocence, the right to defence, and the right to be tried within a reasonable time by an impartial court or tribunal.[55]

The African Commission on Human and Peoples' Rights has examined several communications against Nigeria concerning prison conditions and the treatment of prisoners, and its decisions have contributed to the development of normative standards applicable to the Nigerian correctional system. The jurisprudence of the African Commission and the African Court on Human and Peoples' Rights constitutes an important body of authority for the protection of prisoners' rights in Nigeria.

4.6 African Charter on the Rights and Welfare of the Child 1990

The African Charter on the Rights and Welfare of the Child provides specific protections for children who come into contact with the criminal justice system, including child offenders who may be detained in correctional facilities.[56] Article 17 of the Charter addresses the administration of juvenile justice and prescribes minimum guarantees for children alleged to have infringed the penal law, including the guarantee that no child shall be subjected to torture or other cruel, inhuman, or degrading treatment.

The Charter further provides in Article 17(2)(c) that every child accused or found guilty of having infringed the penal law shall have the right to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's ability to play a constructive role in society.[57] These provisions are directly relevant to the treatment of juvenile offenders in Nigerian correctional facilities and are complemented by the provisions of the Child Rights Act 2003 at the domestic level.

4.7 Convention on the Rights of the Child 1989

The Convention on the Rights of the Child is the most widely ratified human rights treaty in history and establishes comprehensive protections for the rights of all children, including those who are deprived of their liberty.[58] Nigeria ratified the Convention and is bound by its provisions, which include specific guarantees relating to the treatment of children in conflict with the law.

Article 37 of the Convention prohibits the torture, cruel treatment, or punishment of children and further provides that the arrest, detention, or imprisonment of a child shall be used only as

53 ibid., art 5.
54 ibid., art 6.
55 ibid., art 7.
56 African Charter on the Rights and Welfare of the Child, adopted 11 July 1990, OAU Doc CAB/LEG/24.9/49 (1990) (entered into force 29 November 1999).
57 ibid., art 17(2)(c).
58 The Convention on the Rights of the Child, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990).

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a measure of last resort and for the shortest appropriate period of time.[59] Article 40 guarantees the right of every child alleged or recognised as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, and prescribes minimum standards for juvenile justice proceedings.[60]

5.0 Nigeria Legal Framework on Prisoners' Rights

In no order of preference, this heading examines Nigerian legislations that promotes prisoner's rights.

5.1 Constitution of the Federal Republic of Nigeria 1999 (as amended)

The CFRN, is the supreme law of Nigeria and the primary domestic legal instrument for the protection of fundamental rights, including the rights of persons deprived of their liberty. Chapter IV of the CFRN, which contains the fundamental rights provisions, is directly applicable to prisoners and constitutes the constitutional foundation of prisoners' rights in Nigeria.

Section 34 of the CFRN guarantees every individual the right to dignity of the human person and expressly prohibits torture, inhuman, or degrading treatment.[61] Section 35 protects the right to personal liberty, prescribing strict conditions under which a person may be deprived of liberty and establishing time limits for bringing detainees before a court.[62] Section 36 guarantees the right to a fair hearing, including the right to a public trial, the presumption of innocence, legal representation, and an interpreter.[63]

Section 46 of the CFRN provides that any person who alleges that any of his fundamental rights has been, is being, or is likely to be contravened may apply to the High Court for redress.[64] This constitutional remedy is available to prisoners and constitutes the primary mechanism for the judicial enforcement of prisoners' rights. The right to life, guaranteed by section 33 of the CFRN, further supports the argument that the State is under a positive obligation to protect the lives of persons in its custody.[65]

Courts have affirmed that the fundamental rights provisions of the CFRN apply to prisoners. Nigerian courts have held that imprisonment does not denude a person of all constitutional rights; rather, a prisoner retains all rights that are not necessarily abrogated by the fact of imprisonment.[66] This constitutional position has been reinforced by the increasing alignment of Nigerian jurisprudence with international human rights standards.

5.2 Nigerian Correctional Service Act 2019

The Nigerian Correctional Service Act 2019 is the cornerstone of the statutory framework for penal administration in Nigeria. The Act, which repealed the Nigerian Prisons Service Act,

59 The Convention on the Rights of the Child, art 37.
60 ibid., art 40.
61 The CFRN, s 34.
62 ibid., s 35.
63 ibid., s 36(6)(c).
64 ibid., s 46(1).
65 ibid., s 33(1).
66 Falana and Falana (n 30) 25.

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reflects a paradigmatic shift in the philosophy of incarceration, from pure punishment and custody to correction, rehabilitation, and reintegration.[67]

Section 3 of the Act sets out the objectives of the Nigerian Correctional Service, which include providing safe custody and welfare for all persons lawfully committed to correctional custody, promoting the rehabilitation and reformation of offenders, and providing non-custodial measures as an alternative to imprisonment.[68] Section 16 mandates the Comptroller-General of the Service to ensure the physical, medical, and psychological well-being of persons in the custody of the Service.[69]

Section 47 of the Act specifically addresses the rights of inmates, providing that an inmate shall not be subjected to torture, corporal punishment, deprivation of food or water, cruel, inhuman, or degrading treatment.[70] Section 48 further establishes an independent Inspectorate to monitor conditions of custody and investigate complaints by inmates, thereby creating an institutional mechanism for accountability.[71] Notwithstanding these progressive provisions, the Act has been criticised for its limited provisions on non-custodial sentencing and the adequacy of funding for the implementation of its rehabilitative objectives.

5.3 Administration of Criminal Justice Act 2015

The Administration of Criminal Justice Act 2015 (ACJA) represents a landmark reform of the criminal procedure regime applicable to the Federal Capital Territory and federal offences. The Act aims to ensure the speedy dispensation of justice, reduce the incidence of pre-trial detention, and protect the rights of suspects, defendants, and victims throughout the criminal justice process.[72]

Section 296 of the ACJA introduces a provision mandating judges to consider non-custodial sentences and community service as alternatives to imprisonment, which is directly relevant to the goal of reducing prison overcrowding.[73] Section 116 of the Act provides for the taking of the defendant's plea promptly and prohibits remand for periods exceeding sixty days without charge. Section 33 mandates that suspects must be arraigned before a court within a prescribed period of time, thereby curtailing the practice of indefinite detention without trial.[74]

The ACJA has been widely praised as a progressive piece of legislation that addresses many of the systemic failures of the criminal justice system in Nigeria. Its application is confined to federal offences and the Federal Capital Territory. Thankfully, all States Assemblies in Nigeria have as at the year 2026, enacted the legislation verbatim or near verbatim.

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67 Nigerian Correctional Service Act 2019.
68 ibid., s 3.
69 Nigerian Correctional Service Act 2019, s 16.
70 ibid., s 17.
71 ibid., s 19.
72 ACJA, s 1(1).
73 ibid., s 296.
74 ACJA, s 33; AG Lawal, AS Abiola and AF Malik 'An appraisal of the constitutionality of Remand Proceedings Under the Administration of Criminal Justice Act, 2015: A case for Fair Hearing' Marathwada Mitra Mandal's SCLC Law Review (2025)4(1) 8-20 Available online at https://www.sclc.edu.in/wp-content/upload/2021/03/2025-MMSCLC-Law-Review-4-Articles-by-Foreign-Authors.pdf

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5.4 Criminal Code Act 2004

The Criminal Code Act is the principal substantive criminal law statute applicable in the southern States of Nigeria and federally.[75] The Code defines criminal offences, prescribes sanctions, and in certain respects, bears upon the conditions and treatment of persons in custody. Section 351 of the Criminal Code prohibits common assault and unlawful wounding, provisions that are applicable to conduct within correctional facilities.[76]

The Criminal Code's provisions on assault and unlawful acts are of relevance to the legal accountability of correctional officers and other State officials who may subject prisoners to violence or unlawful treatment. The Code also contains offences relating to official corruption, which may be relevant to the prosecution of prison officials who engage in the extortion or exploitation of prisoners. However, the Criminal Code does not contain specific provisions addressing the rights of prisoners or the conditions of detention, gaps that are addressed by the Nigerian Correctional Service Act and associated regulations.

5.5 Penal Code Act

The Penal Code is the substantive criminal law statute applicable in the northern States of Nigeria and governs criminal offences and sanctions in those States.[77] The Penal Code incorporates certain principles derived from Islamic law, reflecting the legal pluralism that characterises the Nigerian legal system. Section 59 of the Penal Code provides for punishments that include imprisonment, fines, corporal punishment, and death, and the execution of these sanctions occurs within the correctional system.[78]

The coexistence of the Criminal Code in the south and the Penal Code in the north creates a degree of disharmony in the substantive criminal law applicable across Nigeria. This duality, combined with the uneven adoption of the ACJA at the State level, produces significant regional disparities in the treatment of prisoners and the standards of criminal procedure that govern their imprisonment. The reconciliation of these disparities is an important challenge for comprehensive penal reform in Nigeria.

5.6 Legal Aid Act

The Legal Aid Act 2011 establishes the Legal Aid Council of Nigeria and provides for the provision of free legal advice and representation to indigent persons accused of criminal offences, including those who are detained in correctional facilities.[79] Section 7 of the Act provides that legal aid shall be granted to a person in custody who cannot afford legal representation in capital offence cases and in any other prescribed circumstances.[80]

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75 Criminal Code Act, Cap C38, Laws of the Federation of Nigeria 2004, s 1.
76 ibid., s 351.
77 Penal Code (Northern States) Federal Provisions Act (Cap P3, Laws of the Federation of Nigeria 2004).
78 ibid., s 59.
79 Legal Aid Act 2011, s 1.
80 ibid., s 9(2).

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The right to legal aid is fundamental to the right to a fair trial and to the effective protection of prisoners' rights. Without access to competent legal representation, indigent accused persons are unable to challenge unlawful detention, obtain bail, or mount an effective defence. The Legal Aid Act is therefore an important instrument for the protection of the rights of the most vulnerable segment of the prison population – those who cannot afford private legal representation.

6.0 INSTITUTIONAL FRAMEWORK

The institutional framework for the implementation of prisoners' rights and penal reform in Nigeria is constituted by a range of State and quasi-independent institutions with distinct but complementary mandates. The effectiveness of the legal framework discussed in the preceding sections depends ultimately on the capacity, integrity, and independence of these institutions. These institutions would be examined under the preceding sub-heading.

6.1 Nigerian Correctional Service

The Nigerian Correctional Service is the primary institutional actor in the penal system and bears responsibility for the custodial and non-custodial management of offenders in Nigeria.[81] Established by the Nigerian Correctional Service Act 2019, the Service is charged with providing safe custody, promoting the reformation and rehabilitation of offenders, and managing non-custodial measures including probation, parole, and community service.[82]

The Service is headed by a Comptroller-General appointed by the President subject to Senate confirmation, and operates a network of custodial centres (formerly known as prisons) and non-custodial centres across the thirty-six States and the Federal Capital Territory. The capacity of the Nigerian Correctional Service to fulfil its statutory mandate is constrained by chronic underfunding, inadequate infrastructure, a severe shortage of trained correctional officers, and the persistent problem of overcrowding resulting from an excessive remand population.[83]

6.2 Nigerian Police Force

The Nigerian Police Force plays a critical role in the criminal justice continuum, as police detention is the first point of contact for most persons who eventually enter the correctional system. The Police Force is established by section 214 of the CFRN and is charged with maintaining law and order, detecting and preventing crime, and apprehending offenders.[84] The Nigeria Police Act 2020 governs the organisation, administration, and powers of the Force.[85]

The conditions of police detention in Nigeria and the treatment of suspects in police custody are central concerns in any analysis of prisoners' rights. Police cells are frequently overcrowded, lack adequate sanitation and ventilation, and are sites of documented torture, ill-

81 The Nigerian Correctional Service Act 2019, s 2.
82 ibid., s 2(1).
83 AS Abiola and J.O Ogedengbe 'Understanding Plea bargain as an Alternative Dispute Resolution in the administration of criminal justice system in Nigeria' Law and Social Justice Review (LASJURE) (2023)4 (3) September 2023 Available online at https://www.nigerianjournalsonline.com/index.php/LASJURE/index
84 The CFRN, s 214.
85 The Nigeria Police Act 2020, s 4.

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treatment, and extortion. Reforms to police detention practices are therefore inseparable from the broader project of penal reform in Nigeria. The Police Service Commission (PSC) exercises disciplinary oversight over members of the force, though this oversight has been criticised as insufficiently rigorous and independent.

6.3 Judiciary

The judiciary is a constitutional institution of fundamental importance to the protection of prisoners' rights. Section 6(1) of the Constitution vests judicial power in the courts of Nigeria, which are empowered to adjudicate on matters relating to the rights of all persons, including prisoners.[86] The Federal High Court, the State High Courts, and the National Industrial Court each have jurisdiction over aspects of prisoners' rights, including applications for enforcement of fundamental rights and challenges to the legality of detention.[87]

The judiciary plays a pivotal role in reducing pre-trial detention through the grant of bail, the expeditious hearing of cases, and the supervision of remand warrants. However, the efficiency of the judiciary is significantly impaired by understaffing, a heavy caseload, inadequate infrastructure, and in some instances, susceptibility to corruption and executive interference. Judicial reforms aimed at reducing the backlog of criminal cases and ensuring the timely disposition of matters involving detained persons are integral to the achievement of prisoners' rights guarantees.

6.4 Legal Aid Council of Nigeria

The Legal Aid Council of Nigeria is a statutory body established under the Legal Aid Act 2011 with the mandate to provide free legal advice and representation to indigent persons in criminal proceedings.[88] Section 9 of the Act empowers the Council to establish the Legal Aid Clinics in correctional facilities and to liaise with the Nigerian Correctional Service and other relevant bodies to identify prisoners in need of legal assistance.[89]

The Legal Aid Council plays an essential role in bridging the access-to-justice gap for inmates who cannot afford private legal representation. The Council's mandate includes reviewing the files of awaiting-trial inmates to identify those who have been detained beyond the maximum permissible period and facilitating their arraignment or release. Despite this important mandate, the Council is chronically under-resourced, with insufficient lawyers, inadequate office facilities, and limited outreach to correctional centres outside state capitals, which significantly constrains its capacity to serve the vast majority of prisoners in need of legal assistance.

6.5 National Human Rights Commission

The National Human Rights Commission is a quasi-governmental institution established under the National Human Rights Commission Act, with the mandate to promote and protect human

86 The CFRN, s 6(1).
87 ibid., ss 251 & 272.
88 The Legal Aid Act 2011, s 2.
89 ibid., s 14.

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rights in Nigeria, including the rights of persons deprived of their liberty.[90] The Commission is empowered to investigate human rights violations, mediate between complainants and government agencies, publish reports on the state of human rights in Nigeria, and recommend remedial measures to the government.[91]

The Commission has conducted several investigations into conditions in Nigerian correctional facilities and has documented wide-spread violations of prisoners' rights, including overcrowding, torture, denial of medical care, and prolonged pre-trial detention.[92] Its reports have contributed to public awareness of the crisis in the correctional system and have provided a factual basis for advocacy by civil society organisations. However, the Commission's recommendations are not legally binding on the government, and the rate of compliance with its recommendations has been uneven.[93]

7.0 CONCLUSION

The legal and institutional framework governing prisoners' rights and penal reform in Nigeria is a complex, multi-layered structure that draws from international human rights law, constitutional guarantees, federal and State legislation, and the mandates of a range of institutional actors. The framework has been significantly strengthened in recent years by the enactment of the Nigerian Correctional Service Act 2019, the Administration of Criminal Justice Act 2015, and the adoption of similar legislation at the State level. Nigeria's ratification of key international and regional human rights instruments further enriches the normative environment for the protection of prisoners' rights.

However, the existence of a robust normative framework does not, by itself, guarantee the protection of prisoners' rights in practice. The critical challenge in Nigeria is one of implementation: bridging the enormous gap between the law on the books and the lived reality of persons in Nigerian correctional facilities. This challenge requires sustained political will, adequate resource allocation, institutional capacity building, effective oversight mechanisms, and the active engagement of civil society and the legal profession.

8.0 RECOMMENDATIONS

On the basis of the foregoing, this article makes the following recommendations, addressed to the federal and State governments, the judiciary, the Nigerian Correctional Service, and civil society:

i. The federal government should significantly increase budgetary allocations to the Nigerian Correctional Service, with specific provisions for the decongestion of custodial facilities, the improvement of healthcare services, and the institutionalisation of rehabilitative programming.

ii. The National Human Rights Commission should be strengthened with enhanced financial and operational independence, enabling it to conduct regular, unannounced

90 The National Human Rights Commission Act (Cap N46, Laws of the Federation of Nigeria 2004), s 5.
91 ibid., s 5(b).
92 The National Human Rights Commission, Report on the Prison Audit and National Preventive Mechanism Assessment in Nigeria (NHRC Press, 2022) 45.
93 The National Human Rights Commission (Amendment) Act 2010, s 22; O. G. C. Okafor, *The Enforcement of Human Rights Decisions in Nigeria* (Malthouse Press, 2018) 89.

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inspections of all custodial facilities and to publish its findings without restriction. A dedicated Inspectorate of Custodial Facilities, modelled on international best practice, should be considered as a complementary mechanism.

iii. The Legal Aid Council of Nigeria should be substantially restructured and funded to enable it to provide effective legal representation to all indigent defendants, including those in pre-trial detention. Pro bono obligations should be clearly defined and enforced for members of the Nigerian Bar Association.