An analysis of issues and challenges of Nigeria's criminal justice system

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DECLARATION BY CANDIDATE

I, Alaba Ibironke Kekere, declare that this thesis entitled 'An analysis of issues and challenges of Nigeria's criminal justice system', hereby submitted in fulfilment of the requirements for the degree of Doctor of Laws (LLD), at the North-West University, has not previously been submitted by me for a degree at this or any other University. I further declare that this is my work in design and execution, and that all materials contained herein have been duly acknowledged.

…….. 2nd April, 2020

Alaba Ibironke Kekere Date

DECLARATION BY PROMOTER

I, Professor Avitus Agbor, hereby declare that this thesis entitled ‘An analysis of issues and challenges of Nigeria’s criminal justice system’ submitted by Alaba Ibironke Kekere for the degree of Doctor of Laws (LLD) in Public Law, be accepted for examination.

…… ……

Professor Avitus Agbor Date

DEDICATION

This study is dedicated to God Almighty; my late father, Mr Joseph Olusola Omotola, who laid the foundation of my education and encouraged me to pursue doctoral studies for a better tomorrow (even at the point of death); and to all those who strive to make efficiency and the functioning of Nigeria's criminal justice system a reality.

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LIST OF ABBREVIATIONS AND ACRONYMS

ACJA	Administration of Criminal Justice Act
CAT	Convention against Torture and other Cruel, Inhuman or Degrading Treatment
or	Punishment
CC	Criminal Code
CCRA	The Federal Corrections and Conditional Release Act
CFRN	The Constitution of the Federal Republic of Nigeria
CJS	Criminal Justice System
CPA	Criminal Procedure Act
CPC	Criminal Procedure Code
CSC	Correctional Services of Canada
DPP	Department of Public Prosecutions
EA	Evidence Act
EFCC	Economic and Financial Crimes Commission
FCT	Federal Capital Territory
FIRS	Federal Inland Revenue Service
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICPC	Independent Corrupt Practices and Other Related Offences Commission
ICRC	International Committee of Red Cross
INTERPOL	International Police Organisation
LAA	Legal Aid Act
LAC	Legal Aid Council
LFN	Laws of the Federation of Nigeria
NAFDAC	National Agency for Food Drug Administration and Control
NBS	National Bureau of Statistics
NDLEA	National Drug Law Enforcement Agency
NOA	National Orientation Agency
NPA	Nigeria Police Act
NPB	The National Parole Board
NPF	Nigeria Police Force
OPCAT	Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

SAN	Senior Advocate of Nigeria
UDHR	Universal Declaration of Human Rights
UN	United Nations
USA	United States of America
WACA	West African Court of Appeal
WAFF	West African Frontier Force

TABLE OF CASES

A S E S A v Ekwueme (2001) FWLR pt. 51 at 450- 457.

Abudu v Nigerian Police Suit No: M/13/2011 at 624.

Adesina v State (2012) Vol 6-7 pt. II MJSC at 80.

Alasho Anaho and Anor v Keffi Native Authority (1966) NNLR pt. 37 at 38.

Aliu Bello v Attorney-General of Oyo State (1986) 5 NWLR pt. 45 at 828.

Anozia v Attorney-General, Lagos State (2010) 15 NWLR pt. 207 at 237.

Aoko v Fagbemi (1961) 1 All NLR pt.400 at 231.

Arabi v The State (2001) 4 NWLR pt. 706 at 256.

Attorney-General of Bendel State v Attorney-General Federation (2007) 11 NWLR pt. 1046 at 565.

Attorney-General of Bendel State v. Attorney-General of the Federation (1983) 3 NCLR 1 at 40.

Augustine Eda v The Commissioner of Police (1982) NCLR 219 at 228.

Bayo Johnson v Lufadeju (2000) 8 NWLR pt. 767 at 192.

Dambaba v the State (2000) 14 NWLR pt. 687 at 396.

Denton-West v Muoma (2008) 6 NWLR pt. 1083 at 418, 451-452.

Dominic Peter Ekanem v Assistant Inspector- General of Police (2008) All FWLR pt. 420 at 775.

Enahoro v R (1965) NMLR pt. 265 at 283.

Fadeju v Johnson (2007) All FWLR pt. 371 at 1532.

Fawehinmi v Inspector- General of Police (2000) 1NWLR pt. 767 at 606.

Federal Government of Nigeria v Tafa Balogun & Others (Unreported) Charge No. FHC/ AB/CR/14/

Galadima v State (2012) Vol 12 MJSC Pt. III at 190.

Gubba v Gwandu Native Authority (1947) WACA and Native Courts Ordinance, 1948 at 12.

Hartage v Henderick 439 PA 268 A2 d 459 (1970) at 601.

Ibiyeye & Others v *Gold & Others* (2010) Appeal No. CA/1C/M. Appeal Court, Ilorin, Kwara State.

Igri v State (2012) Vol 6-7 pt. III MJSC at 107.

Isaac Edoh v Edo State Commissioner of Police Suit No: B/460m/2011.

Kano Native Authority v Fagoji (1957) NRNLR at 57.

Lewis v Bankole (1908) 1 NLR at 81.

Mbang v State (2012) Vol 6-7 pt. IV MJSC at 119.

*Military Governor of Lagos State v Ojukw*u (1986) 1 NWLR pt. 18 at 621.

Nice v AG (2007) CHR 218 at 232.

Nse Udo Ntita v State (1993) pt. 283 at 512.

Nwachukwu v *The State* (2002) No 2 8NWLR 366 pt. 770 at 682-683.

Nwachukwu v *the State* (2002) NWLR pt. 751 at 3.

Obaseki, Justice of Supreme Court in *Oyewunmi v Ogunesan* (1990) 3 NWLR pt. 182 at 20.

Odekunle v State (2006) All FWLR pt. 332 1452 at 145.

Ogundare v State (1995) 5 NWLR pt. 395 at 266.

Okoduwa v State (1988) 2 NWLR pt. 76 at 333.

Onagoruwa v The State (1993)7 NWLR pt. 303 at 86.

Onyenye v State (2012) MJSC pt. II at 121.

*Josiah v State (*1985) 1 NWLR pt.1 at 124.

OSIL v Balogun (2012) 38 WRNP. at 150.

Owoniyin v Ornotosho (1961) 2 SCNLR 57 at 304,306.

Oyakhare v State (2006) All FWLR pt. 305 at703-709.

Oyewunmi v Ogunesan (1990) 3 NWLR pt. 182 at 20.

R v Inch (1989) 91 Criminal App.R.51.

R v Nicholas Vega (1938) 4 WACA at 8.

R v Silverlock (1894) 2 QB 766.

R v Wilkes (1891) AC 173.

Robinson Ojoko v Inspector- General of Police (1956) FSC at 62.

Rookes v Commissioners of Sewers (1598) 5 Rep at 99.

Saliso v Police (1960) WNLR 213.

Sharpe v Wakefield. (1891) A C 173.

Shola Abu v COP, Lagos State (2006) CHR1.

Tochukwu v F R N (2005) All FWLR pt. 278 at 1072-1073.

Tsamiya v Bauchi Native Authority (1957) NRNLR *73.*

Udofia v State (1988) 3 NWLR pt. 84 at 541.

Ukachukwu v Uba (2006) All FWLR pt. 300 at 1736.

Willie v Ibiok (2012) 52.

Yusuf Umar v *A A Salami & ors* (2001) 1 CHR pt 413.

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Administration of Criminal Justice Act, 2015

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- Section 167(3)
- Section 270(a-b)
- Section 396
- Section 401(2)(g)
- Section 460
- Section 468

Administration of Criminal Justice Laws of Lagos State, 2011

- Sections 1-7
- Section 347

African Charter on Human and Peoples' Rights Ratification and Enforcement Act Cap A9 Laws of Federation of Nigeria, 2004

Annesley Police, 1889

Code of Conduct and Professional Standards for Officers of the Nigerian Police Force, 2013

- Rule 2

Criminal Code Act, Cap C 38, Laws of the Federation of Nigeria, 2004

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- Sections 24-32
- Section 435(1)

Criminal Procedure Act, Cap C 42, Laws of the Federation of Nigeria, 2004

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Criminal Procedure Act, Cap C 42, Laws of the Federation of Nigeria, 2004

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- Section 435(1)

Criminal Procedure Code Act, Cap C 42, Laws of the federation of Nigeria, 2004

- Sections 26-27

Currency Ordinance, 1862

- Numbers 4-5

Corrupt Practices and Other Related Offences Act, Cap C 31, Laws of the federation of Nigeria 2004

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Economic and Financial Crime Commission (Establishment) Act, 2004

- Section 6(m)
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Evidence Act Laws, Cap E 14, Laws of the federation of Nigeria 2004

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Federal Parliament Act, 1963

Harbour Regulations Ordinance, 1862

Harbour Sanitary Regulations Ordinance, 1862

Independent Corrupt Practices and other Related Offences Commission Act, 2000

- Section 6(a)

Laws of the Federation of Nigeria, 1948

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Laws of the Federation of Nigeria, 1990

Laws of the Federation of Nigeria, 2004

Legal Aid Act, 2011

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- Section 1(4)
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National Agency for Food and Drug Administration and Control Act, 1999

- Sections 26

Native Courts Ordinance, 1933

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Native Courts Ordinance, 1943

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Native Courts Ordinance,1918

Native Courts Proclamation, 1900

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Nigeria Police Act, Cap P19, Laws of the Federation of Nigeria 2004 Sections 3-4

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- Section 9(4-5)
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- Sections 25-30

Ordinance of Settlement of Lagos, 1863

Penal Code (Northern States) Federal Provisions Act, 2004

Penal Code Act, 1990

- Sections 1-477

Prisons Act Cap P29 Laws of the Federation of Nigeria, 2004

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Protectorate Court Ordinance, 1933

Sharia Penal Code Law of Zamfara State, 2000

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Supreme Court Ordinance, 1846

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Supreme Court Proclamation, 1900

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The Constitution of the Federal Republic of Nigeria, 1999

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ABSTRACT

Criminal justice, which is the way crimes and criminals are managed, is a common feature in most legal systems in the world. In Nigeria, the present criminal law is an offspring of British colonial rule before independence, and has undergone changes over the years in the course of transition from military to democratic regimes.

The study reveals that Nigerian Criminal Justice System is fundamentally defective, and the problem is evident at every processing point in the criminal justice line. In an endeavour to ameliorate the problems and enhance the functioning of the system, the 1999 Constitution of Nigeria was amended in 2011 with some legal and institutional reforms thereafter. Despite all these, problems still remain unresolved and there seems to be no end to the challenges. Thus, the aim of this study was to examine the different issues and challenges faced by Nigeria's criminal justice system. The research also aims to add to the knowledge on synergy among various sectors and the impact of the recent constitutional amendment in 2011 and the Administration of Criminal Justice Act, 2015 on the justice system.

Primary and secondary sources were used in the study. Primary sources consisted of national legal instruments and institutions related to the criminal justice system in Nigeria as follows: the Nigerian Constitution of 1999 as amended in 2011; the Police Act; the Prisons Act; Legal Aid Act; Penal Code; Criminal Code; the Criminal Procedure Code (CPC); the Criminal Procedure Act (CPA); the Administration of Criminal Justice Act, 2015; Economic and Financial Crimes Commission (EFCC) Act; as well as the Independent Corrupt Practices and other Related Offences Commission (ICPC) Act. Secondary sources consisted of scholarly works (legal texts, journal articles and magazines, among others). Data were collected on the key sectors of the Nigerian Criminal Justice System (police, judiciary and prison) from the National Bureau of Statistics (NBS) in Nigeria to serve as verifiable and reliable qualitative information and empirical evidence to substantiate the c hallenges in each sector. The most industrialised states with the highest population and rate of criminality were chosen to represent each of the six Nigerian geo-political zones (for data collection) in order to provide evidence on what obtains in the various zones and by extension, Nigeria.

Considering the fact that contemporary legal systems, as influenced by human rights, have reformed their criminal administration to align with international human rights standards, relevant regional and international instruments, to which Nigeria is a member state, were examined in this study to measure the performance of each of Nigeria's criminal justice system sectors. Apparently, there is a failing criminal justice system in Nigeria. This is

because Nigeria has failed in its obligations to implement the dictates of the instruments that guarantee effective performance of each of the sectors in achieving international best practices in her criminal justice administration. It is recommended that the Nigerian government demonstrates commitment to domesticating the various treaties to which Nigeria is a signatory. Having consulted other jurisdictions with functional legal systems such as Canada and United States of America, some recommendations are also made that could assist all the players within the Nigerian Criminal Justice System to appreciate the duties and obligations cast upon them and thus, correct inefficiency in the justice system and take it to the level of global best practices.

Keywords: Police, Judiciary, Correctional Services, Criminal Justice Administration, Nigeria.

CHAPTER ONE

INTRODUCTION

1.1 Introduction

The Nigerian Criminal Justice System involves criminal law, criminal procedure and the other institutions in the machinery of justice. Criminal law deals with the general principles of criminal responsibility and the substantive content of specific crimes while criminal procedure is the way crimes are investigated, acquittal or guilt adjudicated. The police, prosecutors, judiciary and penitentiary institutions (prisons) are the key sectors of Nigeria's criminal justice system. However, there are other components, such as community and government agencies, that are frequently overlooked. These different components coordinate their independent functions from the time a crime is suspected, to the conviction or acquittal of the offender. In particular, this chapter sets the background to the study; the problem statement; central research questions; the aim and objectives of the study; a review of existing literature on the subject; the methodology used in finding answers to the central questions; the scope; limitations; and structure of the study.

1.2 Background to the study

Most legal systems across the globe possess some common features. Some of these include criminal law, criminal procedure and criminal justice. Even though they may sound synonymous, an analytical delineation of these shows that they are different domains in a legal system. First, criminal law deals with the general principles of criminal responsibility as well as the substantive content of specific crimes.[1] Questions such as the age at which criminal responsibility is imposed, the defences available to per petrators of crimes and what constitutes the specific crimes are questions of criminal law.[2] For example, in some legal systems, theft is defined as causing loss to another through the removal of the person's possession, which is intended at denying the same possessor of the property. Murder is defined as the intentional killing of a human being. Rape is defined as consensual sexual intercourse.

[1] Cherif M Bassiouni, *Introduction to International Criminal Law* (Martinus Nijhoff Publishers 2013) 302.
[2] Alan Reed and Micheal Bohlander, *General Defences in Criminal Law: Domestic and Comparative Perspective* (Routledge 201 6) 327.

Secondly, there is criminal procedure, which, in legal parlance, could be defined as the manner in which crimes are investigated, guilt adjudicated and sentences imposed.[3] While criminal law looks at the substantive definition of crimes, criminal procedure focuses on the investigation and adjudication of guilt.[4] Issues such as the powers of arrest; seizure; searches; the jurisdiction of courts; the nature and admissibility of evidence; due process; nature; purposes; and effectiveness of sanctions to be imposed, including the right to appeal; are all issues that fall within the ambit of criminal procedure.[5] Contemporary legal systems, influenced by human rights, have reformed their criminal procedure to align them with international human rights standards.[6]

Lastly, there is the criminal justice system. In juridical science, this refers to the way crimes and criminals are managed in a given legal system.[7] Such a legal system could be at federal level (in federal states),[8] national level (in unitary states) or regional level (within states in a federal system). Introspection into what constitutes the criminal justice system is very broad, and may vary from society to society.[9] Howeverc, it should be noted that criminal justice involves criminal law,[10] criminal procedure and other institutions that play key roles in the machinery of justice.[11] It is important to use a hypothetical example from South Africa in order to have a better understanding of what criminal justice entails. For instance, a nine-year old child who complains to her mother that she feels abnormal pains in her thighs and sexual organs. Upon closer examination, the mother notices some bruises. She rushes the child to a hospital for medical examination. The child discloses to the medical practitioners that the neighbour had sex with her. The child is tested for any Sexually Transmitted Diseases (STDs), and a medical report is issued detailing the observations made. The mother takes the report to the relevant police precinct where she narrates what happened. The police officer on duty invites the Child Protection Unit and they eventually arrest the perpetrator. The statements collected are forwarded to the Legal Department and the perpetrator is charged

[3] Marvin Zalman, *Criminal Procedure: Constitution and Society* (Prentice Law 2002) 4; Clair A Cripe and Michael G Pearlman, *Legal Aspects of Corrections Management* (Jones & Barret Learning 2004) 502.
[4] ibid.
[5] Sergey Vasiliev and Salvatore Zappala, 'Appeals, Reviews, and Reconsideration' in Gaoran Sluiter, Hakan Freeman, Susanna Littion and Salvatore Zappala (eds), *International Criminal Procedure: Principles and Rules* (Oxford University Press 2013) 967.
[6] Wendy Laverick, *Global Injustice and Crime Control* (Routledge 2016) 132.
[7] Ester Ragonese, Anne Rees and Jolve Terry Dray, *The Routledge Guide to Working in Criminal Justice: Employability Skills and Careers in the Criminal Justice Sector* (Routledge 2014) 4.
[8] Jerry M Silverman, *Public Sector Decentralization: Economic Policy and Sector Investment Programs, Volume 23 to 188* (World Bank Publications 1992) 23.
[9] Stancy L Malicoat, *Crime and Criminal Justice: Concepts and Controversies* (SAGE Publications 2016) 12.
[10] Mark S Gaylord, Danny Gittings and Harold Travers (eds), *Introduction to Crime Law and Justice in Hong Kong* (Hong Kong University Press 2009) 5.
[11] ibid.

with statutory rape, an offence that is prohibited and punishable by the laws of the country. The Legal Department decides to prosecute the offender and arraigns him before the High Court having jurisdiction over the alleged offence. The offender, due to his economic and social status, qualifies for legal aid and is represented by counsel. Counsel for the accused makes appearances before the High Court and the Presiding Judge declines a request to release the accused on bail. Instead, he remands him in custody. The accused is now interned at a penal complex in the vicinity. After a few adjournments, the trial is concluded, and the accused is found guilty. He is sentenced to twenty-five years' imprisonment and without the possibility of parole. He is then transported to the Department of Correctional Services where he is booked in for a 25-year stay.

The above hypothetical example is similar to what happens on a regular basis in any legal system. Tapping from the above, the entire machinery that sets the wheel turning as of the time a criminal act is alleged to have been committed, to the conviction of the offender, is called Criminal Justice System. The question is: what turns the wheels of criminal justice? As seen above, there are numerous actors that come in at different times to play specific roles. First, there is the Department of Health that conducted the medical examination and completed the medical report needed for prosecution of the perpetrator. Second, there is the Police Department that listened to the victims (both direct and indirect), took their statements, conducted the arrest and detained the perpetrator. Third, there is the Legal Department, the National Prosecuting Authority (NPA) comprising the Prosecutor/District Attorney/State Attorney, among others, that is mandated to prosecute crimes that have been committed, which usually requires them to direct the way an investigation is conducted by police officers. Fourth, there is the Department of Justice and Constitutional Development that provides first, the venue for the trial (a competent court) and the judge (who serves as an arbiter between the prosecutor and the defence counsel). Fifth, there is Legal Aid that provides counsel to perpetrators who are unable to hire one. Sixth, there is the Department of Correctional Services that provides the necessary facilities and support needed for the execution of the sentence as well as reformation of the convict.

The above hypothetical example is similar to what obtains in Nigeria's criminal justice system. There are different sectors that play specific roles in the system. Basically, the sectors include the police, judiciary and penitentiary institutions. Once a crime is reported to the police, the police conduct the necessary investigations and charge the accused to a competent court for trial process. During the trial, witnesses are interrogated to prove the

case, and usually, the outcome is either conviction or acquittal. Thereafter, convicted criminals are put in prison for punishment, rehabilitation and reformation.

As explained above, criminal justice is a much broader and bigger concept that includes criminal law; criminal procedure; the sentencing of offenders; and the framework of organisations and procedures within which an aspect of law operates.[12] It exists for the purpose of ensuring law and order in a community.[13] As a machinery of justice, its methods have been subject to changes over the years, especially in countries that have transitioned from authoritarian to democratic regimes such as Nigeria.[14] Criminal justice is, therefore, described as the entire process embodied in the lexicon of lawmaking, law-breaking, policing, adjudication, appellate review, and imposition of penal and treatment sanctions, including probation and parole.[15]

A sound criminal justice system in any society is relevant to the effective maintenance of law and order; the elimination of a feeling of insecurity and apprehensiveness; the establishment of the rule of law; and indirectly, a catalyst to economic growth and social development. The absence of a sound criminal justice system erodes the confidence the public has in the legal system, paves the way for venal justice, emboldens criminals who exploit such structural weaknesses to their advantage and undermines the rule of law in a society. More importantly, it may have unspeakable adverse effects on human rights.

Nigeria is a country that is located in the African continent, specifically in the West Coast.[16] It is a sovereign state with a population of over 180 million people (the most populated country in Africa).[17] As a Federal State, Nigeria's legal system is a combination of both Federal and State laws: Federal laws are applicable across the country on specific issues that are exclusively reserved to the Federal Government.[18] On the other hand, State laws are

[12] See generally, Bryan Gibson and Paul Cavadino, *Introduction to the Criminal Justice Process* (Waterside Press Winchester 1995) 11.
[13] ibid.
[14] ibid.
[15] Abraham S Blumberg, *Criminal Justice Issues, and Ironies* (2nd edn, New Viewpoints 1979) 3.
[16] Olayiwola Abegunrin, *Nigerian Foreign Policy under Military Rule, 1966-1999* (Greenwood Publishing Group 2003) 186.
[17] Chinoye Obiagwu and Chidi Anslem Odinkalu, 'Combating Legacies of Colonialism and Militarism' in Abdullahi Ahmed Annaim (ed), *Human Right Under African Constitutions: Realizing the Promise for Ourselves* (University of Pennsylvania Press 2013) 211; Rajend Mesthtie (ed), *Africa South, South East Asia* (Walter De Gruyter 2008) 35; Toyin Falola, *Culture and Customs of Nigeria* (Greenwood Publishing Group 2001) 1; Olayiwola Abegunrin, 'Federalism, Political Instability and the Struggle for Democracy in Nigeria' in Bamidele Ojo (ed), *Problems and Prospects of Sustaining Democracy in Nigeria* (Nova Publishers 2001) 43.
[18] See generally the Constitution of the Federal Republic of Nigeria 1999 Cap 23 LFN, 2004, Section 4(2).

applicable to specific states.[19] Courts in Nigeria are streamlined as follows: Federal Courts; and State Courts.[20] The relevant laws define the jurisdiction of these courts.[21]

Like most African countries, Nigeria was colonised by European masters, specifically the British. Through colonial laws, the state was bound to police its citizens.[22] However, before European colonial masters made their way into Nigeria in 1914, there was a system of criminal justice practised within different major ethnic groups in Nigeria: the Yorubas; the Hausas; and the Igbos.[23] Each of these ethnic groups had customary ways of settling disputes and dealing with offenders.[24] The prevailing customary laws at the time varied from place to place as it was difficult to produce a uniform customary law system for the entire country.[25] The norms and customs of a particular ethnic group served as barometre for measuring what constituted an offence and who an offender was.[26] This was so because the customary practices of these different ethnic groups were largely unwritten.[27]

Even during the post-colonial era (as well as the democratic transition), customary law has become a significant part of Nigeria's legal system[28]. Despite the fact that it still remains largely unwritten compared to English law, the judiciary has described customary law as:

> The organic law in Nigeria, regulating their lives and transactions. It is organic in that, it is non-static. It is regulatory in that it controls the lives and transactions of the community subject to it.[29]

However, Nigeria's criminal justice system, as it exists today, is an offspring of colonial rule, which the country experienced from the moment she was colonised up to when she obtained independence in 1960.[30] In 1861, Lagos was ceded to the British and became a

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[19] ibid Sections 7(a), (b) and (c).
20 ibid Section 5(b); 6(3); 7(1).
[21] ibid Sections 232, 239, 251 and 257.
[22] Augustine A Ikein, Diepreye S Alamieyeseigha and Steve S Azaiki, *Oil, Democracy and the Promise of the Federalism in Nigeria* (University Press of America 2008) 352.
[23] Phillip G Altbach and Gail Paradice Kelly, *Education and Colonialism* (Longman 1978) 307; Jacob Audu, 'Pre-Colonial Political Administration in the North Central Nigeria: A study of the Igala Political Kingdom' (2014) 10 European Scientific Journal 392, 392.
[24] Anyawu Ogechi, 'Crime and Justice in Postcolonial Nigeria: The Justification and Challenges of Islamic Law of Shariah' (2005) 21 Journal of Law and Religion 315, 321.
[25] Nwabueze N Remigius, 'The Dynamic and Genius of Nigeria's Indigenous Legal Order' (2002) 1 Indigenous Law Journal 153, 155-156.
[26] Ogechi (n 24).
[27] Akrofi Derek Asiedu, 'Judicial Recognition and Adoption of Customary Law in Nigeria' (1989) 37 American Journal of Comparative Law 571, 572.
[28] Dennis Campbell and Susan Cotter, *Comparative Law Yearbook* (Kluwer Law International 1999) 132.
[29] *Oyewunmi v Ogunesan* (1990) 3 NWLR pt182 at 20.
[30] Noel Otu, 'Colonialism and the Criminal Justice System in Nigeria' (1999) 23 International Journal of Comparative and applied Criminal Justice System in Nigeria 293, 296.

British colony in 1862.[31] In January 1862, a Police Court was created at Olowogbowo in Lagos State, Southern part of Nigeria.[32] This was the original progenitor of the first Supreme Court set up in 1863.[33] Thus, a Supreme Court of Her Majesty's Settlement of Lagos was established as a Court of Jurisdiction, presided over by a Chief Magistrate or his duly appointed deputy.[34] As a Court of Record, it has jurisdiction over civil and criminal matters.[35] Later, an Ordinance of September 1863 provided that the name 'Supreme Court' be substituted with the Chief Magistrate Court and provided that two assessors be appointed to assist the Chief Magistrate.[36] For a more efficient and better organised judicial system, in 1893, the British, through a combination of the foreign Jurisdiction Acts of 1843 and 1893, established laws under which various courts were set up.[37] In 1894, the British established a court called the 'Court of Equity' in the Southern parts of Nigeria.[38] The introduction of legal institutions to govern the relationship between the indigenes and Europeans began in 1961.[39] The Southern and Northern Protectorates were created in 1900.[40] In 1914, these protectorates were amalgamated with Lagos (a colony), which brought about the Colony and Protectorate of Nigeria,[41] and Nigeria became a single political unit.[42] As far back as 1889, the idea of enacting a Criminal Code for the Colony of Lagos and Southern Protectorate of Nigeria was discussed by the British colonial administrators.[43] In 1904, a Criminal Code was introduced only for the Northern Protectorate by Lord Lugard, who was the Colonial Governor of

[31] John Carland, *The Colonial Office and Nigeria, 1898-1914* (Hoover Press 1985) 51; Akintunde Olusegun Obilade, *Nigeria Legal System* (Sweet and Maxwell 1979) 18.
[32] Otu (n 30) 295.
[33] Supreme Court Ordinance No 11 of 9th April 1863.
[34] See generally, Taslim Olawale Elias, *The Nigerian Legal System* (2nd edn, Routledge & Kegan Paul Ltd 1963) 45.
[35] ibid.
[36] Ordinance of Settlement of Lagos No 13 of 1863; Elias (n 34) 46.
[37] Obilade (n 31) 18.
[38] Ogbonnaya Oko Elechi, *Doing Justice without the State: The Afikpo (Ehugbo) Nigeria Model African Studies* (Routledge 2006) 105; Ali Yusuf, 'The Evolution of Ideal Nigerian Judiciary in the New Millennium' < http://www.yusufali.net/articles/The evolution of ideal Nigerian Judiciary in the new millennium.pdf> accessed 10 May 2016.
[39] Matthew McCartney, *Economic Growth and Development: A Comparative Introduction* (Palgrave Macmillan 2015) 192; Duru Onyekachi, 'The role and historical development of the Judiciary in Duru' (2012)< https://www.researchgate.net/publication/256033174 The Role and Historical Development of the Judiciary in Nigeria> accessed 10 May 2016.
[40] Elias (n 34) 40.
[41] Mark R Lipschutz and Kent Rasmussen 'The Dictionary' in Kent R Rasmussen (ed), *Dictionary of African Historical Biography* (University of California Press 1989) 174; Elias (n 34) 125.
[42] Onyebuchi T Uwakah, *Due Process in Nigeria's Administrative Law System: History Current Status, and Future*. (University Press of America 1997) 44; Benjamin Obi Nwabueze, *A Constitutional History of Nigeria* (Hurst and Company Ltd 1982) 37-38.
[43] Allan Milner, *The Nigerian Penal System* (Sweet & Maxwell 1972) 34.

Nigeria's Northern Protectorate.[44] Subsequently, the application of this Criminal Code was extended to the Southern Protectorate, following its amalgamation with the Northern Protectorate in 1961.[45] This meant that the Criminal Code was of national (countrywide) application.[46] This, however, did not mean that the Criminal Code replaced or eradicated the Customary Criminal Laws that were in existence before, because native law and custom had an interstitial connection to most criminal cases.[47] This resulted in the existence of a dual criminal law and justice system in the country.[48] The existence of a dual criminal law system in Nigeria resulted in numerous conflicts that spanned over the years.[49] In 1959, a panel of jurists was set up by the government of the Northern Region of Nigeria referred to as 'the Reformist Group'.[50] The panel recommended the codification of a separate criminal law and procedure for the northern part of Nigeria.[51] As a result, the panel came up with Penal and Criminal Procedure Codes for the Northern Region of Nigeria, which took effect from October 1st 1960.[52] It should be noted that the Criminal Code is still in operation but only in the Southern part of the country.[53] Currently, in Nigeria, the Criminal Code is what is still in operation in the Southern States of Nigeria while the Penal Code remains the law for criminal justice administration in Northern Nigeria.[54]

In an endeavour to ameliorate and enhance the functioning of the criminal justice system, legal and institutional reforms were made. In 1999, specific commissions were established to try and prosecute specific categories of offences. Examples include the

[44] Obi N Ignatius Ebbe, 'The Judiciary and Criminal Procedure in Nigeria' in Obi N Ignatius Ebbe (ed), *Comparative and International Criminal Justice Systems: Policing Judiciary and Corrections* (3rd edn, CRC Press 2013) 202.
[45] See generally, Auwalu H Yadudu, 'Colonialism and Transformation of Islamic Law in the Northern States of Nigeria' (1992) 24 Journal of Legal Pluralism 103, 117.
[46] Remigius N Nwabueze, *Biotechnology and the Challenge of Property: Property Rights in Dead Bodies, Body Parts, and Genetic Information* (Ashgate Publishing Ltd 2013) 125; Kebreab Isaac Weldesellasie, 'The Development of Criminal Law and Criminal Justice in Africa from Pre- Colonial Rule to the Present day' in Charles Chernor Jalloh and Ilias Bantekas (eds), *The International Criminal Court and Africa* (Oxford University Press 2017) 256.
[47] Yadudu (n 45) 118; Weldesellasie (n 46).
[48] ibid.
[49] Yadudu (n 45) 118; Olanrewaju Olamide, 'Historical Evolution of Nigerian Criminal Law' (2016) http://www.djetlawyer.com/historical-evolution-nigerian-criminal-law/ accessed 11 May 2016.
[50] Justin Price, 'Criminal Law Reform in Northern Nigeria' (1961) 24; The Modern Law Review 604, 606; Yadudu (n 45) 116.
[51] Cyprian Okechukwu Okwonkwo and Michael E Naish, *Criminal Law in Nigeria* (2nd edn, Spectrum Law Series 1998) 9.
[52] Price (n 50) 607.
[53] Charlse Nwalimu, *The Nigerian Legal System: Public law, Volume 1* (Peter Lang 2005) 38; Irehobhude O Iyioha and Remigius N Nwabueze, *Comparative Health Law and Policy: Critical Perspectives on Nigerian and Global Health Law* (Routledge 2016) 19; Olufunmilayo Oloruntimilehin, 'Crime Control' in Hans Günther Heiland, Louise I Shelly and Hisao Katoh (eds), *Crime and Control in Comparative Perspectives* (Walter de Gruyter 1992) 180.
[54] Okonkwo and Naish (n 51) 10.

Economic and Financial Crimes Commission (EFCC)[55] and Independent Corrupt Practices and Other Related Offences Commission (ICPC).[56] In short, these commissions have a mandate over corruption and corruption-related crimes.[57]

Like most legal systems, the wheels of the criminal justice system begin to turn when a crime is to be or has been committed. This sets in motion, the involvement of law enforcement agencies saddled with the responsibility to investigate and interrogate suspects; search places; seize items; arrest perpetrators; collect statements; and confine them in detention centres. These, obviously, usually get followed by the determination of charge(s) against the perpetrator(s) and the commitment to trial for the charges. A judge is called upon to adjudicate. A criminal trial involves the state, the society and the offender who commits the crime. The process of determining if the allegations of the act was done or the omission was committed by the accused or the defendant, if he or she did, depends on sentencing him or her for his or her wrongdoings or deeds.[58] The criminal justice system is, therefore, a process made up of sub-systems or competent systems such as the police, the court and facilities meant for corrections responsible for the enforcement of law.[59]

This study is premised on the prevailing discourse on the criminal justice system in Nigeria. The word criminal, for instance, relates to the nature of an illegal act or to a person guilty of committing such an act, while the term justice refers to the use of authority to uphold what is right, and reflects how the law is applied in society and how offenders are processed when in violation of the law. In essence, criminal justice is a field of study that deals with the nature of crime in society, as well as analysing the formal processes and social agencies that have been established for crime control;[60] hence, the pillars of criminal justice system in Nigeria are the police, the judiciary and prisons.[61]

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[55] Economic and Financial Crimes Commission (Establishment) Act, 2004, Section 6.
[56] Corrupt Practices and other Related Offences Act, 2000, Section 6.
[57] Oluwaseun Bamidele, Azeez O Olaniyan and Bonnie Ayodele, 'Culture, Corruption, and Anticorruption Struggles in Nigeria' (2016) 32 Journal of Developing Societies 103, 105.
[58] Leonard C Opara 'The Law and Policy in Criminal Justice System and Sentencing in Nigeria' (2014) 4 International Journal of Asian Social Science 886, 886.
[59] Criminal Justice can be defined either as a system or as a process, It can also be refers to the set of agencies and processes established by the state to manage crime and impose penalties on violators of criminal law. Criminal justice process which is subsumed under the criminal justice system involves the procedure for arrest, charging, trial and conferment of a suspect. Policies on the criminal justice system are built on the components and these are: the law enforcement component, the court system, the prosecution, corrections system and the community. See Iwarenue Jaja, *Criminology the Study of Crime* (Springfield Publishers ltd 2003) 8.
[60] Joseph J Senna and Larry J Siegel, *Introduction to Criminal Justice, Criminal Justice Series* (2nd edn, West Publishing Series 1994) 55; Tosin T Olonisakin, Adedeji J Ogunleye and Sulaiman O Adebayo, 'The Nigerian Criminal Justice System and its Effectiveness in Criminal Behaviour Control: A Social-Psychological Analysis' (2017) 22 Journal of Humanities and Social Science 33, 35.
[61] Angela E Obidimma and Emmanuel O C Obidimma, 'Challenges and Prospects of the Juvenile Justice Administration in South East Nigeria' (2012) 3 Nnamdi Azikwe University Law Journal of International Law

According to Osibajo, SAN, criminal justice is important in the smooth running of any society and is fundamentally valuable in maintaining law and order.[62] It is a system of law enforcement that directly involves apprehending, prosecuting, defending, sentencing and punishing convicted criminal offenders.[63]

Criminal justice system involves arrest, booking, trial and confinement. Once a crime is reported to the police, investigations begin, witnesses are interrogated, the accused is taken before a competent court for trial, and the outcome is either conviction or acquittal.[64]

Catherine Elliot maintains as follows:

> The aim of an operational criminal justice system should be to maintain a balance between penalising the guilty and protecting the innocent; our system of investigation needs parametres which are capable of preventing the innocent from being found guilty, and those safeguards must not make it impossible to convict those who are guilty.[65]

As it stands, the Nigerian Criminal Justice System is faced with many challenges. The system, over the years, has punished suspects even more than the period for which they would have been punished if convicted by the court.[66] Several issues have been raised on unjust delays in the delivery of justice in Nigeria's criminal administration. Many of such issues have been reported to have led to miscarriage of justice and, in such cases, ousted the existence of criminal trial, which is to set at liberty the innocent and bring to book the offender.

In addition, there have been a lot of violations which stem from not following due process in the administration of criminal justice in Nigeria. A lot of accused persons stay incarcerated for lack of access to legal representation and incessant adjournments by the courts due to the incompetence of the prosecutor to diligently prosecute his case, and these serve as a drawback to an accused's rights to justice and speedy trial. This is an indication

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and Jurisprudence 83, 84; Etannibi E O Alemika and Innocent C Chukwuma, *Juvenile Justice Administration in Nigeria: Philosophy and Practice* (Centre for Law Enforcement Education 2001) 10.

[62] Osinbajo Yemi, *Proposals for the Reform of the Criminal Procedure Laws of Lagos State of Nigeria* (Lagos State Ministry of Justice 2004) 7; Comfort Chinyere Ani, 'Reforms in the Nigerian Criminal Procedure Laws' (2011) 1 Journal on Criminal Law and Justice 52, 54.

[63] Loraine Gelsthorpe, 'Critical Decisions and Process in the Criminal Courts in Controlling Crime' in Eugene Mc Laughlin and John Muncie (eds), *The problem of Crime* (2nd edn, Sage Publication Ltd 2001)105.

[64] Peter O Nwankwo, *Criminal Justice in the Pre-Colonial, Colonial, and Post-Colonial Eras an Application of the Colonial Model to Changes in the Severity of Punishment in the Nigerian Law* (University Press of America 2010) 5; Iwarenue D Jaja (n 59).

[65] Catherine Elliot and Frances Quinn, *The English legal System* (England Pearson Education Ltd 2002) 239; See generally Ernest Ojukwu *et al*, Handbook *on Prison Pre-Trial Detainee Law Clinic* (Network of University Legal Aid Institution 2012) 5.

[66] ibid.

that the criminal justice system is, in itself, compromised, thus, negating Sections 35 and 36 of the 1999 Constitution (as amended).[67]

The Nigerian Criminal Justice System is currently in a state of paralysis, thus lacking the capacity to dispense justice, not only fairly but also promptly. Enormous challenges are encountered at every facet of the justice system. Right from the police, who enforce the law; the prosecution of criminal matters by prosecutors; the judiciary, which adjudicates; and through to the penitenary system, which is the prison, are characterised by ineffectiveness, venality and inadequacies in funds. Besides, impunity and total disrespect for due process have characterised Nigeria's justice system as guaranteed under the Constitution.

The major components of the criminal justice system in Nigeria are the police, prosecutor, judiciary (criminal court divisions) and correctional institutions, which include the prisons, borstal homes and remand homes.[68] There are other components such as community and government agencies, though they are frequently overlooked.[69] Nevertheless, the community is an essential component of the criminal justice system, not only because individual persons play a critical role as complainant, victim, witness and volunteer, among others, but also because other components of the system are answerable to the various political processes, which operate in Nigeria.

1.3 Statement of the research problem

There are numerous problems within the criminal justice system in Nigeria. One of it arises from the dual penal system that is in operation in Nigeria, which reflects the paucity in the constitutional development of the country. While the states in Southern Nigeria use the Criminal Procedure Act, states in the Northern Nigeria use the Criminal Procedure Code. Another complexity relates to the federal structure of Nigeria, as the power to enact penal legislation is shared among the National Assembly comprising the Senate and the Federal House of Representatives, and the States Houses of Assembly. In view of this, the purview of criminal justice in Nigeria extends to various specialised laws, some of which were enacted to implement Nigeria's international obligations. Despite the enactment of the ACJA in 2015, principally to resolve some of the notable challenges, some of the problems have still not been resolved. The different sectors of the system including the police, judiciary, prosecutors

[67] The Constitution of the Federal Republic of Nigeria (n 18) Sections 35 and 36.
[68] Smart E Otu, 'Criminals and Criminal Justice Administration in Nigeria: How Just, Fair and Dignifying is the System?' in GMT Emezue Inge Kosch and Maurice Kangel (eds), *Justice and Human Dignity in Africa* (Lulu Com 2014) 144.
[69] <http://eikins.com.ng/2016/10/25/what-is-criminal-justice-in-nigeria/>accessed 15 August 2017.

and prisons are faced with numerous challenges such as shortage of personnel, poor funding, inadequate facilities, poor remuneration, lack of political will to improve the system and a host of others. Besides, many problems like inefficiency and corruption, among others shortcomings are posed to the system by the actors in the course of delivering their services. The steps to be taken in criminal justice have to be examined in the context of whether there is substantial compliance with the various legal frameworks available to try the accused, while it is conceived that the Nigerian Government has enacted various laws both at the state and national level to promote the criminal justice system. The questions that come to mind are as follows: Are these laws effective? And are they strong enough to grant justice to the accused, the victim and the society at large? Hence, the enormity of the problems, as identified at every component line of the Nigerian justice system, forms the statement of the research problem of this study.

1.4 Aim and objectives of the study

Given the importance of a functional and efficient criminal justice system in Nigeria, the aim of this study is to identify and examine issues and challenges confronting the entire criminal justice system in Nigeria and propose ways of overcoming such challenges. To this end, the specific objectives of this research are to:

i. Identify, discuss and make recommendations with regard to overcoming challenges faced by the different criminal justice system sectors in Nigeria;
ii. Determine whether the Nigerian Criminal Justice System reflects global best practices;
iii. Examine the impact of a recent constitutional amendment and Administration of the Criminal Justice Act, 2015 on the Nigerian Criminal Justice System; and
iv. Identify some of the structural and best policies approach that could be learned from functional legal systems from other jurisdictions, which could be integrated into the Nigerian Criminal Justice System.

1.5 Research questions

The following research questions were asked:

i. What are the challenges faced by the Nigerian Criminal Justice System and what needs to be done to overcome these challenges?
ii. Does the Nigerian Criminal Justice System reflect global best practices?
iii. Has the recent constitutional amendment and Administration of Criminal Justice Act, 2015 been able to impact positively on the Nigerian Criminal Justice System? and

iv. What are the mechanisms that have been put in place within the criminal justice system sector of other legal systems that could be implemented to ensure synergy, efficiency and full functionality in the performance of the criminal justice system sector in Nigeria?

1.6 Literature review

Several studies have been conducted in order to apraise the activities of the components of the criminal justice system in Nigeria, as to what an ideal criminal justice system should be, even in this era of change in technological advancement and what appears to be fair and just in society. People's contact with the Nigerian Criminal Justice System involves three distinct phases as follows: the pre-trial phase, that is, before the commencement of trial (involving the police); the trial stage, which is the court process, that is, the judiciary; and the post-trial or custodial phase, which is incarceration or imprisonment. Interestingly, many scholars have expressed their views about every stage.

For instance, Kebreab argues that the Nigerian Criminal Justice System is dysfunctional and outdated.[70] He laments that this criminal justice system often provides little protection for vulnerable defendants such as young people or the mentally ill, and that the laws protecting juveniles are usually ignored.[71] He further states that despite fair trial guaranteed under the law, majority of accused persons are denied fair hearing because they cannot afford legal services. Unfortunately, many people in Nigeria remain unaware of their basic rights, particularly the right tofair hearing and access to justice. Given Kebreab's assertion, it could be submitted that lack of knowledge of rights remains a major hindrance to accessing justice, specifically among the vulnerable, poor and uneducated people. For these reasons, most litigants shy away from going to the court to seek redress or enforce their fundamental human rights.

Onyekachi concurs with Kebreab's view on the malfunctioning of the Nigerian Criminal Justice System. According to Onyekachi, overcrowding in prisons and other detention centres poses a serious constraint on prison administration thus, bringing about congestion in prisons. Apparently, this is a major problem that Nigeria's criminal justice system has continued to face. This calls for a proactive step in reforming the Nigerian Prisons Service, which remains the foremost institution in the country.[72] In addition, Oluwafemi posits that 'pre-trial detention is when a person is held by the state for an offence committed

[70] Weldesellasie (n 46) 263.
[71] ibid.
[72] Jombo Onyekachi, 'Problems and Prospects of Administration of Nigerian Prison: Need for Proper Rehabilitation of the Inmates in the Nigeria Prisons' (2016) 5 Journal of Tourism and Hospitality 1, 1.

against the laws of the state, prior to the trial'. He further states that 65% of inmates in Nigeria's prisons were pre-trial detainees.[73] Ogundipe also maintains thatsome of the 47,682 prison inmates across the nation's prisons in 2011 had spent 17 years in detention without trial. Ogundipe, at a quarterly roundtable discussion on reforming prisons, reported that as at July 31st, 2010, the total prisoners' population was 47,628, with only 13,000 or 23 percent convicted persons, while 34,328 or 77 percent were awaiting trial. He concludes that majority of prison inmates were awaiting trial.[74]

It should be noted that as at 2013, pre-trial detainees constituted 68.6% of the total Nigerian prison population.[75] In Nigeria, the average period of pre-trial detention while awaiting trial is 3 to 7 years.[76] The above studies are important to the thrust of this research in that they provide an estimate of pre-trial detainees who have not been convicted but still languish in prisons without trial. As far as the researcher is concerned, keeping an accused person in detention for a long time without trial is an injustice and a gross violation of his or her fundamental human rights. This high population of pre-trial detainees is due to the weakness of the Nigerian Criminal Justice System. Thus, the opinion of these authors with regard to prison congestion funnels the aim of this study. The findings are extremely relevant for an understanding of what obtains in prisons in the country. Nevertheless, they are still not able to provide facts and figures of recent data on detainees with regard to the number of detainees awaiting trial at prisons in various states, which the researcher intends to figure out in this study.

The most worrisome aspect in the administration of criminal justice in Nigeria is the delay in the dispensation of justice. Delays in trial processes are usually not unconnected with weaknesses in the system being exploited by defendants standing trial or litigants during court proceedings. This, sometimes, frustrates trial processes thereby, making offenders to escape justice. The researcher concurs with the authors but not without reservation in the sense that the cause of congestion in prisons and other detention centres is not limited to delays in trial on the part of the court, but also the aspect of police/prosecutors not prosecuting diligently and the habitual practice of holding charge by the police that normally

[73] See generally Alexander Ladapo Oluwafemi, 'Effective Investigations, a Pivot to Efficient Criminal Justice Administration: challenges in Nigeria' (2012) 5 African Journal of Criminology and Justice Studies 65, 79.
[74] Muhammed Tawfiq Ladan, 'Enhancing Access to justice in Criminal Matters-possible areas for reform in Nigeria' (2010) a paper presented at a two day national workshop on law development organized Law Reform Commission, 17; Olushola Ogundipe, Comptroller of the Nigerian Prisons services as at 2011; Nigerian Prison Rising population http://www.thisdaylive.com/articles/Nigerian-prisons-rising-population accessed 1 July 2016.
[75] Shajobi-Ibikunle D Gloria, 'Challenges of Imprisonment in the Nigerian Penal System: the way forward' (2014) 2 American Journal of Humanities and Social Sciences 94, 96.
[76] Anthony Nwapa, 'Building and Sustaining Change: Pretrial Detention Reform in Nigeria' [2008] Open Society Justice Initiatives 1, 26.

keeps the accused in custody beyond reasonable time. To remove ambiguity as to what reasonable time is, for the first time, reasonable time is defined under section 35(5) of the Nigerian Constitution, which provides as follows:

> An arrested or detained person shall be brought before a court of law within reasonable time,[77] reseanable time being as one day where there is a court of competent jurisdiction within 40 km radius, and in any other case, two days or such longer period, in the circumstances which the court may regard as reasonable.[78]

The researcher believes that in order for efficiency to be acheved in the criminal justice system, the police must be restrained from briging matters that they are not constitutionally empowered to handle to courts. Chigozie and Ajah also stipulate that the major purposes of any criminal justice system are to prevent crime; curtail criminality and correct people involved in criminal activities; and by implication, protect and safeguard the liberty, rights and freedoms of legitimate individuals.[79] Thus, the researcher agrees with the authors and maintains holding charge at the level of police is an unfair means of detaining an accused. Chigozie and Ajah further maintain as follows:

> Holding charge is a framed-up charge, it is improper, unconstitutional and generally used by the police in holding an accused person in custody while they conduct investigations and gather evidence to bring the accused person before the appropriate courts for trial; it has constituted a major source of congestion in Nigerian Prisons and a major clog in the administration of criminal justice.[80]

Omate shares a similar view with Onyekachi about prison congestion.[81] He observes some problems in the administration of criminal justice in Nigeria, and moots that it is not a new thing that Nigerian prisons and police cells are full to the brim with accused persons or suspects awaiting trial or those whose matters are still being investigated by the police in the face of criminal justice that is obtained in the courts. The author maintains allegations of corruption and abuse of office by judicial officers are very common to the extent that the then Chief Justice of Nigeria threatened to invite some of them before the Independent Corrupt Practices and other Related Offences Commission (ICPC) and the Economic and Financial

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[77] The Constitution of the Federal Republic of Nigeria (n 18) Section 35(4).
[78] *Augustine Eda v The Commissioner of Police* (1982) NCLR at 219.
[79] 'The lawyer's chronicle, holding charge and Pre-trial Detention vis-a-vis the Doctrine of Fair hearing in Nigeria'<http://thelawyerschronicle.com/holding-charge-and-pre-trial-detention-vis-a-vis-the-doctrine-of-fairhearing-in-nigeria> accessed 2 July 2016.
[80] ibid.

[81] Robert Omate, 'Problem in the Administration of Criminal Justice in Nigeria' *Vanguard Newspaper* (Nigeria, 23 October 2009) http://www.vanguardngr.com/problems-in-the-administration-of-criminal-justice-in-nigeria/> accessed 25 October 2018.

Crime Commission (EFCC).[82] It is worrisome that some accused persons are even ready to give bribes to magistrates/judges handling their matters. He emphasises the issue of trial within trial that is often neglected by the Bench, State Counsels and Prosecutors, which they believe is just a mere technicality. Omate argues that it must be conducted before the substantive matter is heard, a suggestion which the researcher concurs with.

According to Section 28 of the Nigerian Evidence Act, it is a trite law that confessions, if made voluntarily, are admissible against the person who made them.[83]. This is very important because the confessional statement of an accused person must be put to test as to determine whether it was not obtained by any inducement, threat or promise. This has to be done in the interest of justice as expressed in the Supreme Court case of *Kareem v FRCN*.[84] Omate is also of the view that the Office of the Director of Public Prosecutions (DPP) and Legal Aid Council (LAC) should be concerned about the ordeal and sufferings criminal suspects are subjected to when incarcerated because many accused persons are usually poor and cannot secure the services of paid legal counsel. Omate concludes that human liberty is priceless, and as such, prison visits should not be at the Chief Judges' discretion alone, but a committee should be set up to do it on a monthly basis.

Adebayo raises an important question as to the legality of the use of plea bargain. He contends that application of plea bargain in the Nigerian Criminal Justice System makes it difficult for the system to weed out corruption.[85] To many Nigerians, including the researcher, the practice is an injustice.[86] It is difficult to understand why highly-placed thieves of many millions of Naira are allowed to get away with miserably small sentences in the name of plea bargain, while thieves of the same or smaller sums but without high-level connections, usually bag weightier sentences than those commensurate to their offences.

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[82] Aloysius Iyorgyer Katsina-Alu Chief Justice of Nigeria (C J N) 2009-2011; *Lafadeju v Johnson* (2007) 8 NWLR pt 1037 at 535.

[83] Cap E14 LFN, 2004; *Onyenye v State* (2012) MJSC pt II at 121; *Adesina v State* 2012 MJSC pt II at 80; *Igri v State* (2012) MJSC pt11 at107; *Mbang v State* (2012) MJSC pt IV at 119; *Galadima v State* (2012) MJSC pt III at 190.

[84] (2002) NWLR pt 770 at 682-683. This is as much rule of English Law as Nigerian Law. In that case, the apex court emphatically said an accused person will not be convicted upon a statement that is not admissible in evidence against him unless it is shown by the prosecution to have been a voluntary statement in the sense that it has not been obtained from him either by fear of prejudice or hope of advantage exercised or held out by a person in authority. Also in *Nwachukwu v the State* (2002) NWLR pt 751 at 3, the Appeal Court said when an objection is taken to a statement on the ground that it was not voluntarily made by the suspect or accused person, a trial within trial must be held to determine the: admissibility of the statement before it can be admitted in evidence in the hearing of the substantive matter.

[85] Tope Adebayo, 'The Legality of the use of Plea Bargain in the Nigeria Criminal Justice System' < https://topeadebayollp.wordpress.com/2012/03/27/the-legality-of-the-use-of-plea-bargain-in-the-nigerian-criminal-justice-system/>accessed 18 May 2018; Inyang and Awakessien (n 64).

[86] Oshisanya Lai Oshitokunbo, *An Almanac of Contemporary and Comparative Judicial Restatements* (Almanac Foundation 2018) 795.

Consequently, many questions on the justifiability and legality of the practice came up: it is alien to Nigerian statutes on criminal matters and downright wrong.[87]

Plea bargain is a negotiated agreement between a prosecutor and a criminal defendant whereby, the defendant pleads guilty to a lesser offence or to one of multiple charges in exchange for some concession by the prosecutor, usually a more lenient sentence or a dismissal of the charges.[88] Simply put, in plea bargain, the prosecutor agrees to reduce a defendant's punishment. They often achieve this by minimising the number or severity of the charges against the defendant. The researcher is of the view that plea bargain is inappropriate as it allows the defendant to get off so easily. In Nigeria, plea bargain is of recent origin.[89] Before the enactment of ACJA 2015, only the Administration of Criminal Justice Law of Lagos State, 2011 provides for its practice. Section 75 of this Law stipulates as follows:

> Notwithstanding anything in this law or in any other law, the Attorney-General of the State shall have power to consider and accept plea bargain from a person charged with any offence where the Attorney-General is of the view that the acceptance of such plea bargain is in the public interest, the interest of justice and the need to prevent abuse of legal process[90].

Section 76(1) of the Law further provides that:

> The prosecutor and a defendant or his legal practitioner may, before the plea to the charge, enter into an agreement in respect of:
> (a) a plea of guilty by the defendant to the offence charged or a lesser offence of which he must be convicted on the charge; and
> (b) an appropriate sentence to be imposed by the court if the defendant is convicted of the offence to which he intends to plead guilty.

Adebayo argues whether the use of plea bargain is legal in the Nigerian Criminal Justice System. It is a controversial issue; where some scholars believe plea bargain allows the criminal justice system to conserve resources, some suggest plea bargain is illegal and alien to the statutes of the criminal justice system in Nigeria; that it conflicts with what is believed to be fair and just. Scholars argue that it makes a mockery of the seriousness of justice. [91] In November 2011, the Chief Justice of Nigeria, the Honourable Justice Dahiru Musdapher, lent his voice to the criticism of the practice of plea bargain at the Fifth Annual

[87] ibid.
[88] Henry Campbell Black, *Black's Law Dictionary* (9th edn, West Publishing Company 1981) 1270; *EFCC v Mainna*; *Federal Republic of Nigeria v Lucky Igbinedon* CA/B/329CA/2011.
[89] Ted C Eze and Amaka G Eze, 'A Critical Aprraisal of the Concept of Plea Bargaining in Criminal Justice Delivery in Nigeria' (2015) 3 Global Journal of Politics and Law Research 31, 31.
[90] Administration of Criminal Justice Law of Lagos State 2011, Section 75.
[91] Adebayo (n 95).

General Conference of the Section on Legal Practice of the Nigerian Bar Association (NBA) held in Abuja. He maintained as follows:

> Plea bargaining is a novel concept of dubious origin. It has no place in our law prior to the promulgation of Administration of Criminal Justice Act, 2015 – substantive or procedural.[92]

Plea bargaining is an invention of the American legal process and is entrenched in their federal and state criminal procedure rules.[93] It was adopted by the Nigerian Government to provide a soft landing to high-profile criminals who loot the treasury.[94] Most serious criminal charges are actually determined before trial through plea-bargaining, depending on negotiations between prosecutors and defendants. Even though the negotiations are usually flexible and seem to simplify and accelerate trial, they continue to threaten the essence of justice.[95] The researcher considers plea bargain as a form of injustice because, if thieves of public funds will only part with a little proportion and continue to enjoy the rest of their loot, perpetration of such criminal acts w ill continue to the detriment of the Nigerian legal system. Even though the evolution of plea bargain has been attributed to the growing complexity of trial processes, increase in substantive criminal law, increase in the rate of crime, urbanisation and the bureaucratisation of the criminal justice system in the United States of America,[96] Nigeria is not yet ready for it.

As a matter of fact, it is unknown in Nigeria. Looking at the origin of plea bargain in Nigeria, it was first mentioned when it was used by the Economic and Financial Crimes Commission (EFCC) in 2005 to settle the case of corruption against former Inspector-General of Police, Tafa Balogun.[97] It was later used that same year for ex-Governor D S P

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[92] Igbinovia Patrick Edobor and Edobor-Igbinovia Blessing, *The Economic and Financial Crimes Commission in Nigeria: An Appraisal* (Safari Books Ltd 2014) 116.

[93] Federal Rules of Criminal Procedure (United States of America) Rule 11 Entering a Plea. (1) *In General.* A defendant may plead not guilty, guilty, or (with the court's consent); (2) *Conditional Plea.* With the consent of the court and the government, a defendant may enter a conditional plea of guilty or nolo contendere, reserving in writing the right to have an appellate court review an adverse determination of a specified pretrial motion. A defendant who prevails on appeal may then withdraw the plea. See Dirk Olin. 'Plea Bargain' The New York magazine, September 29, 2002 <http://www.nytimes.com/2002/09/29/magazine/the-way-we-live-now-9-29-02-crash-course-plea-bargain.html? > accessed 2 July 2016.

[94] Edobor and Igbinovia Edobor (n 102) 125.

[95] Frank R Prassel, *Introduction to American Criminal Justice* (Harper & Row Publisher New York 1937) 133.

[96] Where they contend that plea bargaining was a product of 'ward-heeling'. Ward-heeling was the practice where District Attorneys were lenient on criminals by charging criminals with lesser crimes or corroborating with them to plead to lesser crimes in exchange with recommendations for lesser punishment so that the District Attorneys could secure their re-election by the populace which were largely violators of the law. See Mike McConville and Chester L Mirsky, *Jury Trial and Plea Bargaining: A True History* (Hart Publishing 2005) 219-221.

[97] Okechukwu C Iheduru, 'Nigeria' in Jeffrey Kopstein, Mark Lichbach and Stephen E Hanson (eds), *Comparative Politic: Interests, Identities, and Institutions in a Changing Global Order* (Cambridge University Press 2014) 541.

Alamieyesagha of Bayelsa State for embezzlement and Emmanuel Nwude and Nzeribe Okoli who had defrauded a Brazilian bank.[98]

It was subsequently used in the case of former Governor Lucky Igbinedion of Edo State for embezzlement in 2008, and most recently, the case involving Mrs Cecilia Ibru, erstwhile Managing Director of the Oceanic Bank, for abuse of office and mismanagement of funds in 2010.[99] The EFCC has generally defended itself on the basis of the provision of Section 14(2) of the EFCC Act, 2004 which reads *inter alia*:

> The Commission may compound any offence punishable under this Act by accepting such sums of money as it thinks fit exceeding the maximum amount to which that person would have been liable if he had been convicted of that offence.[100]

Some argue that plea bargain had existed before 2004 and that EFCC only acted on the precedents laid by Section 180(1) of the Criminal Procedure Act, which provides as follows:

> When more charges are made against a person and a conviction has been made on one or more of them, the prosecutor may, with the consent of the court, withdraw the remaining charge or charges or the court, of its own motion may stay trial of such charge or charges.[101]

Article 37 of the United Nations Convention against Corruption (2003) was also mentioned to support the position of the Criminal Procedure Act (CPA), which maintains that states parties should allow for the mitigation of punishment for accused persons who agree to give evidence of their corrupt acts in co-operation with prosecuting authorities.[102] It is argued that these sections have been misconstrued, that the intention of the drafters of the law does not represent plea bargain as it is being used today in the Nigerian Criminal Justice System. Thus, for plea bargain to be legal, it must be expressly stated by law and not by inference or implication.

Ngboawaji emphasises the importance of forensic evidence and forensic expertise in the Nigerian Criminal Justice System.[103] Forensic evidence is obtained by scientific methods such as ballistics, blood and DNA tests and used in the court. Forensic evidence helps to

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[98] Adebayo (n 95).

[99] <https://www.vanguardngr.com/2013/02/police-pension-fruad-a-chronology-of-plea-bargain-compromises>20 June 2016.

[100] Economic and Financial Crime Commission (Establishment) Act, 2004, Section 14(2).

[101] Criminal Procedure Act Chapter 80, Laws of the Federal Republic of Nigeria, 1990 and now Cap 41 LFN, 2004, Section 180 (1).

[102] United Nations Convention against Corruption, United Nations General Assembly Resolution A/58/422, U.N. GAOR 58th Session, 51th meeting, U.N.Doc. A/58/422 (2003).

[103] Ngboawji Daniel Nte, 'An Evaluation of the Challenges of Forensic Investigation and Unresolved Murders in Nigeria' (2012) 6 African Journal of Criminology and Justice Studies 143, 143.

establish the guilt or innocence of possible suspects. Forensic identification has been defined as follows:

> The application of forensic science, or forensics and technology to identify specific objects from the trace evidence they leave, often at a crime scene or the scene of an accident. Forensic means 'for the courts.[104]

Alade also shares the same view with Ngboawaji and contends that this is a lacuna in the Nigerian Criminal Justice System. The author maintains as follows:

> The Evidence Act, Penal Code and the Criminal Code make no provision for forensic-based practices in the criminal or general law in Nigeria; despite the worldwide pre-eminence of this field, Nigeria lags behind in the use of forensics in solving crime-related issues and there is an obvious dearth in the practice in Nigeria.[105]

Alade also affirms that:

> In today's criminal justice system, the traditional methods of proof, eyewitness accounts and confessions have become unpredictable; criminal trials last for what seems like eternity, while criminals are becoming cleverer and more scientific.[106]

In view of the above, the researcher believes the establishment of the first forensic laboratory at the Force Criminal Investigation Department (CID) in Lagos, though commendable, much still needs to be done. It is important to establish well-equipped forensic laboratories in each state of the feration and the Federal Capital Territory, with adequate manpower and forensic experts.

Redmayne states that the use of expert evidence in criminal processes can broadly be thought of as the promotion of accurate decision-making. According to the author:

> It has become pertinent that law enforcement agents, lawyers and the judiciary learn to rely on more authentic and concrete methods of proof in order to solve criminal cases; this approach has to be reliable, objective and not prone to easy manipulation; good legislations can help the country to have a framework for forensic criminology to thrive but it is worrisome that in Nigeria, we have none of such; it would be good if our lawmakers could sit up and generate legislation on forensic criminology as a veritable tool for solving criminal cases in Nigeria.[107]

Furthermore, Redmayne, in his book, states that the court needs to be guided by the opinions of experts for evidence to be admitted. He condemns instances in which expert

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[104] ibid 144.
[105] Kunle Alade, 'Forensic Science Helps in Solving High Profile Murder Cases' *The Nation* (Nigeria, 26 November 2014) <http://thenationonlineng.net/forensic-science-helps-in-solving-high-profile-murder-cases>accessed 16 June 2016.
[106] ibid
[107] Mike Redmayne, *Expert Evidence and Criminal Justice* (Oxford University Press Inc. 2001) 5.

opinion is excluded, and experts not permitted to put their evidence on a technique or theory of dubious validity.[108] The basic rule in English law is that an expert must have appropriate qualifications. The leading case is *R v Silverlock*, in which a solicitor, whose expertise was based on his business experience as well as his own independent study, was permitted to give opinion evidence on handwriting identification.[109] His lack of formal training was not taken to disqualify him, and the court held that to give expert evidence, the person must be specifically skilled, that is, he must have adequate knowledge. Also, the expert must tender credentials, and this consists of practical experience and qualifications[110].

This research is timely and necessary because the existing literature only identifies some of the challenges faced by the Nigerian Criminal Justice System but does not draw lessons from other jurisdictions that could assist in savaging and improving the Nigerian Criminal Justice System. International instruments, which Nigeria is a party to, were considered to be the standards against which the identified challenges faced by the Nigerian Police, judiciary and prisons could be measured.

1.7 Points of departure of the study from existing literature to contribution to knowledge

This study is timely and necessary considering the precarious situation in which Nigeria's criminal justice system currently finds itself. The existing literature on Nigeria's Criminal Justice System is limited with regard to the challenges faced. Considering the dynamic nature of society, changes in government policies and programmes, and the present-day realities in Nigeria, emerging issues and challenges faced by the Nigerian Criminal Justice System were also examined in this study. For example, high rate of police homicide, kidnaping and baby factory business were not envisaged by the drafters of Nigerian laws, but have emerged over time to become common criminal occurrences in Nigeria.

Additionally, most of the literature is characterised by claims of challenges faced by the Nigerian Criminal Justice System without substantiating such claims with empirical data and evidence. Even the few studies that have done so, relied solely on newspaper reports, which are usually anecdotal, personal opinions of the reporter, and as such, unverifiable. This study is worthwhile in the sense that it obtains first-hand data from different sectors of the Nigerian Criminal Justice System to serve as verifiable and reliable quantitative information to support claims of challenges faced by Nigeria's Criminal Justice System. The existing

[108] ibid 95.
[109] (1894) 2 QB 766; the rule also applies to where a person who has been allowed to give expert evidence, goes beyond his area of expertise*; R v Inch* (1989) 91 Criminal App R 51.
[110] ibid

literature has always been limited to examining challenges faced by a particular sector of the Nigerian Criminal Justice System. The study is unique as it holistically considers the different components of the Nigerian Criminal Justice System in terms of the issues and challenges faced and the synergy among different sectors.

Lessons are also drawn from the criminal justice system of other jurisdictions and recommendations made in order to assist all sectors of the Nigerian Criminal Justice System, which could go a long way in improving the system.

1.8 Research methodology

A mixed methods research approach was considered appriopriate for the study as it combines the doctrinal legal research with empirical research approaches. This approach was considered because it allows the researcher to boost the research findings, have breadth and in-depth understanding of the activities of various agencies of the Nigerian criminal justice system.

The doctrinal research harnessed primary sources of law including legal national instruments and institutions related to the criminal justice system in Nigeria as follows: the 1999 Constitution of The Federal Republic of Nigeria as amended in 2011; the Police Act; the Prisons Act; Legal Aid Act; Penal Code Act; Criminal Code; the Criminal Procedure Code (CPC); the Criminal Procedure Act (CPA); the Administration of Criminal Justice Act, 2015; Economic and Financial Crimes Commission (EFCC) Act; as well as the Independent Corrupt Practices and other Related Offences Commission (ICPC) Act.

In addition to primary sources, secondary sources such as scholarly works (legal texts, journal articles, magazines, among others) were also consulted. the Constitution and decided cases. The secondary sources of law explored include textbooks, journals and reports. Although there are other components of the Nigerian Criminal Justice System such as community and government agencies, the non-doctrinal method made use of data collection from the three major sectors of the Nigerian Criminal Justice System. which are the police, judiciary and the correctional institution. (from the National Bureau of Statistics, Abuja, Nigeria). It should be noted that Nigeria is made up of 36 states and the Federal Capital Territory (FCT) is located in Abuja. The States, as a matter of convenience and political expediency, are grouped into six geo-political zones of North-East, North-West, North-Central, South-East, South-West and South-South. In order to achieve equal representation, Data were collected from six states (one state from each geopolitical zone of the country). The most industrialised state with the highest population and rate of criminality in each geo-political zone was selected for data collection as follows: Lagos State (South-West); Enugu

State (South-East); Kaduna State (North-West); Rivers State (South-South); Gombe State (North-East); and Abuja (North-Central and the Federal Capital Territory).

The data collected covered different sectors of the Nigerian Criminal Justice System. Statistics on labour force were obtained in order to examine the rate of unemployment and underemployment in relation to the commission of crime in Nigeria. The categories of criminal offences under Nigerian laws were identified and the number of offenders over a period of time was obtained to substantiate the rate of crime in Nigeria. Statistics on the number of cases adjourned at the instance of the Nigerian Police was collected to examine the roles they play in the delays of justice often experienced by criminal suspects in Nigerian courts. Data were gathered on the number of policemen by state and, in the entire country, for the purpose of establishing the police-citizen ratio in Nigeria as against internationally acceptable standards. The number of police area commands, divisions, stations and police posts were also sourced in a bid to examine the availability of police facilities close to the people. In addition, data on the number of vehicles stolen, number of vehicles recovered as well as number of vehicles not recovered were collected in order to explain the inefficiency of the police in Nigeria. Likewise, the number of prosecuted cases as against the number of convictions secured by the Nigerian Police was obtained for the purpose of substantiating deficiencies in the administration of criminal justice in Nigeria.

Figures were also collected on cases adjourned at the instance of court, cases adjourned at the instance of defence, to support some of the challenges faced by the Nigerian Criminal Justice System. Petitions received on enforcement of court judgment/arbitral; award of sentences; petitions received on corruption cases by geo- political zones; and petitions on corruption referred for investigation were also gathered in order to substantiate some of the issues faced by Nigeria's criminal justice system. Data were also collected on the number of judges in the Federal Courts; the number of judges in the State High Courts; and the number of judges in the State Customary Courts of Appeal in order to establish the manpower available to handle the number of criminal cases brought to the courts in Nigeria. The number of petitions received in courts, the nature of petition and stage of the petition were obtained in order to explain cases of human rights abuse such as indiscriminate arrests, unlawful detentions and torture *vis-à-vis* national, regional and international human right instruments guaranteeing the rights of people.

Figures were obtained on prison admission by type of offence to establish the number of prisons in Nigeria and population of prison inmates. Statistics on prison inmate population and prison capacity were obtained in order to evaluate the condition of prisons in Nigeria in

terms of prison congestion. Data on prison admission by terms of imprisonment were also obtained to establish the categories of inmates in Nigerian Prisons on the basis of jail term. This shedded light on some of the challenges faced by the prison sector (Nigerian Criminal Justice System), particularly the plight of the inmates awaiting trial and convicted prisoners. Data were also collected on recidivism in Nigeria in order to provide a critique of the ability of the Nigerian Prisons to meet the goals of crime prevention through rehabilitation and reintegration into the society. The data collected were interpreted to gain a robust understanding of activities of the key players in Nigeria's criminal justice administration. The different forms of data mentioned above served as evidence to substantiate the claims that there are defects in each sector of the Nigerian Criminal Justice System.

Additionally, several regional and institutional mechanisms enacted for the effective protection of human rights in the administration of justice, that is, protection of persons subjected to arrest, trial, detention or imprisonment were assessed. This was done in order to argue that if the instruments ratified by Nigeria are subsequently domesticated, it will promote efficiency in the practice of international obligations regarding effective policing, a functional judicial system and reformative imprisonment in the administration of justice in Nigeria, and also to ensure that the practice in the justice system in Nigeria is in tandem with international norms.

1.9 Scope of the study

This study focused on analysis of issues and challenges faced by the Nigerian Criminal Justice System. Emphasis was placed on the various components of the administration of justice in Nigeria in order to evaluate the constitutional provisions concerning the roles and level of involvement of each sector in the failing criminal justice system in Nigeria. The study was limited to key sectors such as the police, the judiciary and prisons as well as other national instruments and institutions that are part of the criminal justice system in Nigeria. Their compliance was examined with regard to national and international instruments to which Nigeria is a member state. Although this is not a comparative study, the legal systems of other jurisdictions were considered, particularly the United States of America and Canada, with better justice systems, to identify some of the structural and best policies approach that could be recommended for integration into the Nigerian Criminal Justice System for it to be effective.

1.10 Limitations of the study

A few reasons account for the limitation in collecting up-to-date data on the three key sectors of the Nigerian Criminal Justice System as observable in the later chapters of the thesis. Data could not be collected beyond 2015 while only few were up to 2016 and 2017. Due to the structure and policies of the police, judiciary and prison organisations in Nigeria, information is only released by the sectors to the National Bureau of Statistics (NBS), which is the custodian of all official statistics on socio-economic and macro-economic indicators. It is the NBS that has the specific mandate of collecting, collating, analysing and disseminating statistical information on all facets of the Nigerian economy, as well as coordinating the production of relevant official statistics at all levels in Nigeria. The most recent annual report available and provided by the National Bureau of Statistics from the commencement of this study till 2019 was the one released in December 2018, with data that stopped in 2015, 2016 and 2017 as the case may be. It is unfortunate that from the start of the research to the point of completion in November 2019, up-to-date social statistics could not be obtained. In addition, some of the data provided in the previous annual reports of NBS were discontinued, hence, such data could not be presented beyond the time, but were used because of their relevance to the study. The researcher was, therefore, constrained to rely on the available data provided by NBS to substantiate claims of challenges faced by Nigeria's criminal justice system. However, it is important to note that, even though the data are not up-to-date, they are reliable since no major reforms have been carried out to address the issues and challenges faced by the criminal justice sectors in Nigeria. The data reveal the trend of what obtains in the system. It is important to mention here that projections could not be applied to the data relevant to, and used in this research, because the researcher was interested in data that could be verified. Besides, projections are most applicable to certain parameters like economic and population variables, which are different from the social statistics used in this study. This challenge was a major limitation of the study.

1.11 Ethical considerations in the study

Ethical approval was requested and obtained from the Ethics Committee of the North-West University, South Africa. Letters were written to the different sectors of Nigeria's Criminal Justice System, where data werecollected, assuring them that the research was not geared towards any political sabotage, neither was it intended to offend the practice of the sector but purely an academic exercise.

1.12 Structure of the study

The thesis is divided into eight chapters. Chapter one provides the introduction and the background to the study, the problem statement, the main research questions as well as the aims and objectives of the study. It also provides a review of existing literature on the subject and points of departure of the study as well as contribution to knowledge. Furthermore, it provides the methodology used in conducting this study to meet the objectives of the study and in finding answers to the main research questions. The scope and limitations of the study, ethical considerations as well as the structure of the thesis are also provided in this Chapter.

Chapter Two is the historical overview of the criminal justice system in Nigeria. The chapter examines the evolution of Nigeria's criminal justice system by looking at the history of the Nigerian legal system as well as the criminal justice system before colonisation, during colonisation and from independence to-date. The essence here is to show that before colonisation, there were different customary laws practised by different ethnic groups to settle disputes and to deal with offenders, and that the present Nigerian Criminal Justice System is a derivative of the colonial rule, which the nation experienced when she was colonised up to when the country obtained independence. This chapter also lays out the theoretical and conceptual framework of the research.

Chapter Three is an appraisal of the legal regime of Nigeria's criminal justice system. In this chapter, emphasis is placed on laws with regard to the criminal justice system in Nigeria. The laws governing the system are considerd, such as the Constitution of the Federal Republic of Nigeria (CFRN); the Criminal Procedure Act; the Criminal Code; the Criminal Procedure Code; the Penal Code; and the Administration of Criminal Justice Act. Acknowledging the fact that Nigeria is a federal state, consisting of the northern and southern states, these states are examined taking into consideration the fact that they have separate laws governing their criminal justice system. While the Northern part of the country criminalises some offences, such do not exist under the laws applicable in the Southern part of the country.

Chapter Four charts the role of the police in Nigeria's criminal justice system. The role and mandate of the police are critically examined as stipulated by the Nigerian Police Act. An evaluation of what obtains at present is done, in order to identify weaknesses of the system and make suggestions on how to overcome such challenges. This chapter also critically engages with the role of the prosecutor in Nigeria's criminal justice system and challenges faced in the course of discharging their duties. The international standards for prosecution are also considered and discussed in this chapter.

Chapter Five focuses on the responsibilities and challenges of the judiciary in Nigeria's criminal justice system. Notable challenges and issues faced by the Nigerian Judiciary are identified and discussed such as delays in trial, miscarriage of justice; loopholes in Nigerian laws, which enables the judiciary to abuse its discretionary powers; and judicial independence, among others. This chapter also focuses on prosecution as the machinery of justice in the Nigerian Criminal Justice System. Chapter Five also centres on legal aid in Nigeria as a veritable tool in the access to justice. The shortcomings of the Nigerian Legal Aid system are discussed and the implications with regard to access to justice, and consequently, administration of Nigeria's Criminal Justice. A critique is done of what currently obtains in the judiciary and some solutions proffered that could assist the Nigerian Judiciary.

Chapter Six focuses on the penitentiary system in Nigeria. The constitutional roles of the prison which are to reform, deter and rehabilitate offenders are examined, and an evaluation done on the extent to which these mandates are met. A critical analysis of the current status of the Nigerian Prison and challenges with regard to congestion in prisons, inadequate funding and poor infrastructure, among others, is provided in this chapter. Some possible solutions aimed at improving prison administration in Nigeria are provided as well in this Chapter.

Chapter Seven examines the constitutional amendment in 2011 and Administration of Criminal Justice Act 2015. It identifies areas relevant to criminal cases and points out their impacts on the Nigerian criminal justice system.

Chapter Eight is the conclusion and recommendations. Having examined the issues and challenges faced by the Nigerian Criminal Justice System, and having studied functional legal systems in other jurisdictions, conclusions are drawn, and recommendations made for policy makers, legislators and other actors involved in criminal justice administration in Nigeria. The recommendations are by no means exhaustive but could go a long way in promoting the ideals of the dispensation of criminal justice and take the Nigerian Criminal Justice System to the level of international norms.

1.13 Summary of chapter

This chapter provided the background to the study; the problem statement; central research questions; the aim and objectives of the study; a review of existing literature on the subject; the methodology used in finding answers to the central questions; the scope; limitations; and structure of the study. The next chapter focuses on the history of the evolution of the

criminal justice system in Nigeria and provides the theoretical/conceptual framework for the study.

CHAPTER TWO

HISTORICAL EVOLUTION OF NIGERIA'S LEGAL SYSTEM AND SOME THEORETICAL/ CONCEPTUAL DISCOURSE OF THE RESEARCH

2.1 Introduction

Having laid the background to the study, outlined the problem statement,stated the central research questions and objectives of the study, reviewed existing literature on the subject, and set out the methodology used in finding answers to the central research questions as well as scope, limitations and structure of the thesis, this chapter provides a synopsis of the historical evolution of Nigeria's legal system. It also provides the theoretical and conceptual framework of the research.

2.2 Historical evolution of Nigeria's legal system

Nigeria, like most other African states, was colonised and subjected to foreign administration, specifically British colonial rule. This affected the legal system of Nigeria as British Common Law as well as its Statutes became both the prototype and sources of law for Nigeria. As such, numerous English Statutes were applied in Nigeria during the colonial period (or pre-independence). The principles or doctrines, contents and norms of the English legal system have, to a great extent, influenced the growth, content, interpretation and application of Nigerian laws.[1] This chapter provides a synoptic discussion of Nigeria's history with emphasis on legal development.

The Nigerian legal system is as old as Nigeria itself. From the historical point of view, Bethel Chuks affirms that

> prior to being colonised by the British, Nigeria, as it is known today, was made up of empires, caliphates, kingdoms, chiefdoms, city-states and village republics.[2]

[1] Hauwa Ibrahim and Princeton N Lyman, 'Reflections on the new Shari'a Law in Nigeria' [2004] Africa Policy Studies Program 1, 2.

[2] Uweru Bethel Chuks, 'Repugnancy Doctrine and Customary Law in Nigeria: A Positive Aspect of British Colonialism' (2008) 2 African Research Review 286, 294-295; Osita Agbu, 'The Nigerian State and Politics in the Fourth Republic' in Osita Agbu (ed), *Elections and Governance in Nigeria's Fourth Republic* (Council for the Development of Social Science Research in Africa 2017) 9; Auwalu Musa and Ndaliman Hassan, 'An Evaluation of the Origins, Structure and Features of Nigerian Federalism' (2014) 1 Valley International Journals 314, 314-315; Zacchaeus O Ogunnika, *Non-formal Approach to Ethnicity: an interpretative explanation of Nigerian peoples coping Mechanisms* (Trafford Publishing 2013) 1; Julius O Adekunle 'National Ethnicity and National Integration: An Analysis of Political History' in Adebayo Oyebade (ed), *The Transformation of Nigeria: Essay in Honour of Toyin Falola* (Africa World Press 2002) 413.

These ethnic groups were historically and culturally distinct and each variously administered by diverse customs, which were their ground norms.[3]

The historic events that brought about the evolution of Nigeria's criminal justice system include British occupation of Nigeria, the Nigeria-Europe confrontation and the slave trade.[4] The present Nigerian legal system is a historical construct of the century-old British colonisation, which imposed an alien English legal system on Nigerian traditional legal structures and organisations.[5] Their organic norms and values were thus, largely displaced.[6] The history of Nigeria's law, as it is today, dates back to 1862 when Lagos was created by the British.[7] The same year, a court was established, and five laws, named, Ordinances, were applied to the colony.[8]

2.2.1 The pre-colonial era (1800-1862) of Nigeria's legal system

It is indisputable that there existed a criminal justice system prior to the colonial period.[9] The various indigenous communities of present day Nigeria had their own form or system of adjudication over both civil and criminal matters.[10] In those pre-colonial societies, the Oba-in-Council in the South, the Emir in the North and the Council of Chiefs in the Eastern region of the country constituted what could be referred to as the court.[11] Before her colonisation, community in traditional N igeria, as in most underdeveloped societies, was a corporate entity, a network of kinship patterns.[12] Some larger communities had Kings, Emirs, Obas,

[3] Ogunnika (n 2) 2; Chucks (n 2) 295; Ademola Yakubu and Toriola A Oyewo, *Criminal Law and Procedure in Nigeria* (Malthouse Press 2000) 9.

[4] Adiele Eberechukwu Afigbo, The Abolition of the Slave Trade in South-Eastern Nigeria, 1885-1950 (University of Rochester Press 2006) 1; Hakeem Harunah, *Nigeria's Defunct Slave Ports: Their Cultural Legacies and Touristic Value* (First Academic Publishers 2000) 11; Paul Lovejoy, *Transformations in Slavery: A History of Slavery in Africa* (Cambridge University Press 2011) 54-55.

[5] See generally Benjamin Obi Nwabueze, *A Constitutional History of Nigeria* (Hurst & Company Ltd 1982) 37.

[6] Leesi Ebenezer Mitee, 'History of Nigerian Legal System' < https://abd2belg.wordpress.com/2013/08/13/history-of-the-legal-system-in-Nigeria/> accessed 10 July 2017.

[7] Onyebuchi T Uwakah, *Due Process in Nigeria's Administrative Law System: History, Current Status, and Future* (University Press of America 1997) 44; John O Assein, *Introduction to Nigerian Legal System* (Sam Bookman Publishers 1998) 149; Mitee (n 6).

[8] The Laws are: Customs Duties Ordinance No 1 of 1862; Harbour Regulations Ordinance No 2 of 1862; Harbour Sanitary Regulations Ordinance No 3 of 1862; Currency Ordinance No 4 of 1862; and Use of Official Seal Ordinance No 5 of 1862. See Mitee (n 6).

[9] See generally, Kebreab Isaac Weldesellasie, 'The Development of Criminal Law and Justice in Africa from Pre-Colonial Rule to the Present Day' in Charles Chernor Jalloh and Ilias Bantekas (eds), *The International Criminal Court and Africa* (Oxford University Press 2017) 248.

[10] See generally Akintunde Olusegun Obilade, *The Nigerian Legal System* (Spectrum Law Book 2009) 19.

[11] Elliot Alexander Keay and Sam Scruton Richardson, *Native and Customary Courts in Nigeria* (Sweet & Maxwell 1966) 68.

[12] See generally Peter Okoro Nwankwo, *Criminal Justice in the Pre-Colonial, Colonial, and Post-Colonial Eras an Application of the Colonial Model to Changes in the Severity of Punishment in the Nigerian Law* (University of America Press 2010) 130.

Ezes, Chiefs and an Elder or a Council of Elders who judged disputes in the community.[13] Qualified order and solidarity prevailed in communities without a Criminal or Penal Code.[14] However, there existed a variety of unwritten and indigenous laws.[15]

Offences in Nigeria during the pre-colonial era were restricted to what the people perceived to be abomination, taboos, offences against the earth and deities or ancestors. Minor interpersonal victimisations involved behaviours that violated customs and traditions of different communal groups according to their culture.[16] Such offences could be tried and disposed of by the community as a whole according to the customs of the tribe, which was regulated by the conduct of citizens.[17]

The concept of criminality did not emerge in Nigeria until 1861 when the colonially constituted courts were established at the request of the British traders who appealed to the British government for the protection of their trade.[18] Prior to the advent of the Europeans, records show clearly that long before the 19th century, each of the territories which constituted Nigeria had a system of administration of justice.[19] To this end, the territories, which now constitute the Northern States, had an organised system of courts[20]. The major law administered by the courts was the 'Moslem Law of the Maliki School', which derived its source from the Holy Koran and the practice of the prophets, sources of which were, and are still, in writing.[21] The first British Consular was appointed in 1849.[22] His territorial jurisdiction extended to the (Southern) Cameroons from Dahomey. This covered the whole of

[13] See generally Obi N Ignatius Ebbe, 'The Judiciary and Criminal Procedure in Nigeria' in Obi N Ignatius Ebbe (ed), *Comparative and International Criminal Justice Systems: Policing Judiciary and Corrections* (3rd edn, CRC Press 2013) 202; 'Nigeria Past and Present'< http://www.Nigeriaembassyusa.org/index.php?page=Nigeria-past-present-and-future>accessed 11 July 2017.

[14] Muyideen Deji Abdulsalami, 'Historical Background of Nigerian Politics, 1900-1960' (2013) 16 Journal of Humanities and Social Science 84, 84.

[15] ibid.

[16] Nwankwo (n 12) 132.

[17] Viviane Saleh-Hanna and Chukwuma Ume, 'An Evolution of the Penal System: Criminal Justice in Nigeria' in Viviane Saleh-Hanna (ed), *Colonial Systems of Control: Criminal Justice in Nigeria* (University of Ottawa Press 2008) 55.

[18] Uwakah (n 7); Ebbe (n 13).

[19] Yusuf Ali, 'The Evolution of ideal Nigerian Judiciary in the new millennium' < http://yusufali.net/articles/the evolution of ideal Nigerian judiciary in the new millennium.pdf>accessed 10 July 2017.

[20] The Northern States, that is, the States in the Northern part of the Country are: Adamawa; Bauchi; Borno; Gombe; Katsina; Kaduna; Kano; Niger; Zamfara and Sokoto States.

[21] The Sources of Muslim Law are: Holy Quran; the practice of the Prophets the Sunna; the Consensus of Scholars; Analogical deduction from the Holy Quran and the practice of the Prophets. See Yusuf Ali, *Nigerian Legal System* (National Publishing House 1982) 27, 33; Asaf Ali Asghar Fyree, *Outline of Muhammedan Laws* (3rd edn, Oxford University Press 1974) 18-21; See generally Noel Otu, 'Colonialism and the Criminal Justice System in Nigeria' (1999) 23 International Journal of Comparative and Applied Criminal Justice System in Nigeria 293, 296.

[22] See generally, Toyin Falola, *Culture and Customs of Nigeria* (Greenwood Publishing Group 2001) 1; See generally John Ademola Yakubu, 'Colonialism, Customary Law and Post-Colonial State in Africa: The case of Nigeria' (2005) African Journals 201-220 < https://www.ajol.info/index.php/ad/article/view/22246 >accessed 9 August 2017.

the coastal regions that eventually formed part of Nigeria.[23] The Consular courts were established by the Consuls. The Consular courts were meant to resolve trading disputes between indigenous people and British traders.[24] In addition to these courts, the Equity Court was established to settle all matters relating to the general notion of justice.[25] In 1861, there was ceding of Lagos to the British Crown under the Treaty of Cession,[26] and consequently, in 1862, Lagos was made a British colony or settlement by the British government, and a court was established there.[27]

2.2.2 The colonial era (1862-1960) of Nigeria's legal system

The English law was introduced to the colony of Lagos by the British administrators under Ordinance No 3 of 1863, effective from March 4, 1863.[28] In 1863, there was establishment of the first Supreme Court of the Colony under the Supreme Court Ordinance, 1863.[29] The new English Law set out explicit punishments for offences or crimes that were precisely defined.[30] Equally, punishments were measured in relation to the wealth, title and personality of the individual as well as the motive of the offender.[31] The Supreme Court had jurisdiction over civil and criminal matters.[32] As time went on, the Common Law of England gradually and progressively became the judicial norm in Nigeria.[33] The British, therefore, avoided the application of all traditional laws with the exception of those customs and local laws that were neither repugnant to natural justice, equity and good conscience nor incompatible with any colonial statute.[34] In 1866, the British Settlements of Lagos, the Gold Coast, Gambia and Sierra Leone were placed under one government recognised as Governments of West African Settlements.[35] In 1863 and 1864, some courts were established for Lagos by the new government, among which was the Court of Civil and Criminal Justice, which replaced the

[23] ibid.
[24] Otu (n 21) 296.
[25] ibid.
[26] See generally, Charles Mwalimu, *The Nigerian Legal System: Public Law* (Peter Lang 2005) 294; Weldesellasie (n 19) 256.
[27] Nwankwo (n 12) 135.
[28] Obilade (n 10) 18.
[29] Supreme Court Ordinance No 11 of 1863; Nwankwo (n 22) 136.
[30] Otu (n 21) 297.
[31] Obilade (n 10) 19.
[32] Supreme Court Ordinance No 11 of 1863; Nwankwo (n 12) 136 and Obilade (n 10) 18.
[33] Remigius N Nwabueze, 'The Dynamics and Genius of Nigeria's Indigenous Legal Order' (2002) 1 Indigenous Law Journal 153, 156.
[34] Nwalimu (n 26) 174; Uwakah (n 7) 32; Yakubu (n 3).
[35] Yakubu (n 3); Obilade (n 10) 19.

Supreme Court sitting in each of the British Settlements.[36] The Court of Civil and Criminal Justice, in the case of Lagos, laid to the West African Court of Appeal.[37] Further appeal laid to the Judicial Committee of the Privy Council.[38]

In 1872, however, British Order-in-Council provided for the restructuring of the Equity Courts earlier established jointly by the foreign traders and indigenous traders. The order also provided to formalise the establishment of Consular Courts by the Royal Niger Company.[39] Accordingly, both the Court of Equity and the Consular Courts were to be under the control of the Consul.[40] It should be noted that in all the trading areas, including Lagos, the Court continued to administer justice in cases involving indigenous people only.[41]

In 1874, the Gold Coast Colony, which comprised the Gold Coast and the British Settlements of Lagos, was established as a single and separate government.[42] Accordingly, the West African Court of Appeal did not function as a court for the new colony.[43] Later in 1876, the Supreme Court Ordinance established a Supreme Court for the Colony of Lagos. The jurisdiction of the court covered the Colony of Lagos as well as the territories in the neighbouring adjacent territories over which the British government had jurisdiction.[44] The court was authorised to apply the Common Law of England, the Doctrines of Equity and the Statutes of General Application in force in England on 24th July 1874.[45] It is worth noting that whenever the Common Law and the Doctrines of Equity conflicted each other, the colonially-crafted Doctrines of Equity was to prevail.[46]

In 1886, the British government established a separate government for the Colony of Lagos with its own Governor, executive and legislative councils.[47] Consequently, a new Supreme Court Ordinance similar to that of 1876 was put in place for Lagos, referred to as the Gold Coast Supreme Court Ordinance of 1876.[48] Under an Order-in-Council of 1886, the

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[36] The Courts are: the Petty Debt Court; the Court of Civil and Criminal Justice; the Court of Requests and a West African Court of Appeal. See Omoniyi Adewọye, 'Self-Taught Attorneys in Lagos, 1865-1913' (1969) 5 Journal of the Historical Society of Nigeria 47, 47.
[37] Nwankwo (n 22) 139; Albert P Blaustein and Gisbert H Flanz, *Constitutions of the Countries of the World* (Oceana Publications 1971) 3.
[38] Brief History of Supreme Court < http://sconmonitor.com/index.php/the- Court/2017-01-11-16-24-08>accessed 8 August 2017.
[39] Obilade (n 10) 18; Yusuf Ali (n 19).
[40] Obilade (n 10) 18.
[41] ibid.
[42] Yakubu (n 3).
[43] Obilade (n 10) 19.
[44] Supreme Court Ordinance No 4 of 1876 Section 12.
[45] Obilade (n 10) 19; Yakubu (n 3).
[46] Theophilus Chinedu Nwano, 'Aspects of Law' in Chijioke C Ohuruogu and Okechukwu Timothy Umachi (eds), *Nigerian Legal Methods* (Cambridge Scholars Publishing 2013) 35.
[47] Yakubu (n 3).
[48] Bonny Ibhawoh, *Imperial Justice: Africans in Empire's Court* (Oxford University Press 2013) 56.

legislature of the Colony of Lagos was empowered to make laws for the territories in the neighbourhood (the protected territories) over which the British government had acquired jurisdiction.[49] The courts were also guided by the Native Law, specifically when the parties involved were natives as long as the laws were not repugnant to natural justice and morality.[50] The colony and the protected territories were, together, known as the colony and protectorate.[51] The Supreme Court of the Colony of Lagos then had jurisdiction in the protectorate, that is, the protected territories had extended to the other areas near the colony by 1881.[52] The territory under the control of the Royal Niger Company was made up of various British firms trading along the banks of River Niger. These were later amalgamated, resulting in a single firm, which then received a Royal Charter under the name 'National African Charter' (hereinafter the Charter). The Charter gave the company power to govern their affairs as the Royal Niger Company (RNC).[53] The RNC established some courts, which functioned from 1886 to 1899 when the Charter was revoked.[54] Under an Order-in-Council of 1899, a Consul General was appointed for the area.[55] The order provided for the establishment of Consular Courts having jurisdiction **over** all British subjects and over subjects of other European States who consented to the jurisdiction of courts.[56] Furthermore, the court had jurisdiction over the territories where the state's king, chief or government of which he was a subject or under whose protection he was, had agreed or consented to

[49] Yakubu (n 3).
[50] Homer F Morris, 'Some Perspectives of East African Legal History' [1970] Scandinavian Institute of African Studies 1, 12.
[51] A Protectorate is defined as a State, however it is under the protection of another Country in exchange for something else. The State may have something to offer a larger Country, in order for such an agreement to work. A Colony is defined as a territory which is governed by another country. There is no sovereignty for a Colony, it is under the direct rule of another country. While the two may seem similar, both a Protectorate and a Colony are territories of larger countries. A Protectorate is its own State merely protected by a larger country. A Colony is a part of a larger country governed by that same country. A State which is a Protectorate has the aid of a larger Nation when conducting foreign relations for a Colony, all foreign relations are created and dealt with by the mother Country. Protectorates can be seen as an alliance. The more allies, the stronger the territory and Country. Colonies can be seen as a threat to other Nations, as it is the spreading of one Country See < http://www.differencebetween.net/miscellaneous/politics/difference-between-Protectorate-and-Colony/>accessed 18 August 2017; Nwabueze (n 5) 11.
[52] Obi O Okoye, *The Development of Judicial Trial in Nigeria* (Africana-Fep Publishers 1988) 36; Benjamin Obi Nwabueze, *The Machinery of Justice in Nigeria* (Butterworths 1963) 48.
[53] Ibahwon (n 48) 56; Okpalike Chika, Gabriel Nwadialor and Kanayo Louis, 'The Contributions of the Christian Missionaries in Building the Nigerian Nation, 1840-1960' (2015) 4 Academic Journal of Interdisciplinary Studies 159, 160.
[54] ibid.
[55] On the revocation of the Niger Company's Charter and from 31st December 1889, the Southern portion of the Company's territories up to Idah on the Niger was joined to the Niger Coast Protectorate which was renamed the Southern Protectorate Nigeria, and its boundaries defined by an order in council of 27 December 1899, which came into force on 1st January 1900. See William M Geary, *Nigeria under British Rule 1927* (Routledge 2013) 122.
[56] Elias Taslim Olawale, *Ground Work of Nigeria Law* (Routledge and Kegan Paul 1954) 85.

exercise jurisdiction by British Courts.[57] Appeals from the decisions of Consular Courts were laid to the Supreme Court of the Colony of Lagos.[58]

The Southern Nigeria Order-in-Council, 1899 amalgamated the Niger Coast Protectorate and the territories of the RNC, South of Idah. This amalgamation led to the formation of a new protectorate with effect from January 1, 1900.[59] The new protectorate was named 'Protectorate of Southern Nigeria'.[60] An Order provided for the appointment of a High Commissioner, who was to be empowered to make laws for the protectorate by proclamation.[61] The High Commissioner established a Supreme Court by the Supreme Court Proclamation of 1900, whose provisions were considerably not different from what was provided by the 1876 Supreme Court Ordinance. The exception was that 1st January 1900, was named by the proclamation to replace 24th July 1874 as the reference date of application.[62] The Supreme Court, which was the highest court, had jurisdictions over appeals of all cases, be it civil or criminal, through the protectorate.[63]

It should be recalled that there was no establishment of any statutory Native Court in the Colony and Protectorate of Lagos, and the Supreme Court Ordinances 1876 did not in any way impair the judicial powers of the British administration with respect to the Protectorate of Southern Nigeria.[64] Courts were established there by statutes essentially for the administration of Customary Law, the law hitherto administered by indigenous courts.[65] The 1900 Native Courts Proclamation established, was replaced by the 1901 Native Courts Proclamation.[66] It provided that the civil and criminal jurisdiction of a statutory Native Court

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[57] ibid 82.
[58] William Cornelius Daniels, *The Common Law in West Africa* (Butterworths 1964) 43; Cyprian Okechukwu Okonkwo, *Introduction to Nigerian Law* (Sweet and Maxwell 1980) 63.
[59] Yakubu (n 3).
[60] Nkrumah Kwame, '1909-1972' in Melvin Earl and Penny M Sonnenburg (eds), *Colonialism: an International Social, Cultural, and Political Encyclopedia, Volume 1* (ABC-CLIO 2003) 425.
[61] By the order in Council dated November 1913 which came into force in January 1914, the amalgamation was by the British Government, and Lord Frederick Lugard was thereafter appointed the Governor-General of Nigeria. The Colony and Protectorate of Southern Nigeria and the Protectorate of Northern Nigeria were amalgamated on 1 January 1914 under the name of the Colony and Protectorate of Nigeria, with Sir Frederick Lugard as the first Governor. This merger was purely to further the administrative and economic interests of the British. There was the need to build a railway line from the North through to the Coastal areas in the South, in order to ease the transportation of goods they traded in. In addition, the South was relatively richer than the North, and amalgamation made it easier to use the resources from the South to develop the whole Country. See Tunde Odegowi, 'From Conquest to Independence: the Nigerian Colonial Experience' (2011) 25 Historia Actual Online 19, 20-22.
[62] Supreme Court Proclamation No 6 of 1900 and Supreme Court Proclamation No 8 of 1900.
[63] Okoye (n 52) 39.
[64] Supreme Court Ordinance No 6 1900.
[65] Nwogugu Earl, '*Abolition of Courts the Nigerian Experiment'* (1976) 20 Journal of African Law 1, 1.
[66] Supreme Court Ordinance No 9 of 1900.

in a district was to be exclusive of any jurisdiction by any traditional authority.[67] Therefore, in any district where a statutory Native Court had been established, no indigenous court had any jurisdiction.[68] These Customary Laws were not favourable to non-natives, especially the English colonists, thus their own law was imposed on Customary Law.[69]

In 1900, Native Courts Proclamation was made, and provided for a dual system of Native Courts.[70] They were Minor Courts and Native Courts.[71] The composition of Minor Courts depended on such number of members as the High Commissioner had the capacity to appoint and had original civil jurisdiction generally in personal suits, which the claim did not exceed twenty-five thousand Naira. He also had jurisdiction in cases involving succession to moveable property or ownership or possession of land under Customary Law.[72] The jurisdictions of the Minor Courts covered only offences that might attract punishment by a sentence of not above six-month jail term.[73] Additionally, it included putting a person in a fetish, willfully disobeying a lawful order of the head of a house, being in unlawful possession of property and taking or seducing another man's wife.[74] In general, its original civil jurisdiction was the same as that of a Minor Court with respect to personal suits and succession to movable property.[75] On the other hand, the monetary value limit for a Native Council was two hundred Naira.[76] A Native Court heard appeals from the decisions of Minor Courts.[77] It also had overall supervisory powers over all the Minor Courts within its district.[78] Equally, it was empowered to make rules embodying any Customary Law in the district to regulate and protect trade and generally to provide peace, good order and welfare of the natives there. The rules were, however, subject to the approval by the High Commissioners.[79] Going by the above, the two courts, Minor Courts and Native Courts, had their defined limits,

[67] Supreme Court Ordinance No 25 of 1901 Section 12.
[68] See generally Taslim Olawale Elias, *The Nigerian Legal System* (2nd edn, Routledge & Kegan Paul Limited 1963) 102.
[69] Ibhawoh (n 48) 75.
[70] Chigozie Nwagbara, 'The Nature, Types and Jurisdiction of Customary Courts in the Nigeria Legal System' (2014) 25 Journal of Law Policy and Globalization 1, 1.
[71] ibid.
[72] Obilade (n 10) 23.
[73] ibid.
[74] ibid.
[75] Martin Chukwuka Okany, *The Role of Customary Courts in Nigeria* (Fourth Dimension Publishers 1984) 8.
[76] Obilade (n 10) 23.
[77] Bennett Adesegun Odunsi, *The Role of the Ombudsman in Nigeria: Redress of Grievances* (Edwin Mellen Press 2007) 34.
[78] Obilade (n 10) 24.
[79] ibid.

and were also empowered to hear both civil and criminal cases between non-native and natives.[80]

Eventually, the English law was introduced into the Lagos Colony by the British. This marked an important historical change in the legal system of Nigeria. The main body of English Law was introduced in 1863 by Ordinance No 3 of 1863.[81] The English Law and Customary Law continued to run side by side at that time and even upon Nigeria's independent in 1960. It is worth nothing that, both the Customary Law and English Law were accommodated by the Nigerian Constitution.[82] Although the reception of English Law was effected through local legislation, it is worthy of note that this legislation was not passed by a body of indigenous people but by the British Administration.

The Statutes were not applicable in the other territories within the jurisdiction of the court.[83] Thus, the 1869 Bankruptcy Act of England was not applicable because the machinery for its application was not available.[84] The Supreme Court was divided into three arms, namely, the Full Court (a Court of Appeal), the Divisional Courts having original and appellate jurisdiction and the District Commissioners' Courts. Appeals from the decisions of the District Commissioners' Courts laid with the Divisional Courts. The Full Court heard appeals from the decisions of the Divisional Courts.[85]

It should also be noted that the three classes of English Laws received during this period (the Common Law, Equity and English Statutes), more than one century after the first reception, are still sources of Nigerian laws.[86]It is evident and indisputable that English Law has influenced and shaped the development and content of law in Nigeria. The umbilical connection between Britain and Nigeria remains strong and valid up till today.

The British government averted trouble by not rejecting local laws and customs in their totality. The whole essence of this was to scrutinise the traditional laws and customs of the people that were offensive to natural justice, equity and good conscience and incompatible with Local Statutes. Some believed that in doing this, the British administration

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[80] Nwagbara (n 70); Nwocha Enya Matthew, 'Customary Law, Social Development and Administration of Justice in Nigeriakol' (2016) 7 Beijing Law Review 430, 431.
[81] Fidelis Ejike Onyekwelu Ume, *The Courts and Administration of Law in Nigeria* (Fourth Dimension Publishing Company 1989) 83.
[82] See Elias (n 68) 6; Otu (n 21) 296; Obilade (n 10) 20-21; Nigerian Interpretation Act, Section 32 (1) and (2) Cap123 LFN, 2004.
[83] Abubakri O Yekini, 'Comparative Choice of Jurisdiction Rules in Cases having a Foreign Element: Are there any Lessons for Nigerian Courts?' (2013) 39 Commonwealth Law Bulletin 333, 334-335.
[84] Obilade (n 10) 19.
[85] ibid.
[86] Ibahwon (n 48) 62; Yemisi Dina, John Akintayo and Funke Ekundayo, 'Guide to Nigerian Legal Information'< http://www.nyulawglobal.org/globalex/Nigeria.htm>accessed 13 September 2017.

succeeded in relegating local laws and custom.[87] On the other hand, some entertained the opinion that subjecting Customary Laws to pass a general test of validity such as the repugnancy test mentioned above was an opportunity to eliminate barbaric and irrational traditional and superstitious beliefs inherent in them.[88]

Furthermore, by the end of this period (that is, the colonial era), the combined effect of the reception of English Law, the establishment of English Type of Courts and the relegation of local laws and customs were already being felt. There was emergence of a new society consisting of indigenous people who had embraced the English culture and had, therefore, tendered to prefer the English way of life to the traditional pattern of life.[89] Such people entered into commercial relations governed by English Law. The existence of such society side-by-side with the traditional society marked the beginning of conflict of cultures now noticeable in many parts of the country.[90]

2.2.3 The reception of English Law

At the emergence of English Law, the Nigerian courts were confronted with the tasks of how to resolve potential conflicts with the laws introduced or inherited and that of customary or indigenous laws, which had been in existence before the wake of English Law.[91]

The British had the intention to protect, preserve and supervise the indigenous system in their colonies because they recognised the need to respect and retain the people's diverse cultures, religions and belief systems. To this end, the British introduced what was called 'Indirect Rule': a system of administration by the British colonial government in which they governed the people through the use of traditional rulers and traditional political institutions.[92] Indirect Rule came into being as a result of imperial dominance of the British in Nigeria. They saw the Indirect Rule as the easiest, cheapest and most attractive way to register their colonial presence.[93] In other words, they ruled indirectly. Within the context of

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[87] Customary Courts and Native Courts are to administer native law and custom prevailing in the area of jurisdiction and might award any type of punishment recognised thereby except mutilation, torture, or any other which is repugnant to natural justice and humanity'. See Cyprian Okechukwu Okonkwo and Michael E Naish, Criminal Law in Nigeria (Spectrum Publishers 1990) 5; Obilade (n 18) 20; Evidence Act Chapter 112 LFN, 1990, Section 14 (3) Customary Law could only be validated if it was in accordance with natural justice, equity, and good conscience; this was in addition to its non-violation of the provisions of any existing Statute Law. See the cases of *Lewis v Bankole* (1908) NLR pt1 at 81; *Edet v Essien* (1932) NLR pt 11 at 47 where this principle was championed.

[88] Taiwo (n 34) 89.

[89] Nwabueze (n 5) 156.

[90] Adewoye Olusegun 'Preclude to the Legal Profession in Lagos 1861-1880' (1970) 14 Journal of African Law 98, 98.

[91] Nwabueze (n 5) 22-23; Otu (n 21) 298.

[92] John M Carland, *The Colonial Office and Nigeria, 1898-1914* (Hoover Press 1985) 67.

[93] Toyin Falola and Matthew M Heaton, *A History of Nigeria* (Cambridge University Press 2008) 134.

British system of Indirect Rule, it meant a process or system of administering the occupants of colonial territories through their own traditional rulers in organised units (known as native administrations), subject to the advice of a British Resident or District Officer.[94] The Indirect Rule system was introduced to Nigeria by Lord Fredrick Lugard, who has frequently been referred to as 'the architect and the father of Indirect Rule in Nigeria'.[95] It is worthy of note that Indirect Rule was introduced mainly for coping with the practical challenges of managing large areas under the colonial rule with few administrators.[96] The British officials in Nigeria formulated and enforced policies through the traditional rulers who only served as intermediaries between the people and the British administration.[97] The culture and traditions of persons were retained and respected by the British authorities in order to make them more acceptable and welcomed by the people.[98] This system worked out well due to the cooperation of traditional chiefs, who claimed that since their culture and traditions were not tampered with, they had no problem with British officials.[99]

Frederick Lugard, a scholar and an action man, conceived the common phrase, 'the dual mandate', to refer to the mission of the colonial supervisor.[100] Additionally, Lord Lugard was of the view that the major aim of British colonial administration by introducing Indirect Rule was to protect the interest of their people (the British) while advancing the course of the indigenous people in their pursuit for progress.[101] Lord Lugard presumed that these two agendas were in harmony.[102] For that reason, what was left to be done was to devise a suitable strategy and deploy best practices for the fulfillment of the dual mandate of British colonial masters.[103] Therefore, the policy of Indirect Rule was seen as a suitable instrument whereby the British ruled and carried out their mission through the indigenous rulers at the time. In addition, the British were committed to preserving and supporting their authority in as much as the important humanity and justice laws were obeyed. British government officers were playing their role (an advisory one) as much as possible to make sure that native and Engilish laws were running smoothly.[104] Hence, the Supreme Court was empowered to not

[94] ibid.
[95] Abdulsalami (n 14) 88.
[96] Adiele Eberechukwu Afigbo, 'Local Government in Nigeria in the Era of Indirect Rule: 1900-1950' in Toyin Falola (ed), *Nigerian History, Politics and Affairs: The Collected Essays of Adiele Afigbo* (Africa World Press 2005) 271.
[97] Falola (n 4) 17.
[98] ibid.
[99] Afigbo (n 4).
[100] Falola (n 36); Abdulsalami (n 14) 88-89.
[101] Abdulsalami (n 14) 88.
[102] Otu (n 21) 298.
[103] ibid.
[104] ibid.

only apply the inherited law but also to apply the Customary Law.[105] Supreme Court Ordinance ushered in the subjection of Nigeria's Customary Law to the repugnancy test.[106] Consequently, various enactments adopted the Repugnancy Doctrine, some of which consisted of Supreme Court Proclamation No 6 of 1900;[107] the Supreme Court Ordinance No 6 of 191;,[108] the Supreme Court Ordinance No 23 of 1943 (Cap 211); Laws of Nigeria, 1948;[109] the Native Courts Proclamation No 9 of 1900;[110] and the Native Courts Ordinance (Cap 142) Laws of Nigeria.[111]

Subsequently, the colonial administration transformed the method of Emir and Council to that of 'Emir-in-Council'.[112] By this time, the nature of the regulation of the ruler by his council as well as the British administration turned out feeble.[113] It followed then that for Customary Law to be applied, it must follow the rules laid down and specified by the Supreme Court Ordinance.[114] It is worth of mentioning that the subjection continued throughout the colonial period and the position remained unchanged even after independence.[115] The phases of Customary Law, which denoted trial by ordeal such as amputating a thief's hand or burning a suspected witchcraft and some practices such as subjugating people who committed monstrous crimes, could not pass the test that was laid down. Therefore, all those forms of punishment had to be abolished by the Constitution of Nigeria.[116]

After the British consolidated their hold over the North in 1904, the Criminal Code was initially drafted and enacted by the British administration intentionally for Northern Nigeria. This was subsequently introduced and made applicable in the whole country through Lord Lugard.[117] By 1914, the Northern and Southern Protectorates were consolidated to form a State.[118] This led to the existence of three criminal justice systems operating in the

[105] Otu (n 21) 299.
[106] Onyeka William Igwe, 'Repugnancy Test and Customary Criminal Law in Nigeria: A Time for Re-Assessing Content and Relevance' <: https://www.researchgate.net/publication/275271417> accessed 14 September 2017.
[107] Elias (n 68) 75-76; Obilade (n 10) 20-21.
[108] Supreme Court Proclamation No 6 of 1900, Section 13.
[109] Supreme Court Ordinance No 6 of 1914, Section 20.
[110] Native Courts Proclamation No 9 of 1900, Section 17.
[111] Native Courts Ordinance (Cap 142) Laws of Nigeria, Section 16.
[112] Otu (n 21) 298.
[113] Otu (n 21) 298.
[114] ibid 299.
[115] Yakubu (n 3).
[116] The Constitution of the Federal Republic of Nigeria 1999 Cap 23 LFN, 2004, Section 34 (a).
[117] Mwalimu (n 26) 385; Ebbe (n 23) 202; Weldesellasie (n 9) 256; Remigius N Nwabueze, *Biotechnology and the Challenge of Property: Property Rights in Dead Bodies, Body Parts, and Genetic Information* (Routledge 2016) 125.
[118] Kemi Rotimi and Adetunji Ojo Ogunyemi, 'Justice, Due Process and the Rule of Law in Nigeria: the Story of Constable Thomas Shorunke, 1940–1946' (2016) 2 West Bohemian Historical Review 309, 310.

country.[119] This was triggered by the diverse lawful traditions or legal cultures that existed within the country. As a matter of fact, laws in Nigeria originated from three separate legal systems as follows: Islamic Law; Customary Law; and English-Style Laws.[120] To resolve this, the British, through Lord Lugard, the then Governor, decided to make the provisions of the Criminal Code applicable to the whole of Nigeria in 1916.[121] This wholesome introduction of English criminal laws without taking into consideration the cultural multiplicities of the local people generated a lot of disagreement, particularly between the Criminal Code and the Islamic Law. A major discrepancy between the laws is the fact that Islamic Law gave room for infliction as punishment, which was not recognised by the Criminal Code.[122] Also, there is no place for provocation to lessen a death sentence to manslaughter in Islamic Law contrary to what obtains in the Criminal Code.

The British colonial government, after having due consideration of the indigenous laws, discovered that the indigenous laws or policies with regard to penal provisions were quite barbaric. For example, beheading, trial by ordeal such as stoning, burying alive and drowning, which were considered as abhorrent and inhuman, were punishments of penal provisions. Consequently, such barbaric provisions of indigenous laws, policies and practices were considered barbarous and heartless on the grounds that they were contrary to the repugnancy test. It is stated under Section 11 of Ordinance No 45 of 1933 that:

> Subject to the terms of that Ordinance or any other, the Common Law of England should, as practicable, be in force in the then Colony and Protectorate of Nigeria.[123]

This provision was repealed and was substantially re-enacted by the Protectorate Court Ordinance of 1933.[124] Also, in the same year, the Native Courts Ordinance was promulgated.[125] The Native Courts Ordinance confirmed the existence of Native Courts as well as their jurisdiction in the field of Customary Laws provided that the punishment to be

[119] Jeremiah I Dibua, *Modernization and the Crisis of Development in Africa: The Nigerian Experience* (Ashgate Publishing Ltd 2006) 57; Toyin Falola and Bukola Adeyemi Oyeniyi, *Nigeria* (ABC-CLIO 2015) 175; Olukunle Ojeleye, *The Politics of Post-War Demobilisation and Reintegration in Nigeria* (Routledge 2016) 30; Amos Oyesoji Aremu, 'Urbanization and Community Policing in Nigeria' in Gary Cordner, Dilip K Das and Ann Marie Cordner (eds), *Urbanization, Policing, and Security: Global Perspectives* (CRC Press 2009) 219; Cyprain O Okonkwo, *Criminal Law in Nigeria* (2nd edn, Sweets & Maxwell 1980) 4-17.
[120] Abudulami A Oba, 'Religious and Customary Laws in Nigeria' (2011) 25 Emory International Law Review 881, 882.
[121] Weldesellasie (n 9) 256; Yakubu (n 36).
[122] Yakubu (n 3).
[123] Mwalimu (n 26) 383.
[124] Protectorate Court Ordinance of 1933 No 45 of 1933.
[125] Native Courts Ordinance No 44 of 1933.

given to the offender did not involve mutilation or torture and was not repugnant to natural justice and humanity.[126]

In 1945, a re-organisation of the existing court system, excluding the Native and the Islamic Courts, took place in Nigeria. This far-reaching re-organisation led to the emergence of a two-tier system. On the one hand, were the Inferior Courts referred to as Magistrate Courts covering the whole country, by dividing them into Magisterial Districts,[127] and on the other hand, was the Supreme Court, having its jurisdiction covering the whole country.[128] Appeals from the Supreme Court went to the West African Court of Appeal (WACA)[129], which served all British colonies in West Africa. Appeals from this court in turn went to the then final Court of Appeal, which was the Judicial Committee of Privy Council in London.[130]

Nigeria was divided into three areas as follows: The Western Region; Northern Region; and Eastern Region.[131] The regionalisation became concretised in 1946.[132] Also, against all opposition from both the Nigeria Bar and Bench, the judiciary was also regionalised.[133] As a result, a High Court was created for each region, replacing the Supreme Courts. Till date, each State in Nigeria has, and maintains its own judiciary.[134]

The jurisdiction of WACA, with respect to Nigeria, was abolished with effect from January 1, 1956. It was replaced by the Federal Supreme Court, which took appeals from all Regional High Courts. However, all appeals went from the Federal Supreme Court directly to the Judicial Committee of the Privy Council in London.[135]

2.2.4 The post-colonial era (1960 to date) of Nigeria's legal system

Nigeria became a sovereign state in October 1960.[136] By virtue of the 1963 Constitution of Nigeria, the country became a Federal Republic on 1st October, 1963.[137] In the same year, the

[126] Section 10 Native Courts Ordinance No 44 of 1933, Section 10.
[127] Native Courts Ordinance No 24 of 1943 (Cap 211) Law of Nigeria, 1948 Section 20.
[128] ibid.
[129] WACA Ordinance No 47 of 1933.
[130] Tom Lansford, *Political Handbook of the World 2012* (SAGE 2012) 12.
[131] Yakubu (n 3).
[132] Dibua (n 119) 62.
[133] Victor Oguejiofor Okafor, *A Roadmap for Understanding African Politics: Leadership and Political Integration in Nigeria* (Routledge 2013) 17.
[134] Ihekwoaba D Onwudiwe, 'Community Policing: The Case of Information in Nigeria' in Dominique Wisler and Ihekwoaba D Onwudiwe (eds), *Community Policing: International Patterns and Comparative Perspectives* (CRC Press 2009) 96.
[135] Kalufalola Ezera, *Constitutional Developments in Nigeria: An Analytic Study of Nigeria's Constitution-making Developments and the Historical and Political Factors that Affected Constitutional Change* (CUP Archive 1964) 193.
[136] Chukwunyere Kamalu, *The Little African History Book-Black Africa from the Origins of Humanity to the Assassination of Lumumba and the turn of the 20th Century* (Lulu.Com 2007) 104; Falola (n 36) 20.
[137] Mwalimu (n 26) 253.

Supreme Court of Nigeria replaced the Federal Supreme Court.[138] The Supreme Court received appeals from State High Courts as well as Sharia Court of Appeal, established for Northern Nigeria.[139] The 1963 Constitution made the Supreme Court the final Court of Appeal for Nigeria since the Constitution makes provision that 'no appeal shall lie to any other body or person from any determination of the Supreme Court'.[140] The system of Courts in operation in Nigeria today, is stipulated in the 1999 Constitution of the Federal Republic of Nigeria[141]. Chapter Seven of the 1999 Constitution is dedicated to the Judicature, where the court system is stated. The 1999 Constitution makes provison for six Superior Courts of Record listed in order of hierarchy as follows:

a. The Supreme Court;[142]
b. The Court of Appeal;[143]
c. The Federal High Court;[144]
d. High Court of a State;[145]
e. The Sharia Court of Appeal of a State;[146] and
f. The Customary Court of Appeal of a State.[147]

Also, the State Houses of Assembly at the State level and the National Assembly at the Federal level, in the exercise of its powers, under the 1999 Constitution, can establish Customary Courts and Magistrate Courts.[148]

Since independence, Nigeria has been administered by civilian and military leaders.[149] Since then, Nigeria, comparatively, has enjoyed civilian leadership through the ballot box, and now, an emerging and stable democracy on the African continent. Nigeria, despite its social and economic challenges, stands as eloquent testimony of an African country that defied the prophets of doom, who never foresaw the possibility of continued democratic leadership given the spate of military coups that had occurred therein.

There are 36 States in the Federal Republic of Nigeria while the Federal Capital Territory is located in Abu ja.[150] Due to the multiplicity of these states, they are, as a matter

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[138] ibid 30.
139 ibid.
140 Federal Parliament Act No 20 1963.
141 The Constitution of the Federal Republic of Nigeria (n 116) Sections 230-284.
[142] The Constitution of the Federal Republic of Nigeria (n 116) Section 230 (1).
[143] ibid Section 237 (1).
[144] ibid Section 249 (1).
[145] ibid Section 270 (1).
[146] ibid Section 260 (1).
[147] ibid Section 265 (1).
[148] ibid Sections 265.
[149] François Prikic, 'Military Intervention as the Trans-nationalisation of Democratisation: The Case of West Africa' in Jean Grugel (ed), *Democracy without Borders: Trans-nationalisation and Conditionality in New Democracies* (Routledge 2002) 110.
[150] The Constitution of the Federal Republic of Nigeria (n 116) Section 3.

of convenience and political expediency, grouped into the six geo-political zones of North-East, North-West, North-Central, South-East, South-West and South-South[151] as shown in Figure 1 below.

The composition of the geo-political zones of Nigeria is as follows:

1. North-Central: (7 states) Niger, Benue, Nassarawa, Kwara, Kogi and Plateau States, and the Federal Capital Territory, Abuja
2. North-East: (6 States) Adamawa, Bauchi, Borno, Gombe, Taraba and Yobe States
3. North-West: (7 states) Jigawa, Kano, Kaduna, Katsina, Kebbi, Sokoto and Zamfara States
4. South-East: (5 states) Abia, Anambra, Ebonyi, Enugu and Imo States
5. South-South: (6 states) Akwa Ibom, Balyesa, Cross River, Edo, Delta and Rivers States
6. South-West: (6 states) Ekiti, Lagos, Ogun, Ondo, Oyo and Osun States.

[151] Aigbe Gladys and Zannu Ajibola, 'Differentials in Infant and Child Mortality Rates in Nigeria: Evidence from the Six Geopolitical Zones' (2012) 2 International Journal of Humanities and Social Sciences 207, 208; Roland Clement Abah, 'The Demographic Implications of the HIV Prevalence Trend in Nigeria' (2014) 15 Journal of Public Health and Research 1, 1.

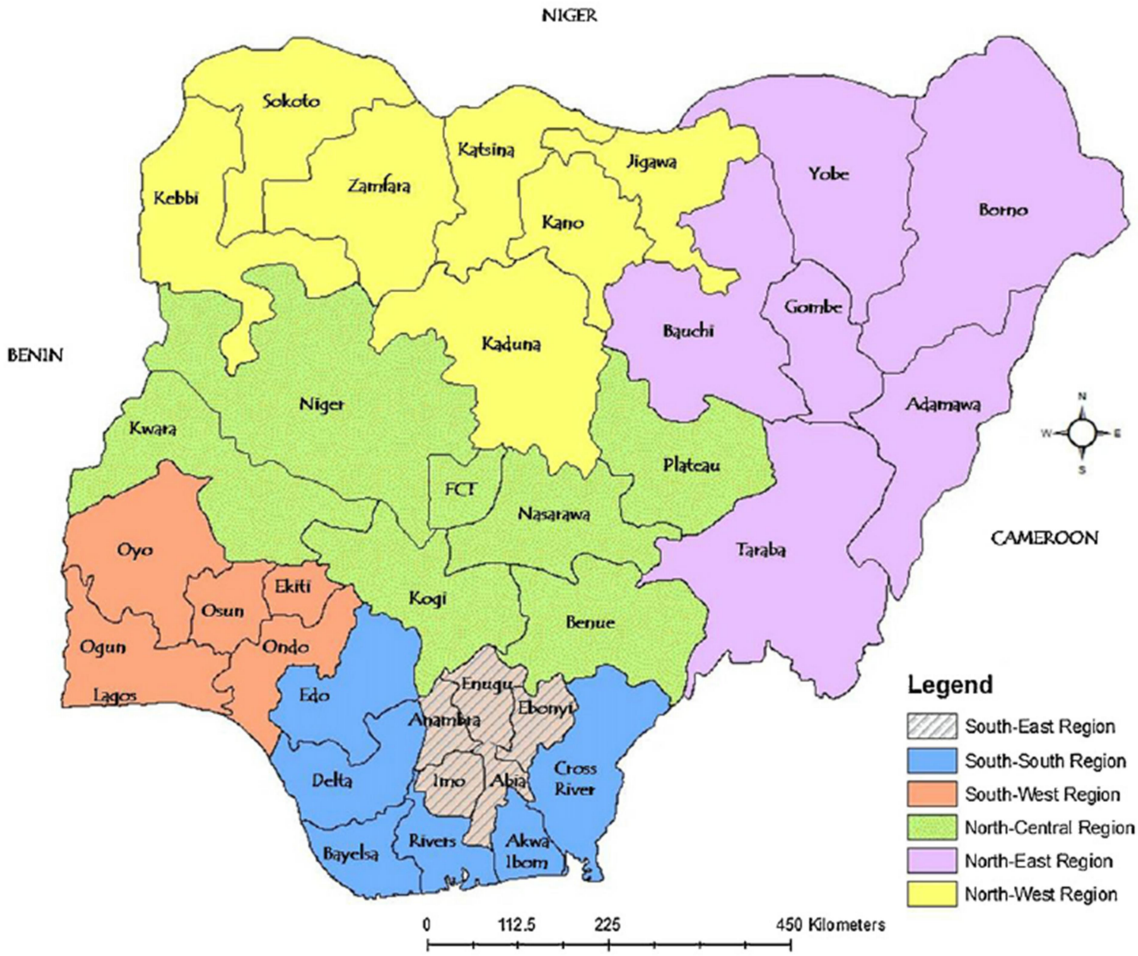

Figure 1: Map of Nigeria showing the six geo-political zones
Source: National Populations Commission

Nigeria is host to about four hundred different linguistic groups, even though there are only three major languages: Hausa; Igbo; and Yoruba.[152] English is the official language.[153] Nigeria has a bi-cameral legislature.[154] It operates the presidential system with three separate organs of government, each acting as a check on the other two. Considering the composition of each arm of government,

> the executive arm of government, at the federal level, consists of the President, the Vice-President and other members of the Federal Executive Council, while at the state level, it is made up of the Governor, the Deputy Governor and other members of the State Executive Council; at the local government level,

[152] Orbit Jacob Oludare Oluwadoro,'Nigerian Language Policy: Theory or Practice' in Ndimele Ozo-Mekuri and Yuka Lendzemo Constatine (eds), *Nigeria Issues in Contemporaries African Linguistics* (Grand Communications 2016) 29.
[153] Dina, Akintayo and Ekundayo (n 119).
[154] Jideofor Adibe, *Debating Nigeria* (Adonis and Abbey Publishers Ltd 2016) 284.

however, there is the Chairman, the Vice-Chairman and other members of Local Government Council.[155]

Similarly, the legislature is at the federal, state and local government levels. The Federal Legislature comprises a 109-member Senate and a 360-member House of Representatives. The two, combined, make up the National Assembly.[156] At the state level, the legislature is known as the House of Assembly[157] while at the local government level, the legislature is made up of Councilors. The President, Vice-President, the Governor, Deputy Governor, the Chairman and Vice-Chairman at federal, state and local government levels are elected. Under the present Constitution, the executive can be elected for a term of four years renewable only once.[158] The legislature is also elected for a period of four years but as many times as possible. The Senate President is the head of the federal legislature; the Speaker is the head of the State Legislature while the Leader of the House is the head of local government legislature.

In Nigeria, the courts in each state are controlled by the State Government.[159] Each State Government has a Chief Justice who controls all the affairs of justice in the State, and acts as the State Minister of Justice.[160] There are essentially two types of Chief Justices: first, the Chief Justice of the Supreme Court; and secondly, the Chief Justice of the States.[161] Currently in Nigeria's legal and political system, the 1999 Constitution, as amended, remains the supreme law that expresses the will of the people and takes precedence over all other existing laws in Nigeria.[162]

2.3 The Nigerian Criminal Justice System: some conceptual and theoretical discourse of the research

This section focuses on the theoretical and conceptual framework of the thesis.

2.3.1 Theoretical framework

The theory of punishment was considered as the main theoretical framework f that informed the study due to its relevance to the contextual meaning of the criminal justice system. This

[155] Ufot Bassey Inamete, *Foreign Policy Decision-Making in Nigeria* (Susquehanna University Press 2001) 109.
[156] The Constitution of the Federal Republic of Nigeria (n 116) Section 4 (1).
[157] ibid Section 4 (6).
[158] Jubril Aka, *Blacks Greatest Homeland: Nigeria is Born Again* (iUniverse 2006) 144.
[159] James Fowkes and Charles M Fombad, 'Introduction' in Charles Manga Fombad (ed), *Separation of Powers in African Constitutionalism* (Oxford University Press 2016) 6; Jedrzej George Frynas, Oil in Nigeria: Conflict and Litigation Between Oil Companies and Village Communities (LIT Verlag Münster 2000) 92.
[160] Kalu N Kalu, State Power, *Autarchy, and Political Conquest in Nigerian Federalism* (Rowman & Littlefield 2009) 261.
[161] ibid.
[162] Lilian Akhirome Omonfuegbe, 'Law in social context' in Chijioke C Ohuruogu and Okechukwu Timothy Umahi (eds), *Nigerian Legal Methods* (Cambridge Scholars Publishing 2013) 15.

theory is based on punishing the offender for doing wrong. It is not an understatement to say that punishment is the central point when talking about offences.

2.3.1.1 Punishment and theories of punishment

Punishment is defined by Jeremy Bentham as an evil manifested through an individual from direct intention of another, on account of some acts that appear to have been committed or omitted. It is an evil, a physical evil; either a pain or a loss of pleasure.[163] The questions that arise are as follows: Why do we punish? How does punishment relate to justice? and does punishment achieve justice? In answering these questions, it is appropriate to discuss some theories of punishment.

The theory of punishment accentuates the distinctive manner of how offenders are punished and treated.[164] There are theories of punishment which are important to criminal justice system directly or by extension.[165] Governments have some theories to back up the use of punishment to uphold order in society as law is used to maximise the pleasure and peace of the society.[166] These theories are referred to as the theories of punishment.[167] These theories are divided into two general principles: utilitarian; and retributive.[168] The utilitarian theory of punishment resolves to penalise criminals to prevent or discourage future illegal behaviour.[169] The retributive principle, on the other hand, seeks to punish criminals because they deserve such punishment.[170] Ordinarily, it looks like vengeance but this is not so; in the real sense, criminals are punished because they have committed an illegal act, which the law must avenge. The retributivist believes that criminals deserve punishment in severe proportion to the harms they have caused others.[171]

One can securely conclude that the theories of criminal punishment in society encompass description of evil and evil doers; cleansing of the land by way of punishment or reformation of the offender; reconciliation of assailant and victim as well as adequate

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[163] Anzaku Sylvester Alex, Ismaila Garba Adigizi and Agube Solomon Aguye, 'The Theoretical Exploration of Punishment and Incarceration in Nigeria?'(2016) 2 Research Journal of Humanities and Cultural Studies 81, 82.

[164] ibid; Kristine Levan, *Prison Violence: Causes, Consequences and Solutions* (Routledge 2016) 4.

[165] Emeka E Obioha, 'Challenges and Reform in the Nigerian Prisons System'(2011) 27 Journal of Social Science 95.

[166] Anzaku Sylvester Alex, Ismaila Garba Adigizi and Agube Solomon Aguye, 'The Theoretical Exploration of Punishment and Incarceration in Nigeria?'(2016) 2 Research Journal of Humanities and Cultural Studies 81, 82.

[167] ibid.

[168] Mirko Bageric, *Punishment and Sentencing* (Cavendish Publishing 2001) 7.

[169] ibid.

[170] Roger Hopkins Burke, *Criminal Justice Theory: An Introduction* (Routledge 2012) 166.

[171] Thom Books, *Punishment* (Routledge 2012) 16-17.

compensation to victims of the criminal act, among others.[172] The Western theory of criminal punishment, as propounded by most Western scholars, is also targeted to cure the society of crime but with different methods.[173] Punishment and imprisonment serve to deter both the prisoner and the public at large from breaking the law.[174] Most people dread deprivation of liberty, however short. Hence, imprisonment and punishment terrorise the majority of people and tend to coercively turn them into law-abiding citizens.[175] In view of the above, retribution, deterrence, reformation and rehabilitation as components of the theory of punishment are hereby discussed.

2.3.1.2 Retribution

The intuitive reaction to criminal acts is retaliation by the injured person. It contains an element of vengeance for paying back, a way of releasing and conveying hostility towards the criminal and his manner. Retribution theory is a form of punishment hunt for precise revenge upon criminals by harming them in exchange for harms caused to their victims.[176] This theory does not essentially focus on whether a punishment benefits the public or not.[177] One of the supporters of this theory was Immanuel Kant, who believed that offenders must not go scot-free.[178] Retribution is based on the principle of just deserts: 'let the punishment fit the crime'.[179] The theory essentially makes the assailant suffer for the offence committed just like the Mosaic law of 'an eye for an eye, a tooth for a tooth, a hand for a hand, a foot for a foot, burning for burning, wound for wound and blow for blow'.[180] The offender deserves the

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[172] Roche Declan, 'Restorative Justice and the Regulatory State in South African Townships' (2002) 42 British Journal of Criminology 514, 514.

[173] Elaine Cassel and Douglas A Bernstein, *Criminal Behavior* (Psychology Press 2013) 254; There are five possible purposes to the punishment of Criminals: 1. Incapacitation: A felon in prison cannot commit crimes while imprisoned. An executed felon cannot commit a crime ever again.2. Deterrence: The threat of punishment deters people from engaging in illegal acts.3. Restitution: The felon is required to take some action to at least partially return the victim to the status quo ante.4. Retribution: The felon harmed society; therefore society (or the direct victims) is entitled to inflict harm in return.5. Rehabilitation: The punishment changes the felon in order to make him a better citizen afterwards. (The punishment can include mandatory vocational training, counseling, drug treatment, etc.) See< http://home.page.ch/pub/rfm@vtx.ch/punishment.html>accessed 31 July 2017.

[174] Amy E Lerman, *The Modern Prison Paradox: Politics, Punishment, and Racial Community* (Cambridge University Press 2013) 121.

[175] ibid.

[176] Ronald L Akers, *Criminological Theories: Introduction and Evaluation* (2nd edn, Routledge 2013) 16.

[177] Anzaku Sylvester Alex, Ismaila Garba Adigizi and Agube Solomon Aguye, 'The Theoretical Exploration of Punishment and Incarceration in Nigeria?'(2016) 2 Research Journal of Humanities and Cultural Studies 81, 82.

[178] Immanuel Kant, *Philosophy of Punishment* (Edinburgh Scotland 1887' The Right of Punishing' 1887 Philosophy of Law) 195; Michael C Ogwezzy, 'From Reformation to Deformation: An Approach Towards Sustainable Development of the defective Prison System in Nigeria' (2011) 13 Journal of Sustainable Development in Africa 269, 272.

[179] Cyprian O Okonkwo and Michel E Naish, Okonkwo and Naish on Criminal Law in Nigeria (2nd edn, Spectrum Books Ltd 2002) 28.

[180] Joel Samaha, *Criminal Law* (12th edn, Cengage Learning Publisher 2016) 23; This is the Mosaic Law mentioned in the Holy Bible (Exodus Chapter 21 verses 24 &25) when Moses was the leaders of the Israelites.

punishment he gets as a consequence of the crime he has committed.[181] Many scholars such as Mike Marteni [182] and others have, however, criticised the theory of retribution.[183] They argue that the punishment cannot bring back the victim in the case of murder. Recently, in 2016, in Lagos State, Nigeria, a 27-year old man, Mfom John, stabbed his twin brother, Israel John, to death applying the thinking of the retributive school, he who kills must also be killed.[184] However, the question is: what will be the fate of a mother losing two of them?[185] Also,

> an Ikeja Division of the Lagos High Court, on 30th May 2017, sentenced a man, Sulaiman Olalekan, to death by hanging for the murder of his wife, Chika Egbo, on 20th November, 2012, in a case of domestic violence.[186] The convict, on the fateful day, had poured acid on his wife, having become overwhelmed by the fact that the deceased went back to prostitution against his advice. The trial judge, Lawal Akapo, in his judgment, convicted Mr Olalekan of the murder of his wife and sentenced him to death accordingly.[187]

In this situation, who takes care of the children as the death sentence cannot bring back the person who is dead already?

The concept of retribution does not consider forgiveness, which is treasured as a divine mandate in the Holy Bible as well as the Quran.[188] In addition, Mahatma Gandhi, in his quote, was of the opinion that 'an eye for an eye' would eventually succeed in making the whole world go blind.[189] Retribution assumes that criminals must pay for their crime.[190]

A sentence must reflect the predominant standard of proportionality between the gravity of the offence and the degree of the responsibility of the offender. GCSE Religions Studies at Harrogate Grammar School< https://hgsrs.wordpress.com/religion-and-morality/religious-attitudes-to-crime-and-punishment/the-aims-of-punishment>accessed 28 July 2017.

[181] Mike C Materni, 'Criminal Punishment and the Pursuit of Justice' (2013) 2 British Journal of American Legal Studies 263, 265.

[182] Samaha (n 180) 24.

[183] Materni (n 181) 266-267.

[184] Holy Bible Leviticus 24 verse 17, King James Version.

[185] Danielle Ogbeche < http://dailypost.ng/2016/05/17/27-year-old-man-stabs-twin-brother-to-death-in-lagos> accessed 30 May 2017 The Lagos State Police Command has confirmed the case of a 27-year-old man, Mfom John, who stabbed his twin brother, Israel John, to death on Olorunkemi Street in the Somolu area of the State.

[186] Premium Times News Paper Tuesday, May 30, 2017< http://www.premiumtimesng.com/regional/ssouth-west/224393-court- entences-man-death-killing-wife.html> accessed 30 May 2017.

[187] See Premium Times News Paper Tuesday, May 30, 2017< http://www.premiumtimesng.com/regional/ssouth-west/224393-court- entences-man-death-killing-wife.html> accessed 30 May 2017.

[188] The Holy Bible (n 184) Matthew 6:14 for if you forgive other people when they sin against you, your heavenly Father will also forgive you see also Colossians 3:13 Bear with each other and forgive one another if any of you has a grievance against someone. Forgive as the Lord forgave you. King James Version; The Noble Qur'an, verse 182 and183

[189] Essential quotes of Mahatma Gandhi, < www.gandhian peace com/quotes.html> accessed 21 May 2017.

Based on this logic, the penal sanctions castigate offenders in proportion to their culpability for criminal activity that is at times characterised as the proportionality method.[191] The theory advocates slamming punishments on criminal offenders because they deserve to be punished, which suggests 'an eye for an eye' and 'fracture for fracture'.[192] The retributivist believes that wrongdoers should be made to suffer because they have caused suffering to others.[193] Meanwhile, the condition for punishing an offender is when the state is convinced that he or she actually committed the offence. However, determining fairness is another issue.[194] Again, similar cases must be treated in the same way and in the same manner (*mutandis mutandis*) since there are different capabilities to commit crimes as well as exceptions of criminal responsibility,[195] applicable to offenders at large.[196]

Furthermore, Okechukwu Okonkwo expounded on the concept of responsibility within the context of retributory theory as follows:

> Essential to this principle, is the concept of responsibility or culpability, for a man merits punishment only to the degree that he was responsible for his criminal act. We do not hang a man who kills while insane. We may, of course, put him away in a safe place, but the purpose of that is not to make him pay back for what he has done, but to protect ourselves from possible future attacks.[197]

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[190] Damfebo Kieriseiye Derri and Asiafiti Christopher, 'A Classical and Positivist Perspective of Understanding Criminal Behaviour' (2016) 1 International Journal of Humanities and Applied Social Science1, 7.

[191] Cesaire Marchese di Beccaria, *An Essay on Crimes and Punishments* (Almon Publisher 1767) 18; Ogwezzy (n 2) 278.

[192] Elizabeth Price Foley, *The Law of Life and Death* (Harvard University Press 2011) 155.

[193] Mitchel N Berman, 'The Justification of Punishment' in Andrei Marmor (ed), *The Routledge Companion to Philosophy of Law* (Routledge 2012) 153; Emmanuel Melissaris, 'Theories of Crime and Punishment' in Markus D Dubber and Tatjana Homle (eds), *The Oxford Handbook of Criminal Law* (OUP Oxford 2014) 373.

[194] Herbert Lionel Adolphus Hart, *Punishment and the Elimination of Responsibility* (University of London Press 1962) 27.

[195] Criminal Code Act Chapter C39 LFN, 2004, Sections 24-32 and Penal Code Act Cap P3 LFN,2004, Sections 51-56 it contains various exceptions to Criminal Liability.

[196] Thus, in *Maizako v Superintendent General of Police* (1960) WRNR at 188, the sentence of one accused was upheld because he had a record of burglary but that of the other was reduced because he had no previous conviction. Similarly, in *Enahoro v R* (1965) NMLR 265 at 283, sentence imposed on 'lieutenant' was reduced because it was heavier than that imposed on 'leader'. A man, who already had a conviction for a similar offence before he committed the second one, does not deserve to be treated with leniency. See Cyprain Okechukwu Okonkwo and Michael E Naish, *Criminal Law in Nigeria* (Sweet and Maxwell Ltd 1980) 29.

[197] Criminal Code Act Chapter (n 126) Section 28 This section makes it clear that if the accused was insane in the legal sense at the time he committed the offence, he is not criminally responsible for his act.

Okonkwo's view underlines an aspect of law and the conception of why punishment is meted to an offender.[198] However, his opinion appears contradictory to the theory of revenge for which retribution stands.

2.3.1.3 Deterrence

Literally, the word 'deterrence' means to prevent, discourage and put off. It is the act of discouraging an action or event through instilling doubt or fear of the consequences.[199] It is used to discourage and prevent the performance of an unlawful or immoral act.[200] Deterrence is the use of punishment to avert the offender from repeating his offence and to discourage present and potential criminals from committing crime, because crime is a threat to both an individual's existence and national security.[201] Deterrence is one of the aims of criminal punishment and imprisonment. It serves to deter both the offender and the public at large.[202] For instance, short-term imprisonment terrifies the majority of people and tends to make them better law-abiding people.[203]

There are two types of deterrence: general and specific deterrence.[204] General deterrence means that the punishment should prevent other people from committing criminal acts.[205] The punishment serves as an example to the rest of society, and puts others on alert that criminal behaviour attracts punishment.[206] The major objective of the general deterrent theory is to set an example unto others and show that the reward for criminal conduct is loss

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[198] ibid

[199] Oxford University Press, *The Oxford American College Dictionary* (Putnam's Sons 2002) 372.

[200] Gennaro F Vito *et al*, *Criminology: Theory, Research and Policy* (Jone and Bartlett Learning 2006) 57.

[201] Cassia Spohn, *How Do Judges Decide? The Search for Fairness and Justice in Punishment* (SAGE 2009) 21. This theory emphasises the need to change the offender for better. It aims at re-orientating the attitude of the offender from further committing another offence. The school of thought urges the legislators to make laws that will make the prison system efficient for a proper rehabilitation and reformation. At the end of the process, the offender is better than when he or she was apprehended. Rehabilitation and reformation appear to be the only theory of criminal punishment that is western yet relevant to the African pre-colonial criminal justice system. See Joel Meyer 'Reflections on Some Theories of Punishment' (1969) 59 Journal of Criminal Law and Criminology 595, 595; Roy Gargi, 'Is capital Punishment Acceptable?' (2014) 4 International Journal of Humanities and Social Science 95, 95.

[202] Vito (n 200) 56.

[203] People obey the Law because of fears of punishments. See Teslim Olawale Elias, *The Nature of African Customary Law* (Manchester University Press 1972) 59; Mark A Drmbi, *Atrocity, Punishment and International Law* (Cambridge University Press 2007) 61.

[204] Ronald L Akers and Christine S Sellers, *Student Study Guide for Criminological Theories: Introduction, Evaluation, Application* (Oxford University Press) 6-7; Samaha (n 180) 24.

[205] Vito (n 200) 57; General Deterrence is the doctrine that a community or a society of people can be deterred from committing a criminal act after having witnessed the punishment of an individual or individuals for having committed that act; See Steven E Barkan and George J Bryjak, *Fundamentals of Criminal Justice: A Sociological View* (Jones & Bartlett Learning 2011) 531.

[206] Paul Smith, *Moral and Political Philosophy: Key Issues, Concept and Theories* (Palgrave Macmillan 2008) 25; Frase S Richard, 'Punishment purposes' (2005) 58 Stanford Law Review 67, 70; Robinson Paul H, 'Ongoing Revolution in Punishment Theory: Doing Justice as Controlling Crime' (2010) 42 Arizona State Law Journal 1089, 1089-1090.

of liberty.[207] This theory of punishment seeks to show to the wrongdoer, and the rest of the community that eventually, punishment will be inflicted on the criminal, and therefore, any act of criminality is to be avoided.[208] Specific deterrence, on the other hand, means the effect of the offence on the offender. The theory predicts that offenders who are punished severely are not likely to engage in future crime.[209]

According to Cesaire Beccaria, a utilitarian philosopher who developed his ideas concerning criminal behaviour and how best to control it:

> The purpose of punishment, for the utilitarian, is to deter future crimes. On the other hand, the retributive account of punishment is backward looking, since its goal is to punish the criminal in equal proportion to the crime committed. The purpose of punishing a criminal is to prevent the offender from doing fresh harm to his fellows and to deter others from doing likewise. Therefore, punishments and the method of inflicting them must be chosen such that, in keeping with proportionality between the crime and the punishment, they will make the most efficacious and lasting impression on the minds of men with the least torment to the body of the condemned.[210]

Cesaire Beccaria stated as follows:

> The punishment should befit the crime, meaning that punishment should not be too excessive just for the sake of revenge as the severity of the punishment should only be sufficient to serve as a deterrent.[211]

In order to be a deterrent of criminal behaviour, Beccaria also held the opinion that punishment should be swift, meaning that the punishment should be delivered quickly and not be delayed, that the more prompt and close the punishment is to the crime, the more just and useful it will be.[212] The utilitarian philosopher understood that all activities that go directly to counter the public good are to be called criminalities, and that, there are a host of

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[207] Vito, (n 200) 56; Specific Deterrence. This style of deterrence is used with a specific offender in mind. The belief is that if an individual is punished for a criminal act, then that individual will 7 be less likely to violate the law in the future. See Ronald L Akers and Christine S Sellers, *Student Study Guide for Criminological Theories: Introduction, Evaluation, Application* (Oxford University Press) 6-7.

[208] Samaha (n 180) 24.

[209] Vito (n 200) 63; Tosin Funmi Abiodun, 'A Historical Study on Penal Confinement and Institutional Life in Southern Nigeria, 1860-1956' (PhD thesis, University of Texas 2013) 7.

[210] Cesaire Beccaria, *On Crimes and Punishments* (5th edn, Transaction Publishers 2016) 2; Kalyn P Hoggard, 'On Crime, Punishment, and Reform of the Criminal Justice System' (2013)1 Athene Noctua: Undergraduate Philosophy Journal 1, 4.

[211] ibid; Ronald L Akers, *Criminological Theories: Introduction and Evaluation* (2nd edn, Routledge 2013) 17.

[212] Beccaria (n 210) 51.

actions that fall in this group.[213] Therefore, the state is justified in punishing criminals if and only if this is done to uphold the greatest amount of happiness for all of the constituents in the state. In addition, given that crimes generate varying degrees of injury to the society, the infliction of punishment for a crime should be proportional to the injury created in order to deter people from committing that crime. Beccaria underscores that if punishment does not befit the crime, then that punishment is either too severe, and therefore, unjust or not adequately harsh and amounts to no deterrence.[214]

Simply put, Beccaria avers that punishment of crime should be unavoidable, constant, equivalent and instantaneous if it really aims to deter an individual from committing any other offence.[215] By unavoidable, Beccaria meant that if an individual is found to have committed an offence, it should not be debatable whether he or she should receive a punishment or not, that is, it should not be an object of argument or deliberation as the certainty of a punishment has a deterrent effect, notwithstanding the severity of the punishment. Thus, the certainty of punishment in itself is an effective deterrent.[216] By constant, he meant that everyone, irrespective of ethnicity, class or sex, should be apportioned the same punishment for the same crime, meaning that the same measure should be applied so that certain individuals do not believe that they can count upon uninformed lenience from magistrates and judges.[217]

The purpose of punishment in the criminal justice system is to ensure and protect a situation which will secure the most happiness for the most people in a society.[218] Just as a farmer must examine his methods to choose the techniques that will produce the highest quantity of wheat with the best quality, so must policymakers and jurists scrutinise the laws and punishments and choose those that would best protect and cultivate the common happiness of the people in a society.[219] Going by Beccaria's notion, it is evident that the purpose of punishment is neither to torment nor inflict an emotional stress or to undo a crime already committed but for deterrence and the common good of society.[220]

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[213] Steven Lynn, 'Locke and Beccaria: Faculty Psychology and Capital Punishment' (1988) 5 University of South Carolina Journal 1, 5.
[214] Beccaria (n 210) 19.
[215] ibid.
[216] ibid 20.
[217] ibid 21.
[218] Beccaria (n 210) 33.
[219] ibid.
[220] Cesaire Marchese di Beccaria, *An Essay on Crimes and Punishments* (John Almon Publisher 1767) 33-34.

2.3.1.4 Reformation and rehabilitation

Reformation is defined as 'doing over to bring about a better result, correction or rectification'.[221] Rehabilitation, on the other hand, is defined as 'restoration of an individual to his greatest potential, whether physically, mentally, socially or vocationally'.[222] In view of the above, while rehabilitation is seen as a vital instrument of criminal reform, it ensures that prisoners not only acquire education and skills to produce goods and services for consumption but also live a crime-free life.[223] Reformation is, therefore, the successful result of the rehabilitation process, which guarantees a permanent transformation of the prisoner.[224] The rehabilitative theory sees the readjustment of the offender to the expectations and norms of the society as the greatest need for a criminal justice system.[225] In addition, reformation encompasses the methods designed to effect moral improvement in a person's character so that he will be less motivated to commit crime in the future.[226]

Rehabilitation is simply referred to as a post-release effort to make it easier for offenders to resettle in society.[227] Although rehabilitation is a form of punishment, ordinarily, the theory lays more emphasis on the need to change the offender for the better.[228] It aims at re-orientating the character of the offender from committing another offence.[229] According to Christopher Ugwuoke and Sunday Ojonugwa:

> The rehabilitation theory teaches us that we must treat each offender as an individual whose special needs and problems must be known in order to enable us deal effectively with him.[230]

Analysing rehabilitation as a justification for punishment, the authors further note that the rehabilitative idea may be used to prevent crime by changing the personality of that offender. Punishment, in this theory, is forward-looking: the inquiry is not into how dangerous the offender is but rather into how amenable to treatment he is. However, it is

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[221] George Crabb, English Synonymes, with Copious Illustrations and Explanations, Drawn from the Best Writers (Harper 1854) 202; William Dwight Whitney and Benjamin Eli Smith, *The Century Dictionary* (Century Company 1895) 173.
[222] Henry Campbell, *Black's Law Dictionary* (6th edn, Centennial Edition 1891-1991) 1287.
[223] Larry J Siegel and John L Worrall, *Essentials of Criminal Justice* (10th edn, Cengage Learning 2016) 17.
[224] Angela Y Davis, *Are Prisons Obsolete?* (Seven Stories Press 2011) 9; Siegel and Worrall (n 224).
[225] Siegel and Worrall (n 224).
[226] Alexander B Smith and Louis Berlin, *Treating the Criminal Offender Criminal Justice and Public Safety* (3rd edn, Springer Science and Business Media 1988) 57; Siegel and Worrall (n 224).
[227] Siegel and Worrall (n 224).
[228] Christopher U Ugwuoke and Ameh Sunday Ojonugwa, 'Rehabilitation of Convicts in Nigerian Prisons: A Study of Federal Prisons in Kogi State' (2014) 4 Research on Humanities and Social Sciences 33, 35.
[229] ibid.
[230] ibid.

imperative to note that the gravity of the offence committed may not give us sufficient clue as to the intensity and duration of the measures needed to rehabilitate.[231]

The belief of this school of thought is what is actually needed in the Nigerian criminal justice system. In order to make the system more efficient, proper reformation and rehabilitation have to be instilled into the entire philosophy of criminal justice in Nigeria. Unfortunately, the reverse is the case in Nigeria's prison system. Justice Antonin Scalia observed that modern penology globally has abandoned rehabilitation orientation, and no longer calls prisons reformatories, and punishment is now the penalty for crime.[232] Rehabilitation and reformation appear to be the only theories of criminal punishment that have been left out of Nigeria's criminal justice system. Thus, this should be firmly embraced and re-introduced into Nigeria's criminal justice system which, in its current state, is more deterrent and retributive than otherwise.

Nigeria does not have a prison system which guarantees the reform of criminals. To this end, the researcher aligns with the utilitarian school of thought who believes in rehabilitation and reformation than punishment. Therefore, this study seeks to compliment the focus of the Administration of Criminal Justice Act to favour the victim and society than to punish.

2.4 Conceptual framework

The concept of criminal justice system is to control crime, reform offenders and to maintain peace and order in the society. Conversely, the knowledge of the concept of the Nigerian Criminal Justice System is imperative particularly to heal the wounds of the intergenerational crimes as well as violence in Nigeria.

The concept of criminal justice administration is premised on punishment of convicted offenders to serve as deterrent to would be offenders. This is because the commission of a criminal offence suggests that the laws of the community, society or state have been violated, attracting some kinds of punishment. In addition, the commission of a criminal offence is seen as an abomination, a breach of human relationships and is treated as such.[233] This involves dealing with crime and offending behaviors at various levels in the society, acknowledging the fact that crimes cause injuries to the people and the society at

[231] ibid; Abdul-Rahman Bello Dambazau, *Criminology and Criminal Justice* (2nd edn, Defence Academy Press 2007) 310.

[232] Justice Antonin Scalia in *Miller v Alabama*, The Oyez Project at IIT Chicago-Kent College of Law http://www.oyez.org/cases/2010-2019/2011/2011109646) accessed 4 October 2017.

[233] Chuckwunweike A Ogbuabor 'Inquisitorial and Adversarial Process in Nigeria's Criminal Justice System: The Dilemma of a Colonized State' (2014) 38 University of Western Australia Law Review 175, 184;

large. This involves application of local laws and statutes by all sectors involved in criminal justice administration. Since the concept of criminal justice is to achieve a society devoid of crime, the conceptual framework of this study is therefore discussed along the Monist and Dualist school of thought.

2.4.1 The Monist and Dualist school of thought

The Monist and Dualist school of thought emerged as a result of the superiority between international law and municipal law.[234] The reception of international law into the Nigerian law necessitates this discussion. As a matter of fact, the Monist and Dualist school of thought exists in this domain.

The Monist holds the view that international law is superior to municipal law on the basis that the former offers better protection in respect of human rights.[235] However, the Dualists are of the view that international law and municipal law (also referred to as /domestic law) are two different systems of law.[236] The Dualist takes the position that international law embodies rules that regulate activities of states within the committee of nations while municipal law governs the domestic activities of states.[237] According to the Dualist, international law and municipal law can never be in conflict, and where there is a conflict between the two systems, municipal law will prevail on the ground that international law is given effect to function domestically by municipal law.[238]

Interestingly, Nigeria is a Dualist State in which international laws can only function effectively when they are properly and procedurally domesticated.[239] In a Dualist State such as Nigeria, there are constitutional mechanisms put in place to domesticate international laws into the laws of the nation.[240] It is imperative to mention that only the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act Cap 10 Laws of the Federation of Nigeria 1990 has been able to pass this litmus test.[241]

The issue of superiority between international law and municipal law was raised in *Abacha v Fawehinmi*[242] where the respondent brought an action under the Fundamental

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[234] Malcolm N Shaw, *International Law* (Cambridge University Press 2008)131.
[235] Lan Brownlie, *Principles of Public International Law* (Oxford University Press 2008) 33.
[236] ibid.
[237] Chukwuemeka A Okenwa, 'Has the Controversy between the Superiority of International Law and Municipal Law been Resolved in Theory and Practice?' (2015) 35 Journal of Law, Policy and Globalization 116, 116.
[238] Richard K Gardiner, *International Law* (Longman Law Series 2003) 130.
[239] ibid 141.
[240] Okenwa (n 237). From the concept of the theory of Monist and Dualist, it is clear that Nigeria operates the Dualist approach which requires a treaty to be enacted as a law before it can operate in their domain.
[241] Jadesola O Akande, *Introduction to the Nigerian* Constitution (Sweet & Maxwell 1982)12; Peter A Oluyede, *Nigerian Administrative Law* (University Press 1988) 53.
[242] *Abacha v Fawehinmi* (*2000*) 6 NWLR Pt.660 at 228.

Rights (Enforcement Procedure) Rules 1979 for the enforcement of his fundamental rights as guaranteed under Sections 31, 32 and 38 of the 1979 Constitution, and Articles 4, 5, 6 and 12 of the African Charter on Human and Peoples' Rights which was incorporated as African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act Cap 10 Laws of the Federation of Nigeria 1990.[243] It was held by the court that where there is a conflict between international laws and Nigerian laws, laws of Nigeria shall prevail.[244]

However, it is the opinion of the researcher that the international laws discussed in this study are expected to be followed in Nigeria as a member state upon ratification. Though not enforceable but they are persuasive in nature and their directories are expected to be followed to the later as they are put in place to protect the citizens of member states. This is justifiable from the language of section 12 (1) of the 1999 Constitution that undomesticated treaties have no force of law in Nigeria, yet they play a very crucial role in the enthronement of a viable domestic legal system in Nigeria. In the first instance, undomesticated treaties, like other sources of international laws, constitute persuasive authority for Nigerian courts. Hence, domestic courts commonly invoke undomesticated treaties as guides or aid in the interpretation of domestic laws.[245] They are invoked not because they are binding upon the courts, but because they constitute a useful guide in the onerous task of interpreting statutes.[246] This forms the theoretical basis for examining international instruments, wherein Nigeria is a member state, to measure the performance of each of Nigeria's criminal justice system sectors.

The criminal justice system is so conceptualized that several international, regional and national legislative and institutional mechanisms have been enacted for the effective protection of human rights, from arrest, trial, detention or imprisonment. This was done in order to ascertain whether the practice in the administration of justice in Nigeria is in tandem with the provisions of instruments ratified by Nigeria and to determine whether Nigeria is honouring international obligations regarding effective policing, functional judicial system and reformative imprisonment.

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[243] *African Charter on Human and Peoples' Rights* (*Ratification* and. *Enforcement*) *Act*. *Cap* A9. Laws of the Federation of Nigeria 2004.

[244]The Constitution places Nigerian laws above international law; certainly, the supremacy of the Constitution is inviolable. See Constitution of the Federal Republic of Nigeria, 1999 (as amended) Cap C23 Laws of the Federation 2004 Sections 1(1) (3) 12 and 58 respectively.

[245] Okeke C and Matthew I Anushiem, 'Implementation of Treaties jn Nigeria: Issues, Challenges and the way Forward' (2018) 2 Nnamdi Azikwe University Journal of International Law and Jurisprudence 216,216-229.

[246] Wayne Sandholtz, 'How Domestic Courts Use International Law' (2015) 38 Fordham International Law Journal 598, 599.

2.5 Summary of chapter

The discussion in this chapter has provided a narrative of the evolution of Nigeria's legal system. It also laid out the theoretical and conceptual framework of the research. It is therefore imperative to understand the challenges faced by Nigeria's criminal justice system. Core to this is the examination of offences and penalties as stipulated by Nigerian laws, which is the focus of the next chapter.

CHAPTER THREE

A SYNOPTIC DISCUSSION OF NIGERIA'S CRIMINAL LAW JUSTICE INSTRUMENTS

3.1 Introduction

The preceding chapter offered a narrative of the evolution of Nigeria's criminal justice system. It examined the history of Nigeria's legal and criminal justice systems as they existed before, during and after independence. This synoptic discussion of the history of Nigeria emphasised the development of Nigeria's legal system and demonstrated how this has been greatly influenced by the English legal system. The chapter also laid some theoretical and conceptual framework for the research.

This chapter focuses on criminal laws in Nigeria. The essence of this chapter is to highlight the principal laws that regulate crimes. These laws include the following: the Criminal Code;[1] the Penal Code;[2] the Criminal Procedure Code;[3] Criminal Procedure Act;[4] the Constitution of the Federal Republic of Nigeria;[5] and the Administration of Criminal Justice Act.[6] More significantly, this chapter spells out provisions of the Criminal Code and Penal Code, which are the core originators of laws that stipulate offences as well as penalties in Nigeria. They serve as guide to the operations of the criminal justice system of Nigeria.[7]

Nigeria is a society and consists of persons according to their different cultures and ways of life, meaning that Nigerian citizens exist as independent, different and unrelated entities.[8] In the course of their everyday activities, individuals relate to one another. As a result, some people intentionally or unintentionally stir conflict and court controversy. Thus, some measures of deliberate attempt by which human activities are checked in relation to maintaining law and order must be put in place to achieve a healthy society.[9] In a well-structured society, people's conduct needs to be controlled to make sure that stability, peace

[1] Cap C39 LFN, 2004.
[2] Cap 53 LFN, 1990 (Abuja).
[3] Act no 2 1973.
[4] Cap 80 LF N 1990 and now Cap 42 LFN, 2004.
[5] Cap 23 LFN, 2004.
[6] Administration of Criminal Justice Act, 2015.
[7] Umar Alkali, Abbo Jimeta, Awwal Ilyas, Magash Tijjani and Musa Buba, 'Nature and Sources of Nigerian Legal System: An Exorcism of a Wrong Notion' (2014) 5 International Journal of Business Economics and Law 1, 1.
[8] Isa Hayatu Chiroma, 'Punishment for the Offence of Zina (Adultery) under the Shariah and Nigeria Criminal Law: A Comparative Analysis' (1998) <http://www.researchgate.net/publication/40439895 > accessed 8 August 2017.
[9] Robert D Enright, 'The Moral Development of Forgiveness' in William M Kurtines, Jacob Gewirtz and Jacob L Lamb (eds), *Handbook of Moral and Development: Volume 1 Theory* (Psychology Press 2014) 138.

and harmony are not in jeopardy, and such can only be accomplished by the machinery of the law which prohibits some acts and omissions described as breaches of the law.[10]

Law has a prominent role to play in the formation and maintenance of social order in every society.[11] It is on this basis that criminal laws are established by relevant institutions of government to regulate the conduct of people against fellow human beings and government. The major purpose of criminal law is to make sure that people are familiar with the nature of crime and to spell out the procedure to be adopted in prosecution and the punishment put in place against offenders so as to preserve public order.[12] Hence, a legal system in which people have no knowledge of law would be an absurdity.[13] Equally, Akinwale Obilade explains that the absence of law in society would lead to anarchy and chaos, and disaster is bound to be prevalent in such an environment.[14] Additionally, the law is put in place to deter people from doing something injurious to fellow human beings and the society at large.[15]

It is not in dispute that the English law greatly influenced the growth of the current Nigerian legal system thus, forming substantial part of Nigeria law.[16] Nigeria comprises thirty-six States and the Federal Capital Territory.[17] Criminal law specifies and declares various conducts which are criminal and prescribes the sanction as well as punishment to be imposed on such conduct. Therefore, criminal law is codified as Statute that is, the Criminal Code and Penal Code.[18] These two major Codes regulate crimes in Nigeria.

3.2 Definition of terms

It is essential to define some key terms for the purpose of clarity.

3.2.1 Crime

Crime has been defined by various scholars. According to Glanville Williams,

> The term crime encapsulates a three-part definition: firstly, as an act punishable by law; secondly, as an act forbidden by statute; and thirdly, as an act injurious to the public welfare;[19] it is a wrong against the state, and it is a

[10] Lilian Akhirome-Omonfuegbe, 'Law in Social Context' in Chijioke C Ohuruogu and Okechukwu Timothy Umahi (eds), *Nigerian Legal Methods* (Cambridge Scholars Publishing 2013) 1.
[11] Gary Slapper and David Kelly, *The English Legal System* (12th edn, Pearson Education Ltd 2012) 2.
[12] Chiroma (n 8); Lord Federick Lugard, Introduced into Northern Nigeria by Proclamation, a Criminal Code whose Purpose was to amend and consolidate the Criminal Law.
[13] ibid.
[14] Akinwale Obilade, *The Nigeria Legal System* (3rd edn, Spectrum Books Ltd 2005) 3.
[15] Akhirome -Omonfuegbe (n 10) 25.
[16] Onyebuchi T Uwakah, *Due Process in Nigeria's Administrative Law System: History, Current Status, and Future* (University Press of America 1997) 43.
[17] Ijaiya Hakeem Olasunkanmi, *Judicial Approach to Interpretation of Constitution: A Study of Nigeria, Australia, Canada and India* (Malthouse Press 2017) 145.
[18] Akhirome -Omonfuegbe (n 10) 23.
[19] Odulaja Ayorinde Lateef, 'Assessing the State of Capital Punishment as a Means of Curbing Violent Crimes in Nigeria' (2013) 9 Journal of Humanities and Social Sciences 6, 6.

> legal wrong that can be followed by criminal proceedings, which could lead to punishment.[20]

In the Nigerian Constitution, crime is used interchangeably with offence. The Nigerian Constitution defines an offence or a crime as an offence, which is defined by law and its penalty prescribed by law.[21] Crime is defined as:

> An act committed in violation of a law prohibiting it, or omitted in violation of a law ordering it; crimes are variously punishable by death, imprisonment or the imposition of certain fines or restrictions.[22]

In other words, a crime is any act or omission declared punishable by the State, since it is only through the State or by the State that any of the species of legislation mentioned are brought into being. It is contained in the Nigerian Constitution that a person can only be convicted of a criminal offence if such an offence has been defined by the law. Therefore, no one may be condemned for an act or omission which does not constitute a legally punishable offence at the time it was committed.[23] Since it is the law that describes what is lawful as well as what is unlawful, it can be said that something is a crime after the discovery that it is prohibited by law after being enquired from the law.[24] For example, in the case of *Aoko v Fagbemi*, the accused was convicted for adultery in a Customary Court and, thereafter, appealed to the High Court. The decision of the lower court was quashed on the grounds that the conviction of the lower court, that is, the Customary Court, violated the applicant's constitutional rights as long as she had not violated any written law, and also the native law and custom on which the conviction of the lower court was based were not in line with the provisions of the Constitution of Nigeria.[25]

3.2.2 Offence

What constitutes an offence is defined by the Criminal Code as follows:

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[20] Glanville Williams, *Textbook of Criminal Law* (2nd edn, Stevens & Son 1983) 27; Imam Ibrahim, *The Nigerian Law of Evidence* (Malthouse Press 2017) 93.

[21] The Constitution of the Federal Republic of Nigeria 1999 Cap 23 LFN, 2004, Section 36 (12).

[22] Mark Jones and Peter Johnstone, *History of Criminal Justice System* (Routledge 2010) 3.

23 The Constitution of the Federal Republic of Nigeria (n 21) Section 36 (8) and 36 (12) No person shall be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence, and also, no penalty shall be imposed for any criminal offence heavier than the penalty in force at the time the offence was committed.

[24] See generally Cyprian Okechuku Okonkwo and Michael E Naish, *Criminal Law in Nigeria* (Spectrum Books Ltd 2002) 20.

[25] (1961) 1 All NLR pt 400 at 231; The Constitution of the Federal Republic of Nigeria (n 21) Section 36 (8); Josephine Omi Obasohan, 'Sources of Law in Nigeria' in Chijioke C Ohuruogu and Okechukwu Timothy Umahi (eds), *Nigerian Legal Methods* (Cambridge Scholars Publishing 2013) 112.

> An act or omission which renders the person doing the act or making the omission liable to punishment under this Code, or under any Act or Law, is called an offence.[26]

3.2.3 A criminal

A criminal is a person involved in the commission of crime, guilty and convicted of crime by the court. Hence, a simple definition of who a criminal is can be captioned thus:

> A criminal is someone who has committed crime(s) and has been found guilty through a criminal justice process involving the competent Criminal Courts leading to a conviction.[27]

3.3 Categories of offences

The essence of law in a society implies that certain conducts are legally prohibited and punishable. Put simply, certain breaches of law are regarded as more serious than others and penalised as such. Typically, there are three categories of offences as follows: felonies; misdemeanours; and simple offences.[28] It is of importance to note that the classification of offences into felony, misdemeanour and simple offences exist only in the Southern part of Nigeria where the Criminal Code applies. Such arrangements do not exist in the North where the applicable law is the Penal Code. The above classifications also cover all types of offences in the Southern part of the country, regardless of whether such offences are within the confines of the Criminal Code or not. Thus, it is clear that the distinction of offences depends neither on the relative dignity of the court in which the offences are to be tried nor on the heinousness of the offences themselves but on the gravity of the punishment attached to the offences. In essence, the severity of the offence and the penalty attached to it inform the class into which a particular offence belongs.

According to the Criminal Code:

> A felony is any offence which is declared by law to be a felony, or is punishable without proof of previous conviction with death or with imprisonment for three years or more.[29] On the other hand, a misdemeanour is any offence which is declared by law to be a misdemeanour, or is punishable by imprisonment for not less than six months, but less than three years.[30]

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[26] Criminal Code Act Chapter C39 Laws of the Federal Republic of Nigeria 2004, Section 2; Oshisanya Lai Oshitokunbo, *An Almanac of Contemporary and Comparative Judicial Restatements* (Almanac Foundation 2018) 1.
[27] < http://eikins.com.ng/2016/10/25/what-is-criminal-justice-in-nigeria/> accessed 15 August 2017.
[28] Criminal Code Act (n 26) Section 3; Akhirome -Omonfuegbe (n 10) 24.
[29] Criminal Code Act (n 26) Section 3; and Criminal Procedure Act Chapter 80 Laws of the Federal Republic of Nigeria, 1990 and now Cap 41 L F N 2004, Section 2.
[30] Criminal Code (n 1) Section 3.

It should be noted that all offences other than felonies and misdemeanours are simple offences.[31]

3.3.1 The Criminal Procedure Act (CPA) and the Criminal Procedure Code (CPC)

It is important at this stage to mention the purpose of CPA and CPC. The CPA is an Act that makes provision for the trial process to be followed in criminal matters at the the Magistrates and Courts in the Southern part of Nigeria.[32] The CPC equally makes provisions for the procedure to be followed in criminal cases in the Magistrate Courts and High Courts, but in the Northern part of the nation.

3.3.2 The Administration of Criminal Justice Act (ACJ), 2015

The ACJA 2015 is divided into 48 parts, comprising 495 sections. It unifies the two major legislation, that is, the CPC and the CPA. Although it preserves the existing criminal procedure system by retaining the contents of both laws, it introduces novel provisions which will assist the effective operation of the criminal justice system. The objective of the Act is captured by Section 1 which provides as follows:

> The purpose of this Act is to ensure that the system of administration of criminal justice in Nigeria promotes efficient management of criminal justice institutions; speedy dispensation of justice; protection of the society from crime; and protection of the rights and interests of the suspect, the defendant and the victim.[32]

The aim of the Act, as stated above, is a thoughtful modification from punishment as the main goal of Nigeria's criminal justice to restorative justice, which lays more emphasis on the need of the victims as well as the society.

3.3.3 The Criminal Code

In1863, prior to amalgamation of the Northern and Southern Protectorates, the rules of English Common Law, including the Common Law of Crime, was introduced into the Colony of Lagos.[33] In 1906, a Criminal Code was introduced into the Northern Protectorate, which formed the basis of the criminal law in Nigeria.[34] Following the amalgamation, the

[31] ibid; *Saliso v Police* (1960) WNLR at 213.
[32] Administration of Criminal Justice (n 6), Section 1.
[33] Uwakah (n 16) 37.
[34] Alfred Bandele Kasunmu and Showa A Omabegho, 'Provocation as a Defence Under the Nigerian Criminal Code' (1965) 14 British Institute of International and Comparative Law 45, 45.

operation of Criminal Code was extended to Southern Protectorate with effect from1961, and as at that period, the Criminal Code was unilaterally applicable in the whole country.[35]

The Criminal Code is the first law of crime that was developed and introduced in Northern Nigeria.[36] It specifies offences and the punishment attached to each offence. It is worthy of note that the Criminal Code was fashioned in line with the Indian Criminal Code, while the Penal Code was fashioned in line with Sudanese Law.[37] In addition, whenever there was conflict between the Criminal Code and any local customary rules of criminal law, the Criminal Code prevailed.[38]

The Criminal Code criminalises many acts, with the intention to control the conduct of the people. For instance, the Criminal Code provides that 'no one can be punished by any court in Nigeria for any offence, which does not come within the express provision of the Criminal Code'.[39] The Criminal Code provides that 'an individual cannot be penalised for doing or omitting to do an act unless the act or omission can be established under the law to constitute an offence at that particular period when it occurred'.[40] Ordinarily, there cannot be punishment without law as the former precedes the breach of the latter.[41] Equally, the Criminal Code also stipulates as follows:

> No person shall be liable to be tried or punished in any court in Nigeria for an offence, except under the express provisions of the Code or of some Act or Law which is in force, or forms part of the law of Nigeria.[42]

3.3.4 Schedule of the Criminal Code

The Criminal Code is the first law of crime in Nigeria.[43] It comprises eight parts. The first part contains five chapters, which include interpretation;[44] parties in offence;[45] application of criminal law;[46] punishments;[47] and composition of criminal responsibility.[48]

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[35] This was so only up to 1959 when Northern Nigeria adopted a new Penal Code based on the Sudanese Code, which had itself, been modelled on the Indian Penal Code; Benjamin Obi Nwabueze, *A Constitutional History of Nigeria* (Hurst & Company Ltd 1982) 127; Toyin Falola, Culture and Customs of Nigeria (Greenwood Publishing Group 2001) 17.

[36] Yemi Akinseye–George, *Legal System, Corruption and Governance in Nigeria: Including the Corrupt Practices and other Related Offences Act, 2000* (New Century Law Publishers 2000) 43; Egerton E Uvieghara, *Trade Union Law in Nigeria* (Ethiope Pub Co 1976) 133.

[37] Teslim Olawale Elias, *The Nigerian Legal System* (Routledge & Paul 1963) 179.

[38] *Gubba v Gwandu Native Authority* (1948) WACA and Native Courts Ordinance, 1948.

[39] Criminal Code Act (n 26) Section 4.

[40] ibid Section 11; Uwakah (n 16) 39.

[41] Yushau Sodiq, *A History of the Application of Islamic Law in Nigeria* (Springer 2017) 6; Timothy Akinola Aguda and Isabella E Okagbue, *Principles of Criminal Liability in Nigerian Law* (Heinemann Educational Books Nigeria PLC 1990) 15; Martin Dixon, Robert McCorquodale and Sarah Williams, *Cases & Materials on International Law* (Oxford University Press 2016) 715.

[42] Criminal Code Act (n 26) Section 4.

[43] Okonkwo and Naish (n 24) 4.

[44] Criminal Code Act (n 26) Sections 1-6.

Part Two deals with offences against public order. Offences in this category are treason;[49] treachery;[50] the importation of seditious or undesirable publications;[51] offences against the executive and legislative powers;[52] unlawful societies;[53] unlawful assembly; and breach of peace.[54]

Part Three encompasses offences against the administration of law and justice and against public authority. These cover disclosure of official secrets and abstracting document;[55] corruption and abuse of office;[56] selling and trafficking in offices;[57] offences relating to the administration of justice;[58] escape arrest; rescue offender;[59] offences relating to the currency;[60] offences relating to posts and telecommunications;[61] and miscellaneous offences against public authority.[62]

Part Four involves acts injurious to the public in general such as offences relating to religious worship as follows: ordeal; witchcraft; *juju*[63] and criminal charms;[64] offences against morality;[65] obscene publications;[66] nuisances; gambling; lotteries; misconduct relating to corpses;[67] offences against public health as follows: idleness and disorderly persons; rogues and vagabonds;[68] as well as bringing contempt on uniform.[69]

Part Five covers offences against the person and relating to marriage as well as parental rights and duties and against the reputation of individuals. These include assaults and violence to person's justification and excuse,[70] duties relating to the preservation of human

[45] ibid Sections 7-9.
[46] ibid Sections 10-16.
[47] ibid Sections 17-21.
[48] ibid Sections 22-36.
[49] ibid Sections 37-49.
[50] ibid Sections 49 A-49 D.
[51] ibid Sections 50-60.
[52] ibid Section 61.
[53] ibid Sections 62-68.
[54] ibid Sections 69-88.
[55] ibid Sections 89-97.
[56] ibid Sections 98-111.
[57] ibid Sections 112.
[58] ibid Sections 113-133.
[59] ibid Sections 134-145.
[60] ibid Sections 146-160.
[61] ibid Sections 161-189.
[62] ibid Sections 190-203.
[63] ibid Sections 204-206.
[64] ibid Sections 207-213.
[65] ibid Sections 214-233 A.
[66] ibid Sections 233 B-233.
[67] ibid Sections 234-242.
[68] ibid Sections 243-248.
[69] ibid Sections 249-251.
[70] ibid Sections 252-299.

life such as homicide, suicide, infanticide, concealment of birth; [71] unlawful possession of arms and ammunitions;[72] offences endangering life or health;[73] assaults or assault on females;[74] abduction;[75] offences against liberty; slave dealings;[76] offences relating to marriage and parental rights; and duties;[77] as well as defamation.[78]

Part Six deals with offences relating to property and contracts such as stealing;[79] offences analogous to stealing;[80] stealing with violence as follows: extortion by threats;[81] burglary: housebreaking and like offences;[82] obtaining property by false pretense; cheating;[83] receiving property stolen or fraudulently obtained and like offences;[84] frauds by trustees and officers of companies and corporations: false accounting;[85] forgery in general;[86] impersonation;[87] fraudulent debtors;[88] offences in relation to design layout copyright;[89] as well as secret commissions and corrupt practices.[90]

Part Seven entails miscellaneous offences such as cruelty to animals;[91] miscellaneous offences in relation to ships and wharves;[92] and offences by members of a crew.[93] Part eight, which is the last part of the Criminal Code, contains preparation to commit offences; conspiracy; accessories after the fact such as attempts; incitements and preparation to commit offences; and neglect to prevent commission of felony.[94]

3.3.5 The Penal Code

The Penal Code is the applicable law in the Northern part of Nigeria. These are contained in two separate documents. The entire Penal Code contains thirty-seven chapters. The first

[71] ibid Sections 300-305.
[72] ibid Sections 306-329.
[73] ibid Sections 330-350.
[74] ibid Sections 351-356.
[75] ibid Sections 357-362.
[76] ibid Sections 364-369.
[77] ibid Sections 370-372.
[78] ibid Sections 373-381.
[79] ibid Sections 382-390.
[80] ibid Sections 391-400.
[81] ibid Sections 401-409.
[82] ibid Sections 410-417.
[83] ibid Sections 418-426.
[84] ibid Sections 427-433.
[85] ibid Sections 434-439.
[86] ibid Sections 467-479.
[87] ibid Sections 484-489.
[88] ibid Sections 490.
[89] ibid Sections 491-493.
[90] ibid Sections 494.
[91] ibid Sections 495-499.
[92] ibid Sections 500-504.
[93] ibid Sections 505-507.
[94] ibid Sections 508-515.

twenty-five chapters are contained in the Penal Code Act while chapters twenty-six to thirty-seven are contained in the Penal Code (Northern States) Federal Provisions Act.[95]

3.3.6 The Penal Code Act

The Penal Code Act contains the Arrangement of Sections and the Schedule. The arrangement of Sections focuses on the short title; the establishment of the Penal Code; punishment of offences committed in the Federal Capital Territory, Abuja; offences against Laws of the Federation; as well as civil remedies and contempt of court.[96]

3.3.7 Schedule of the Penal Code Act

The Schedule of the Penal Code Act is made up of twenty-five chapters. Chapter One focuses on general explanations and interpretations;[97] Chapter Two deals with criminal responsibility;[98] Chapter Three fcentres on punishments and compensation;[99] while Chapter Four involves joint Acts.[100] Chapter Five comprises abetment;[101]contains attempt to commit offences;[102] while Chapter Seven focuses on criminal conspiracy.[103] In addition, Chapter Eight focuses on breach of official trust;[104] Chapter Nine is based on offences against public peace;[105] Chapter Ten encompasses offences by or relating to public officers;[106] while Chapter Eleven deals with contempt of the lawful authority of public officers.[107] Additionally, Chapter Twelve covers false evidence and offences relating to the administration of justice;[108] Chapter Thirteen focuses on public nuisance;[109] Chapter Fourteen centres on lotteries and gaming houses;[110] and Chapter Fifteen is based on cruelty to animals.[111] Chapter Sixteen addresses offences relating to religion;[112] Chapter Seventeen

[95] See the end note of the Penal Code Act Chapter 53 LFN, 1990 (Abuja), For sections 410 to 477 of this Penal Code, See also the Penal Code Northern States Federal Provisions Act (Cap 345) of the Revised LFN, 1990 where they have been Published as a Schedule to that Act.
[96] Penal Code Act Chapter 53 LFN, 1990 (Abuja) Sections 1-6.
[97] ibid Sections 1- 42.
[98] ibid Sections 43 - 67.
[99] ibid Sections 68-78.
[100] ibid Sections 79-82.
[101] ibid Sections 83 -94.
[102] ibid Sections 95.
[103] ibid Sections 96 and 97.
[104] ibid Sections 98 and 99.
[105] ibid Sections 100 -114.
[106] ibid Sections 115 -133.
[107] ibid Sections 134 -155.
[108] ibid Sections 156-182.
[109] ibid Sections 183-203.
[110] ibid Sections 204-206.
[111] ibid Sections 207-209.
[112] ibid Sections 210-213.

focuses on offences relating to ordeal; witchcraft and *juju*;[113] while Chapter Eighteen encompasses offences affecting the human body; that is, offences affecting life.[114]

Furthermore, Chapter Nineteen deals with offences against property;[115] Chapter Twenty involves forgery[116] whereas Chapter Twenty-one addresses criminal breach of contracts of service.[117] Chapter Twenty-two involves offences relating to marriage and incest;[118] while Chapter Twenty-three addresses defamation.[119] Chapter Twenty-four deals with criminal intimidation; insult; annoyance and drunkenness;[120] while Chapter Twenty-five deals with vagabonds.[121]

3.3.8 Penal Code (Northern States) Federal Provisions Act

The Penal Code (Northern States) Federal Provisions Act is part of the Penal Code Act as earlier stated. It is the continuation of the Penal Code.[122] It contains twelve chapters, that is, Chapters Twenty-six to Thirty-seven. Chapter Twenty-six deals with offences against the State;[123] Chapter Twenty-seven covers sedition;[124] Chapter Twenty-eight takes care of custom offences;[125] while Chapter Twenty-nine focuses on offences relating to Copyright.[126] Chapter Thirty deals with offences relating to ships and wharves;[127] Chapter Thirty-one focuses on offences relating to coins and notes;[128] while Chapter Thirty-two consists of offences relating to revenue stamps.[129] Furthermore, Chapter Thirty-three comprises offences relating to weights and measures;[130] Chapter Thirty-four deals with offences relating to posts and telecommunications;[131] while Chapter Thirty-five addresses offences relating to railways and aircrafts.[132] Chapter Thirty-six talks about offences relating to mines and minerals;[133] Chapter Thirty-seven, which is the last chapter of the Penal Code, focuses on deportation and

[113] ibid Sections 214-219.
[114] ibid Sections 220-285.
[115] ibid Sections 286-361.
[116] ibid Sections 362-380.
[117] ibid Sections 381-382.
[118] ibid Sections 383-390.
[119] ibid Sections 391-395.
[120] ibid Sections 396-404.
[121] ibid Sections 405-410.
[122] ibid Section 410.
[123] Penal Code (Northern States) Federal Provisions Act, Chapter P3 LFN, 2004, Sections 410 – 415.
[124] ibid Sections 416-422.
[125] ibid Sections 423-425.
[126] ibid Sections 426 and 427.
[127] ibid Sections 428-431.
[128] ibid Sections 432-439.
[129] ibid Sections 440-448.
[130] ibid Sections 489-452.
[131] ibid Sections 453-468.
[132] ibid Sections 469-473.
[133] ibid Sections 474 and 475.

passports.[134] However, it is imperative to mention that not all states in the North practice the Penal Code; states including Niger, Jigawa, Kebi, Yobe, Borno, Gombe, Katsina, Bauchi, Kano and Kaduna States apply the Sharia Penal Code.[135]

Having stated the offences contained in the Criminal Code and Penal Code, it is worth mentioning here that the offences and punishments accrued to them under both Codes are similar. Although analysing both codes is not the crux of this study, nevertheless, there is need to juxtapose the two Codes in relation to where there are notable variations in the prosecution of some offences. These include the offence of adultery, which is punishable under the Penal Code and Islamic law, but not punishable under the Criminal Code. Also, stealing and theft are used differently in both Codes.

3.3.9 Adultery under the Penal Code and the Criminal Code

Generally, the word adultery connotes all forms of sexual intercourse outside wedlock. Hence, a person is said to have committed adultery if he or she willfully had sexual intercourse with a person to whom he or she is not validly married to.[136]

3.3.10 Adultery under the Criminal Code

Under the Nigerian Criminal Code, which is applicable in the South, adultery is not recognised as an offence.[137] It is only under the native law and customs of this area that adultery is recognised as an offence. Similarly, persons who are married under the Matrimonial Causes Act of 1970 can claim damages for adultery committed with their wife.[138]

3.3.11 Adultery under the Penal Code

Under the Penal code, adultery is recognised as an offence. It is provided that:

> Whoever, being a man subject to any customary law in which extra-marital sexual intercourse is recognised as a criminal offence, has sexual intercourse with a person who is not and whom he knows or has reason to believe is not

[134] ibid Sections 476 and 477.
[135] The States are Niger; Jigawa; Kebi; Yobe; Borno; Gombe; Katsina; Bauchi; Kano and Kaduna State; Rudolph Peters, *Crime and Punishment: Theory and Practice from fhe Sixteeth to the Twenty-First Century* (Cambridge University Press 2006) 169.
[136] Chiroma (n 8) 245.
[137] Ibrahim (n 20) 15-16; Charles Mwalimu, *The Nigerian Legal System: Public law, Volume 1* (Peter Lang 2005) 645; Hauwa Ibrahim, 'Reflections on the Case of Amina Lawal'< https://www.wcl.american.edu/hrbrief/11/3ibrahim.pdf>accessed 4 September 2017.
[138] Eunice Nkiru Uzodike, 'Judicial Concepts of Adultery, Intolerability and Damages in Nigeria' (1990) 34 Journal of African Law 93, 100.

> his wife, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery and shall be punished with imprisonment for a term which may extend to two years or with fine or with both.[139]

Similarly, in the case of a woman, it is stipulated that:

> Whoever, being a woman subject to any customary law in which extra-marital sexual intercourse is recognised as a criminal offence, has sexual intercourse with a person who is not and whom she knows or has reason to believe is not her husband, is guilty of the offence of adultery and shall be punished with imprisonment for a term which may be extended to two years or with fine or both.[140]

Additionally, there is a provision on adultery under Sharia Law as follows:

> Whoever, being a man or woman fully responsible, has sexual intercourse through the genital of a person over whom he has no sexual rights and in circumstances in which no doubt exists as to the illegality of the act, is guilty of the offence of *Zina* (adultery).[141]

Islamic Law takes adultery as a very grievous offence because it destroys the very basis of the family. It is described as an evil that opens the door for other evils. As a result, the Holy Quran provides as follows: 'Do not draw near to fornication; surely, it is an indecency and an evil which invites evil.'[142] Hence, because of the severity of the offence, the punishment for the offence of *Zina* which is adultery is as follows:

> Whoever commits the offence of *Zina* shall be punished with caning of one hundred lashes if unmarried, and shall also be liable to imprisonment for a term of one year; or if married, with stoning to death.[143]

It is, however, important to note that the offence of adultery must be proven beyond reasonable doubt before an offender can be punished. This has constituted a major challenge to administration of justice in this regard.

3.3.12 Proof of *Zina* under the Shari'ah Law

The offence of adultery/*Zina* can be proved in three ways as follows: through testimony; confession; and pregnancy.

1. Testimony: The law provides as follows:

> Offence of *Zina* must be proved by the testimony of four male adults and who must be Muslim who witnessed the parties committing the offence, if these

[139] Penal Code Act (n 96) Section 387.
[140] ibid Section 387; Uwakah (n 16) 114.
[141] Sharia Penal Code Law of Zamfara State, Section 126, The Law was Promulgated in the year 2000. According to Sharia Penal Code Law, Section 41, *Zina* includes Adultery and Fornication.
[142] Holy Quran, Surah al - Isra, 17:32.
[143] Sharia Penal Code Law of Zamfara State, Section 127.

four witnesses can testify to such, the judge can pass judgment based on the testimony of such witnesses.[144]

2. Confession: The offence of adultery can also be proved by confession.

   For a confessional statement to be admissible, it must be made by a mature person and of sound mind voluntarily, such confession must not be under duress, and must be made in the presence of a judge.[145]

It is worth nothing that a person who has confessed particularly under duress, retains the right to withdraw such confession.[146]

3. Pregnancy: The offence of adultery can be established through pregnancy.

   For instance, the pregnancy of an unmarried woman or a divorced woman is a *prima facie* evidence, that is, glaring evidence of having committed adultery.[147]

3.3.13 Punishment for adultery

The punishment of the offence of adultery for an unmarried person, which is fornication, is one hundred stripes and one-year exile, while for a married person, it is one hundred stripes and stoning to death.[148]

3.3.14 Offences of stealing and theft under the Criminal and Penal Codes

Property of any kind is of great importance to all human endeavours, thus the most important possession of man apart from life is considered as property.[149] The importance of property is evident as the Constitution allows killing to protect one's property.[150]

Due to the importance attached to property, there is proper protection through the legal lens and approach by criminalising any form of interference with ownership or possession. On that basis, the Criminal Code talks about stealing while the Penal Code

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[144] Chiroma (n 8).
[145] ibid.
[146] Rudolph Peters, *Crime and Punishment in Islamic Law* (Cambridge University Press 2005) 9.
[147] Chiroma (n 8).
[148] Soumaya Bint Abdesselam, 'The Islamic ruling concerning the criminal act of Zina (adultery and fornication)'<https://www.linkedin.com/pulse/islamic-ruling-concerning-criminal-act-Zina-adultery-bint-abdesselam>accessed 5 September 2017. The implication is that when an unmarried male commit fornication with an unmarried female, they should receive hundred lashes and banishment for a year. And in the cases of married male committing adultery with a married female they shall receive one hundred lashes and be stoned to death.
[149] Chukkol kharisu Sufiyan, *The Law of Crimes in Nigeria* (Ahmadu Bello University Press 1988) 197.
[150] Criminal Code Act (n 26) Section 282; Chukkol Kharisu Sufiyan, *Defences to Criminal Liability in Nigerian Law: A Critical Appraisal* (Ahmadu Bello University Press 1980) 66-76; Aguda Akinola and Okagbue Isabella, *Principles of Criminal Liability in Nigerian Law* (2nd edn, Heinemann Educ Books 1990) 305-309; Ocheme Peter, *The Nigerian Criminal Law* (Liberty Publications Ltd 2006) 141-148; Onuche Emmanuel, 'An Appraisal of the Right of Private Defence in Nigeria'(2009) 1 Kogi State University Bi-Annual Journal of Public Law 129, 138; *Arabi v The State* (2001) 4 NWLR pt 706 at 256.

focuses on theft. The pertinent question is: Is it just a choice of words or a mere nomenclature, do they mean two different things? To provide answer to the question, it is important to pinpoint the similarities and differences as well as the loopholes and the lacuna in the Criminal Code and Penal Code with regard to the ingredients and features of the offences. The analysis of the variation between the Criminal Code and the Penal Code in the use of the words is imperative, considering the challenge posed by the dual law regimes on Nigeria's criminal justice system.

Although the two words, stealing and theft, look similar in meaning, they are actually different as provided by both Codes. The difference is so apparent that an action can make an accused liable to stealing under the Criminal Code[151] but will acquit him if viewed from the provision of the Penal Code on theft.[152] Stealing under the Criminal Code is explained as follows:

> A person who fraudulently takes anything capable of being stolen, or fraudulently converts to his own use or to the use of any other person, anything capable of being stolen, is said to steal that thing.[153]

Theft, under the Penal Code, is described as follows:

> Whoever, intending to take dishonestly any movable property out of the possession of a person without that person's consent, moves that property in order to take it is said to commit theft.[154]

> According to the Criminal Code,
>
> every inanimate thing which is the property of any person, and is moveable, is capable of being stolen. The object of stealing and theft is property; therefore, a property capable of being stolen must have ownership.[155]

For instance, a finder of a lost property does not commit theft or stealing as long as at that particular time, the owner cannot be found.[156] In essence, ownership is a very vital ingredient to prove stealing and theft. In the case of *Onaguruwa v The State,* Justice Niki Tobi held that:

> Ownership is a vital and indispensable essential or ingredient of the offence of stealing. It is the prop upon which all other essentials or ingredients stand. It is the baseline of the offence of stealing, before an accused could be convicted of

[151] Criminal Code Act (n 26) Section 383 (1).
[152] Penal Code Act (n 96) Section 286.
[153] Criminal Code Act (n 26) Section 383 (1).
[154] Penal Code Act (n 96) Section 286 (1).
[155] Criminal Code Act (n 26) Section 383 (1).
[156] *R v Nicholas Vega* (1938) 4 WACA 8.

> the offence of stealing property, there must be evidence that the property is owned by a person.[157]

Another important element is that the property must be tangible, that is to say, it must be ascertainable in physical existence and in value.[158] Additionally, it is only moveable property that can be stolen, hence land or anything attached to it cannot be stolen.[159] What is referred to as property can be deduced from the wordings of section 382 of the Criminal Code, which provides that 'any inanimate object whatsoever, which is the property of any person, and which is moveable, is capable of being stolen'.[160]

3.3.15 Offences of Stealing and theft under the Nigerian laws

In the Penal Code, the necessary component of *mens rea* required for theft is 'dishonest intention'.[161] Under the Criminal Code, however, the form of *mens rea* stated is 'fraudulent conversion or fraudulent taking'.[162] The word 'fraudulent' is explained in section 383(2) (a)-(e) of the Criminal Code as follows:

> A person who takes or converts anything capable of being stolen is deemed to do so fraudulently if he does so with any of the following intents:
> (a) an intent permanently to deprive the owner of the thing of it;
> (b) an intent permanently to deprive any person who has any special property in the thing of such property;
> (c) an intent to use the thing as a pledge or security;
> (d) an intent to part with it on a condition as to its return which the person taking or converting it may be unable to perform; and
> (e) an intent to deal with it in such a manner that it cannot be returned in the condition in which it was at the time of the taking or conversion.

The above provisions clearly affirm the fact that the *mens rea* for stealing as an offence in the Criminal Code is more emphatical than for theft as used in the Penal Code.[163] In addition, a fraudulent intent towards depriving the owner permanently must be established before it can amount to stealing under the Penal Code. However, an intention to deny the owner temporarily is adequate to making an action theft in the Penal Code. This position was affirmed in *Alasho Anaho and Anor v Keffi Native Authority* where the court declared as follows:

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[157] (1993) 7 NWLR pt 303 at 86.
[158] Ocheme (n 150) 228.
[159] Shetreet and Deschenes (n 171) 255.
[160] Criminal Code Act (n 26).
[161] Penal Code Act (n 97) Section 286; a person is said to do a thing 'dishonestly' who does that thing with the intention of causing a wrongful gain to himself or another or of causing wrongful loss to any other person. See Penal Code Act Chapter (n 96) Section 16.
[162] Criminal Code Act (n 26) Section 383 (1).
[163] Penal Code Act (n 97) Section 286 the *Mens Rea* Requirement is 'Dishonest Intention'.

> The offence of theft under section 286 of the Penal Code may be committed even in the absence of permanent intention to deprive the owner.[164]

Therefore, circumstances in each case are factors to be considered to determine what amounts to stealing or theft.[165]

Another significant difference between the offence of stealing and theft is that, taking something with the consent of the owner and subsequent conversion, will amount to stealing under the Criminal Code but such will not amount to theft under the Penal Code.[166] The implication of this is that situations of stealing established by the second aspect of the *actus reus*, that is, conversion, will not amount to theft under the Penal Code. Considering a hypothetical example, if Rosemary, a friend to Mary, goes into Mary's house in her absence to take her pressing iron without Mary's express consent, and Rosemary is under the impression that she has Mary's express consent to take the pressing iron for the purpose of using it, and subsequently, Rosemary sells the pressing iron for her own use, she is guilty of stealing by conversion under the Criminal Code but not under the Penal Code.[167]

Moreover, under the Penal Code, theft is classified as a crime against ownership, where the accused takes a thing out of someone's possession with dishonest intention and without consent. This means that when someone is entrusted with a property and converts such later to his own use, he is not guilty of theft as indicated by the Penal Code while in the Criminal Code, such a person will be guilty of stealing by conversion. In *Robinson Ojoko v Inspector- General of Police*[168] where the accused was given money to purchase a land in the name of the person who gave out the money, he actually bought the land, though, in his name and not in the name of the owner of the money. On appeal, he was acquitted of the offence of stealing on the ground that the money was not stolen by him in as much the money was given to him with the complete consent of the owner, and he did use the money to purchase the land as instructed. It was further held that the subsequent conversion of the land for his own use cannot be seen as theft since land does not fall within the ambits of substances that can be stolen under theft. The court held as followst: 'He is guilty of stealing not theft'. In the same

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[164] (1966) N N L R pt 37 at 42-43; Ishaku Gwangndi and Sule Musa Tagi, *The Law on Armed Robbery, Theft and House Breaking in Nigeria: A Survey of Adamawa, Borno, Taraba and Yobe States* (Author House 2012) 39.

[165] David Ormerod, *Smith and Hogan Criminal Law* (13th edn, Oxford University Press 2013) 51.

[166] A person who fraudulently takes anything capable of being stolen, or fraudulently converts to his own use or to the use of any other person anything capable of being stolen, is said to steal that thing. Criminal Code Act (n 26) Section 383(1).

[167] Odeh Morris Kingsley, 'A Comparative Analysis between the Offence of Theft and Stealing under the Nigerian Criminal Laws < http://Www.Academia.Edu/13973424/Comparative Analysis between the Offence of Theft and Stealing under the Nigerian Criminal Law>accessed 12 September 2017.

[168] (1956) FSC 62.

vein, a servant who receives money for her master and converts such for her personal use, is guilty of stealing by conversion.

3.4 Dual law regime and Nigeria's criminal justice system

For an effective criminal justice system in a nation, the application of unified law to govern human activities cannot be overemphasised. The 1999 Constitution of the Federal Republic of Nigeria is the Supreme Law of the country. It sits majestically and royally at the high point and apex of Nigeria's legal order.[169] The supremacy of the Constitution can be seen in the way it is couched in the first sections of its provisions as follows:

> This Constitution is supreme and its provisions shall have binding force on the authorities and persons throughout the Federal Republic of Nigeria;[170]
> the Federal Republic of Nigeria shall not be governed, nor shall any persons or group of persons take control of the government of Nigeria or any part thereof, except in accordance with the provisions of this Constitution;[171] and
> if any other law is inconsistent with the provisions of this Constitution, this Constitution shall prevail, and that other laws shall, to the extent of the inconsistency, be void.[172]

The foregoing is an indication that the provisions of the Constitution are unbendable rules that must be abided by and enforced.

Unfortunately, this is not so in Nigeria because of the different laws that apply in different parts of the country. The Penal Code is applicable in the Northern part of Nigeria while the Criminal Code is applicable in the Southern part. As stated earlier, the classification of offences into simple, misdemeanours or felonies exists in Southern Nigeria only where the Criminal Code applies while such classification does not exist in Northern Nigeria administered by the Penal Code. This variation in classification is a major challenge to Nigeria's criminal justice system because the same act or omission by different persons constitutes different offences. Also, an offence could attract different penalties depending on the part of the country in which such an offence is committed.

Also, in the Penal Code that applies to the Northern part of Nigeria, the punishment for the offence of adultery, as stated earlier for an unmarried person, which is fornication, is one hundred stripes and one year exile, while for a married person, it is one hundred stripes and stoning to death.[173] This is, however, not an offence in the Criminal Code that applies in

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[169] Efemini M Ovo, *Modern Nigerian Constitutional Law: Practices, Principles and Precedents* (Malthouse Press 2017) 31.
[170] The Constitution of the Federal Republic of Nigeria (n 21) Section 1 (1).
[171] ibid Section 1 (2).
[172] ibid Section 1 (3).
[173] Haris Z Deen, *Shariah: A Case for Legal Pluralism* (AuthorHouse 2015) 47; Soumaya Bint Abdesselam, 'The Islamic ruling concerning the criminal act of Zina (adultery and fornication)'

the South. The implication is that different people are governed by different laws in the same country.

Furthermore, the use of stealing in the Criminal Code and theft in the Penal Code has created a hiatus in Nigeria's criminal laws. Although the two words, stealing and theft, look similar in meaning, they are actually different as provided by the Codes. The difference is so apparent that an action that makes an accused liable of stealing under the Criminal Code[174] would acquit him or her if viewed from the provisions of the Penal Code on theft.[175] These variations in Nigeria's criminal laws (Criminal Code and Penal Code) create a dual regime of law in the country, thus a major challenge faced by the criminal justice system.

3.5 Summary of chapter

The criminal law regime in Nigeria was examined in this chapter, with particular focus on the Criminal and Penal Codes, which are the laws that regulate crimes and prescribe punishments in Nigeria. It was revealed that there are some similarities in offences and prescribed punishments in the two Codes. Specific variations were also identified between the Codes. Adultery was identified as an offence under the Penal Code but not under the Criminal Code. Also, stealing as used by the Criminal Code and theft as understood by the Penal Code, though they seem to be synonymous, connote different meanings. All these were analysed and subsequently identified as culminating in the dual law regime in Nigeria, which is a significant challenge faced by Nigeria's criminal justice system.

At this juncture, it is apposite to note that the importance of law in society cannot be overemphasised and the ultimate aim of any government is maintenance of law, peace and orderliness in the society. In a bid to achieve this, laws are typically put in place with institutions set up for the enforcement of such laws. Without doubt, law would be useless if the agencies that enforce and implement it are not put in place. Moreover, it is a constitutional requirement in Nigeria for an alleged offender to be tried, convicted and punished accordingly or acquitted. In view of this, the next chapter focuses on the role and challenges of the Nigeria Police Force (NPF) in Nigeria's criminal justice system as an institution set to enforce the law.

<https://www.linkedin.com/pulse/islamic-ruling-concerning-criminal-act-Zina-adultery-bint-abdesselam>accessed 5 September 2017. The implication is that when an unmarried male commit fornication with an unmarried female, they should receive hundred lashes and banishment for a year. However, in the cases of married male committing adultery with a married female, they shall receive one hundred lashes and be stoned to death.

[174] Criminal Code Act (n 26) Section 383 (1).

[175] ibid Section 286.

CHAPTER FOUR

THE ROLES AND CHALLENGES OF THE POLICE AND PROSECUTORS IN NIGERIA'S CRIMINAL JUSTICE SYSTEM

4.1 Introduction

The previous chapter provided a general overview of criminal laws that are directly applicable to the criminal justice system, which define what crime is, and the punishment attached to each crime. As outlined earlier, a criminal justice system embodies different institutions that play various roles at different stages. Nigeria's criminal justice system stands on three pedestals: the police and prosecutors; the judiciary; and penitentiary services (or the prison). This chapter focuses on the roles and challenges of the Nigerian Police Force (NPF) and Prosecutors in Nigeria's criminal justice system.

4.2 The roles and challenges of the police in Nigeria's criminal justice system

The police are an institution of government that plays critical roles in criminal justice administration in Nigeria. The challenges they face and as well pose to Nigeria's criminal justice system are concerned to be examined in this section. The activities of the police in Nigeria, *vis-à-vis* what are required of them by the law and relevant international norms are worthy of discussion. The section begins with a synopsis of the origin and core duties of the police within Nigeria's criminal justice system.

4.3 A synoptic delineation of the police within Nigeria's criminal justice system

Several definitions have been used to describe the police as follows:

> The police are a state agency charged primarily with the enforcement of criminal law and the maintenance of order in society;[1] persons employed by government who are authorised to use physical force to maintain order and safety in society;[2] the art of providing a comfortable and quiet life to all of the earth's inhabitants;[3] a unit of the armed forces established for the maintenance of law and order;[4] conceptualised to mean the activity of keeping order in place;[5] and a branch of the government which is charged with the preservation

[1] Ehindero G Sunday, *The Nigerian Police and Human Rights* (Ehindero Press 1998) 1; Ngozi Nwogwugwu and Adewale K Kupoluyi, 'Interrogating the Desirability of State Policing in Nigeria' (2015) 20 Journal of Humanities and Social Science 1, 2.

[2] Michael D Lyman, *The Police: An Introduction* (2nd edn, Prentice Hall 2001) 31; Jean-Paul Brodeur, *The Policing Web in Crime and Public Policy* (Oxford University Press Inc. 2010) 103.

[3] Brodeur (n 2) 47; David C Brody and James R Acker, *Criminal Law* (Jones & Bartlett Publishers 2014) 352.

[4] Jide M Balogun, *The Route to Power in Nigeria: A dynamic engagement option for Current and Aspiring Leaders* (Springer 2009) 54; Lawrence F Travis, *Introduction to Criminal Justice* (Routledge 2010) 147.

[5] David H Bayley and Clifford D Shearing, *The New Structure of Policing: Description, Conceptualization and Research Agenda* (National Institute of Justice 2001) 1-2.

> of public order and tranquility; enforcement of laws, promotion of safety and morals as well as prevention, detention and prosecution of offenders.[6]

The Nigerian Criminal Justice System is an institution of government saddled with the responsibility of upholding the law and preventing crime, subjecting criminal offenders to appropriate punishments and rehabilitating prisoners.[7] Indeed, the police are law enforcement officers basically concerned with maintaining order and enforcing criminal laws.[8] The process of criminal justice depends on effective and efficient police work, particularly when in preventing and detecting crime. The police are mandated to conduct criminal investigations, conduct searches and effect arrests and seizures, identify witnesses and interrogate them, and gather evidence and detect suspects of a crime.[9] Any police officer who effects an arrest is the one who first makes contact with the criminal suspect in Nigeria's criminal justice system.[10] In some legal systems, probable cause is necessary for the police to make an arrest, and take the suspect into custody. The Nigerian Police Act prescribes the duties of the police as follows:

> The duties of the police shall be the prevention and detection of crime; the apprehension of offenders; the preservation of law and order; the protection of life and property and the due enforcement of all laws and regulations with which they are directly charged; and shall perform such military duties within or outside Nigeria as may be required of them by, or under the authority of this or any other Act.[11] The primary responsibility of a police officer is to act as an official representative of government who is required and trusted to work within the law. The fundamental duties of a police officer include serving the community, safeguarding the lives and property; protecting the innocent; keeping peace; and ensuring the rights of all to liberty, equality and justice.[12]

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[6] Garner Bryan A, *Black's Law Dictionary* (5th edn, West Publishing Co 1979) 1041.

[7] See generally, Smart E Otu, 'Criminals and Criminal Justice Administration in Nigeria: How Just, Fair and Dignifying is the System?' in GMT Emezu Inge Kosch and Maurice Kangel (eds), *Justice and Human Dignity in Africa* (Lulu Com 2014) 144.

[8] Tosin T Olonisakin, Adedeji J Ogunleye and Sulaiman O Adebayo, 'The Nigeria Criminal Justice System and its effectiveness in Criminal Behaviour Control: A Social-Psychological Analysis' (2017) 22 Journal of Humanities and Social Science 33, 35.

[9] Walker Samuel A, *Critical History of Police Reform: The Emergence of Professionalism Lexington M T* (Lexington Books 1997) 143; Harry R Dammer and Jay S Albanese, *Comparative Criminal Justice Systems* (Centage Learning 2013) 101.

[10] Peter Okoro Nwankwo, *Criminal Justice in the Pre-Colonial, Colonial, and Post-Colonial Eras An Application of the Colonial Model to Changes in the Severity of Punishment in the Nigerian Law* (University Press of America Inc. 2010) 8; Prince A Adedoyin, 'Police as a form of Criminal Justice System' <https://www.academia.edu/10081478/Police as a form of Criminal Justice System.> accessed 30 June 2017.

[11] See generally Nigeria Police Act Cap P19 LFN, 2004, Section 4.

[12] Nigeria Police Act (n 11); See generally Abegunde Babalola, 'Power of Police to Prosecute Criminal Cases: Nigeria and International Perspectives' (2014) 2 European Journal of Business and Social Sciences 127, 128.

The police is a constituted body of persons established and empowered by the state to enforce the law and protect life and property.[13] Provisions for the duties and codes of conduct of the police are as follows:

> In performing police duties, a police officer shall perform all duties impartially, without favours of affection or ill will and without regard to status, sex, race, religion, political belief or aspiration;[14] all persons are to be treated equally with courtesy, consideration and dignity and the police are to conduct themselves both in appearance and composure in such a manner as to inspire confidence and respect for the position of public trust they hold.[15]

The police are an institution with worldwide application of standard ways of performing their duties. In Nigeria, like many nations across the world, the police are the major, most visible and indispensable sub-system of the institution of the criminal justice system.[16] The police take the first step in Nigeria's criminal justice system by arresting criminal suspects either through crime information from the public or their own findings.[17] The police as an agency of government, are an important sector in the administration of criminal justice in Nigeria[18] considering the fact that their actions have a great influence, not only on the other sectors, but also on the entire system.[19] They are referred to as the gatekeepers of the criminal justice system as their decisions determine who goes into the system or not. Their decisions have far-reaching implications on other components of the system since their performance relies largely on the activities of the police.[20] Most people do not comprehend the implications of the awesome power that the police possess in the criminal justice system, some of which include the detection, identification and arrest of suspects; the enforcement of search warrants; the power to seize crime-related items; the interrogation of witnesses and visitation to the locus of the crime; and the completion of the

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[13] Nigeria Police Act (n 11) Section 3; Maikano Madaki and Mustapha Hashim Kurfi, 'Toward Enhancing Police-Community Relations in Nigeria: Problems and Prospects' (2013) 4 Journal of Sociological Research 125, 126.

[14] Code of Conduct and Professional Standards for Officers of the Nigeria Police Force 2013, Rule 2; 'Police and other law enforcement officials must at all times fulfil the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with the degree of responsibility required by their profession'. See the United Nations Criminal Justice Standards for United Nations Police (United Nations New York, 2009) 5<https://www.unodc.org/pdf/criminaljusticedig/UNcriminaljusticestandardsforUN Police.pdf>accessed 27 June 2017.

[15] See generally the Constitution of the Federal Republic of Nigeria 1999 Cap 23 LFN, 2004, Section 215; Code of Conduct for Law Enforcement Officials, United Nations General Assembly Resolution 34/169 U.N.GAOR, 34th Session, 106th meetings, U.N.Doc., A/RES/34/169 (1979) Article 2.

[16] Abdulrahman Bello Dambazau, *Criminology and Criminal Justice* (Spectrum Books Ltd 1999) 90; Madaki and Kurfi (n 13) 126.

[17] ibid.

[18] Madaki and Kurfi (n 13).

[19] Dambazu (n 16).

[20] Otu (n 7) 145.

charge sheet; among others.[21] The police initiates the process of criminal justice by effecting arrests of criminal suspects who serve as inputs to the system.[22] Thus, the output of the police becomes the input for the court as well as the prison.[23] Any systematic examination of the workings of the criminal justice system must begin with the police, who have become the most critical and perhaps, even the most powerful sub-system in the enforcement and adjudication structure.

4.4 Historical overview of the police force in Nigeria

Historical narrative of the development and evolution of the police force in Nigeria would enhance proper understanding of the past as well as the present. Thus, it is important to trace the history of the Nigerian Police Force.

4.4.1 The pre-colonial era of policing in Nigeria (1800-1860)

The challenges of maintaining law and order are as old as humanity. This is why policing, in one form or another, has been the hallmark of civilisation. Across time and space, the police have always been an indispensable institution of the society.[24] Even before the advent of modern police system, there have been people acting as a form of police in the society in which each ethnic group had their unique means of maintaining order in society.[25]

The history of the Nigerian Police Force (NPF) has been documented by many, considering the need to fully understand the background of policing in present day Nigeria.[26] The notion of policing as a technique of ensuring law and orderliness in the society was well known in pre-colonial African society.[27] In Nigeria, before the colonial era, there were people whose responsibilies were to enforce the traditional beliefs and customs of the people referred to as the traditional police method.[28] It was entrenched within local communities and practised in relation to social status, religious beliefs and traditional structure of the people.[29]

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[21] Abraham S Blumberg, *Criminal Justice Issues and Ironies* (2nd edn, New Viewpoints 1979) 54.
[22] Otu (n 7) 146.
[23] James P Levine, Michel C Musheno and Darjuxena J Palumbo, Criminal Justice-A Public Policy Approach (Harcourt Brace Jovanovich Inc. 1980) 156; <http://eikins.com.ng/2016/10/25/what-is-criminal-justice-in-Nigeria/ > accessed 15 August 2017.
[24] Madaki and Kurfi (n 16).
[25] Ogadimma Chukwubueze Arisukwu, 'Policing Trend in Nigeria (1960-2012)' (2012) 85 The Police Journal 151, 151; Tekena N Tamuno, *The Police in Modern Nigeria* (University Press Ibadan 1970) 16.
[26] See generally Ajayi Johnson Olusegun, 'Public Perception of the Police and Crime Prevention in Nigeria' (2014) 7 International Journal of Criminology and Sociological Theory 1, 2.
[27] Toyin Falola and Saheed Aderinto, *Nigeria, Nationalism and Writing History* (University Rochester Press 2010) 194.
[28] Emmanuel C Onyeozili, 'Obstacles to Effective Policing in Nigeria' (2001) 1 African Journal of Criminology and Justice Studies 32, 33.
[29] See generally Godpower O Okereke, 'Police Powers and Law Enforcement Tactics: The Case of Nigeria' (1992) 15 Police Studies: International Review of Police Development 107, 107.

These include the the age group system by the Igbos of South Eastern Nigeria, the secret society such as the *Ogbonis* and *Oro* cults found in many communities of the South-West and the *Ekpe* cults among the Efiks of South-South.[30] Also, there were vocational guards such as hunters, farmers, fishermen and blacksmiths who also participated in the enforcement of societal norms, and through this, law and order were maintained without the use of violence.[31] They were responsible for the enforcement of traditional beliefs and customs.[32] According to Godpower Okereke,

> the main functions of these police forces were to enforce customary laws; arrest offenders; collect fines imposed; and deliver messages from the traditional rulers.[33] Law enforcement and maintenance of order in pre-colonial Nigeria were uncomplicated: in other words, these were done without violence because rules of behaviour reflected generally held values and beliefs.[34]

All these groups assisted in maintaining law and order and general community development during the pre-colonial era.[35]

4.4.2 Policing during the colonial era in Nigeria (1861-1960)

During the colonial era, the British Consul established a police force in Lagos in 1861.[36] During this time, policing was practised based on British rules.[37] Thus, the British introduced new laws, which in effect, either replaced or seriously threatened the efficacy of native laws and customs; traditional religions; indigenous tribunals; and justice as well as sanctions.[38] Chinua Achebe narrates a colonial demonstration of this assertiveness in his legendary Umuofia Village as follows:

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[30] Bruce Baker, *Multi-choice Policing in Africa* (Stylus Publisher 2008) 51; Yemi Akinseye-George, *Nigerian Prisons: Justice Sector Reform and Human Rights in Nigeria – Centre for Socio-Legal Studies CSLS Abuja, Nigeria* (CSLS Publishing 2009) 224; Konrad-Adenauer-Stiftung, *Crime and Policing In Transitional Societies: 30 August- 1 September 2000, Jan Smuts House, University of the Witwatersrand, Johannesburg* (Konrad-Adenauer-Stiftung 2001) 127.

[31] Nwankwo (n 10) 109; Background: Attitudes towards Policing, History of Policing in Pre-Colonial and Colonial Nigeria< https://www.hrw.org/reports/2005/nigeria0705/4.htm>accessed 3 June 2017.

[32] Ayuk Awunghe Achu, Emeka Josephat Owan and Francis Abu Uyang, 'Traditional methods of Crime Control and Community Security in Odukpani Local Government Area of Cross River State – Nigeria' (2013) 14 Journal of Humanities and Social Science 61, 66; Etannibi E O Alemika, 'Police practice and Police research in Africa' (2009) 10 Police Practice and Research 483, 483.

[33] Nwankwo (n 10) 110.

[34] Okereke (n 29) 107; Olong Matthew Adefi, 'The Nigerian Police and good community relationship: A Desideratum' (2012) 2 International Journal of Asian Social Science 2049, 2050.

[35] Achu, Owan and Uyang (n 32) 63; Tanumo (n 25) 16.

[36] Onyeozili (n 28) 32; The primary purpose of the Police during this time was to advance the economic and political agenda of the colonizers. See Noel Otu, 'Colonialism and the Criminal Justice System in Nigeria' (1999) 23 International Journal of Comparative and Applied Criminal Justice 293, 295.

[37] Charles Mwalimu, *The Nigerian Legal System, Volume 2* (Peter Lang 2009) 865.

[38] Sonya Maldar, '*Rest in Peace': Nigeria: Police Torture and Deaths in the Custody in Nigeria* (Human Rights Watch 2005) 9.

> The white men brought a government and built a court where the District Commissioner judged cases in ignorance; he had court messengers who brought men to him for trial; they guarded the prison, which was full of men who had offended the white man's law; some of these prisoners were men of titles who should be above such mean;[39] where the Africans were slow in accepting the new ways, the colonial administrators made it a duty to militarily make mincemeat of the community as an example to other communities who might be contemplating resistance.[40]

During this period, the model of policing marked a turning point from the traditional pattern where much emphasis was placed on traditions, customs and unrecorded laws.[41] It is perceived that during the colonial era, the protection of the commercial interests of the colonial masters was the paramount aim of the police to the disadvantage of the colonised people who they were apportioned to, and specially made to protect.[42] According to Rotimi Kemi, this form of policing was a forum in which 'strangers policed strangers'.[43] The police were slanted against the people they were mandated to protect, which eventually, led to a series of clashes between the colonial masters and the colonised.[44]

What is today known as the Nigerian Police Force (NPF) was motivated by a flowing together of commercial, political and strategic interests of the colonial masters.[45] The institution of police was first constituted in a 30-people Consular Guard in 1861 by the Acting Governor of Lagos Colony, William McCoskry.[46] This creation marked the establishment of the first modern police in the history of Nigeria.[47] These thirty officers were charged with assisting the Acting Consul by performing police duties. Subsequently, in 1879, several police forces and constabularies were established in different societies and territories that subsequently constituted Nigeria. The constabularies that were formed, turned out to be the Northern and Southern Protectorates.[48] There was a variation in the structure of police forces from one location to the other, which are noticeable in the following examples:

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[39] Achebe Chinua, *Things Fall Apart* (Ballantine Books 1959) 160.
[40] Onyeozili (n 28) 33.
[41] Ogaga Ayemo Obaro, 'The Nigeria Police Force and the Crisis of Legitimacy: Re-Defining the Structure and function of the Nigeria Police' (2014) 10 European Scientific Journal 421, 429-430.
[42] Alka Jauhari, 'Colonial and Post-Colonial Human Rights Violations in Nigeria' (2011) 1 International Journal of Humanities and Social Science 53, 55; Samuel Iornenge Zumve, 'Community Policing in Contemporary Nigeria: a synthesis of models' (2012) 2 Journal of Education and Social Research 132, 135.
[43] Rotimi kemi, *The Police in a Federal State: the Nigerian Experience* (College Press 2001) 18.
[44] John Domingo Inyang and Ubong Evans Abraham 'Policing Nigeria: A case for partnership between formal and informal Police Institutions' (2013) 1 Merit Research Journals 053, 055.
[45] Toyin Falola, *Colonialism and Violence in Nigeria* (Indiana University Press 2009) 6.
[46] Tamuno (n 25); Oyemwinmina Christopher and Aibieyi Stanley, Analysis towards Effective Policing in Nigeria (2016) 10 African Reseach Review, An International Multidisplinary Journal 61, 62; Graeme R Newman, *Crime and Punishment around the World [Four Volumes]* (ABC-CLIO 2010) 163.
[47] Onyeozili (n 28) 35.
[48] ibid.

> In the Lagos Colony, a thoughtful strategy utilised officers from the culturally distinct Hausa ethnic group from the Northern part of the country;[49] during this period, in many areas, the police engaged in a brutal subjugation of communities and suppressed resistance to colonial rule and the use of violence and cruelty from the beginning of the colonial era, marked a disorder in the relationship between the police and local communities, which has characterised law enforcement practices in Nigeria since then.[50]

In view of the above, it is safe to conclude that the Nigerian Police was formed as an instrument of coercion.[51] The police in Nigeria was an off-shoot of a para-military organisation referred to as the West African Frontier Force (WAFF), which was essentially created to enforce obedience to colonial rule.[52]

Prior to the amalgamation of the Northern and Southern Protectorates that formed today's Nigeria, the need to maintain orderliness and peaceful coexistence by the people in society became the heartfelt desire of leaders in Nigeria at the time since the subject of security management is sacrosanct to the survival of any nation or community.[53] The history of the police (from the colonial period to date) is a legacy of arbitrariness; ruthlessness; brutality; flagrant disrespect of human rights; destruction; bad manners; lack of accountability; and dishonesty.[54] Given this situation, one can conclusively say that the creation of a police was an instrument for the British colonial masters to accomplish their goal and mission in Nigeria.[55] Despite the amalgamation of Southern and Northern Nigeria by Lord Lugard in 1914, both the constabularies in the Northern and Southern Police Forces continued their operation separately until 1st April 1930 when they finally merged to form a

[49] The Police Forces were ' McCorsky Police' or Consular Guard (1861); Armed Police Force (Armed Hausa Police Force - 1863); Gold Coast Constabulary (1876); Lagos Constabulary (1886); The Lagos Police (1895, 1897); 'Annesley Police' (1889); Oil Rivers Irregular (1892); Court Messengers (1892); Niger Coast Protectorate Constabulary (1894); Niger District Police (1900 - 1905); Southern Nigeria Police Force (1902); Southern Nigerian Police (1906); Southern Police Force (1917); Royal Niger Company Constabulary (1888); Civil Police and Prisons (1900); Northern Nigeria Constabulary (1903); Northern Nigerian Police (1910); Northern Police Force (1917); Nigeria Police Force (1930). Many of these forces resulted from reorganization of older ones to accommodate expansion of colonial rule over various nationalities. See Innocent C Chukwuma, '*Police Transformation in Nigeria: Problems and Prospects' Crime and Policing in Transitional Societies* (South African Institute for International Affairs, University of Witwatersrand Johannesburg September 2000).

[50] ibid.

[51] Ihekwoaba D Onwudiwe, 'Community Policing: The case of Informal Policing in Nigeria' in Dominique Wisler and Ihekwoaba D Onwudiwe (eds), *Community Policing: International Patterns and Comparative Perspectives* (CRC Press 2009) 84.

[52] Chukwuma Innocent, 'The Legal Structure of the Police and Human Rights in Nigeria' (1997) 14 Third World Legal Studies 41, 43.

[53] The Constitution of the Federal Republic of Nigeria (n 15) Section 14 (2); John Dixon, *Social Welfare in Africa* (Routledge 2016) 181.

[54] Etannibi E O Alemika, 'Policing and Perceptions of Police in Nigeria' (1988) 11 Police Studies International Police Review 161, 161.

[55] Nwogwugwu and Kupoluyi (n 1) 1; Tamuno (n 25).

single Nigerian Police Force, with its headquarters in Lagos.[56] It is apposite to state that the establishment of the police force has received constitutional backing in Nigeria.[57]

4.4.3 Policing in post-colonial Nigeria (1960 to date)

The late Louis Edet Orok was appointed in 1964 as the first indigenous Inspector-General of Police to head the force.[58] During this period, the Nigerian Police Force drew its legitimacy and powers from the Constitution of Nigeria.[59] Thus, Section 214(1) of the Nigerian Constitution stipulates 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 Federation or any part thereof.

4.5 Synergy between the Nigerian Police Force (NPF) and other components of Nigeria's criminal justice system

As in most legal systems, Nigeria's criminal justice system is a blend of numerous governmental sectors that are charged with the control and management of crime and criminals. The Nigerian Criminal Justice System encompasses three primary and distinct components as follows: the police; the courts; and the penitentiary department or correctional services. These components are from time to time referred to as sub-systems within Nigeria's criminal justice sector. Seen from this angle, the components of the criminal justice system are seen as interconnected, interrelated and interdependent, highlighting the need for a synergy, especially in their endeavour to accomplish a common goal. This synergy, within the components of the system, frequently bothers on the flow of cases through the system, thereby producing outpouring effects as criminal matters are transferred from one component to another. For instance, activities of the police on the streets have a huge effect on the amount of work done in the courts and the conclusions of judges in courtrooms as they process persons for jails and prisons. From the foregoing, it is apparent that each constituent of the process cannot thrive on its own in isolation; they all depend on one other to achieve their various goals.

In Nigeria, the police have far more personnel than other security agencies and are the most visible components of Nigeria's criminal justice system. The reason is that most police

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[56] Idowu A Alajede, 'The Role of the Police in Elections: The Nigerian Situation' (2003) 2 University of Ado-Ekiti Law Journal 97, 98. Babalola (n 12) 129.
[57] The Constitution of the Federal Republic of Nigeria (n 15) Section 241(1); Mwalimu (n 37) 887.
[58] Farinde Raifu Olanrewaju, *Forensic Linguists: An Introduction to the Study of Language and Law* (Lincom Europa 2009) 55; Onwuchekwe Stanley Ikenna, The Police and Administration of Criminal Justice System in Nigeria. <http://www.academia.edu/19792244>The Police and Administration of Criminal Justice System In Nigeria accessed 4 July 2017.
[59] Benjamin Obi Nwabueze, *A Constitutional History of Nigeria* (Hurst & Co Publishers 1982) 121.

personnel are uniformed men and women, and as such, they can easily be identified by the people. Besides that, many of them are usually assigned patrol duties where they go about with patrol vehicles on which 'the Nigerian Police Force' is conspicuously inscribed. This visibility has been a part of the strategies and practices of the police in crime control. Above all, in ensuring security of life and property, which is the primary function of any government, the place of the police cannot be overemphasised. It is the basic role of the police to ensure the protection of lives and property as well as maintenance of order and peace in society. Therefore, criminal tendencies and any act of criminality must be put under control for people to be able to live in peace and harmony in the society.[60]

4.6 Functions of the Nigerian Police Force

The functions of the Nigerian Police Force (NPF) are stated in the police Act.[61] The Police Act provides for the organisation, discipline, powers and duties of the police in Nigeria.[62] There are general duties of the police as stipulated by the Police Act, among which are the following:

a. Prevention and detection of crime;
b. Apprehension of offenders;
c. Preservation of law and order;
d. Protection of life and property;
e. Due enforcement of all laws and regulations with which they are directly charged; and
f. Performance of such military duties within or outside Nigeria as may be required of them by the Police Act or any other Act.[63]

From the foregoing therefore, the functions of the police in Nigeria, as in many parts of the world, are to prevent crime and improve public safety.[64]

4.7 Statutory powers of the Nigerian Police Force

Apart from the functions of the police stated in the Police Act, some powers are also derived by the police from several national instruments such as the CPA[65] and the CPC.[66] These two pieces of legislation grant the Nigerian Police Force wide powers, some of which include the following:

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[60] Imam Ibrahim, *The Nigerian Law of Evidence* (Malthouse Press 2017) 93; Ikenna (n 57).
[61] Nigeria Police Act (n 11) Section 4; Otu (n 7) 146.
[62] ibid Sections 25-30.
[63] ibid Section 4.
[64] David H Bayley, *Patterns of Policing a Comparative International Analysis* (Rutgers University Press New Brunswick 1990) 18.
[65] Criminal Procedure Act Chapter C42 LFN, 2004, Sections 10(1), 11 and 55.
[66] Criminal Procedure Code Act Cap 491 1960, Sections 26 and 27.

a. Taking measures to prevent crime;
b. Investigating crime;
c. Interrogating suspects;
d. Prosecuting suspects;
e. Searching properties and persons in order to prevent crimes;
f. Detecting or investigating crimes;
g. Detecting and apprehending offenders and collecting evidence for;
h. Granting bail to suspects pending investigation or arraignment in court;
i. Serving summons;
j. Regulating processions and assemblies; and
k. Dispersing illegal or unlawful processions and assemblies.[67]

Evidently, the scope of powers possessed by the Nigerian Police Force indicates that they are central in the entire criminal justice system in Nigeria. It also suggests that in Nigeria's criminal justice system, the role of the Nigerian Police does not end once an arrest has been made; they are involved in subsequent and additional investigative work, which facilitates the entire criminal prosecution as well as the criminal justice system.[68]

After a suspect is arrested by the police, he or she comes under the purview and jurisdiction of the court that has the mandate, capacity and obligation to decide on the legality of the police's decision to arrest. The first point of contact of criminals in the justice system is the Police institution, and it is a fact that for a criminal suspect to obtain justice is highly dependent on how the police carry out their duties.[69]

4.8 Structure and organisation of the Nigerian Police Force

The Nigerian Police Force has a structure and organisation peculiar to them. These are discussed below.

4.8.1 Structure of the Nigerian Police Force

Nigeria operates a federal system of government with three levels of governance as follows: Local; State; and Federal.[70] The Nigerian Police Force is a federal institution that is centrally

[67] ibid Sections 31-38; Criminal Procedure Act (n 66) Section 53.
[68] Amos Dele Dada, *To the Rescue: Say no to Corruption* (Author House 2014) 169.
[69] Olisa Agbakoba and Wilfred U Mamah, *Towards a People's Constitution in Nigeria, A Civil Education M Anual for the Legal Community* (The Human Rights Law Services 2002) 32.
[70] Rachel Ordu, 'Political Participation: Making Change Happen for Women in Politics in Nigeria' in Judith Barr Bachay and Raul Fernandez-Calienes (eds), *Women Moving Forward Volume Two: An Inter-sectional Lens for a Tapestry of Diverse Voices* (Cambridge Scholars Publishing 2010) 101; John Chidubem Nwaogaidu, *Globalization and Social Inequality: An Empirical Study of Nigerian Society* (LIT Verlag Munster 2013) 114; Chinwe Nwanna, 'Gentrification in Nigeria: The case of two Housing Estates in Lagos' in Loretta Lees, Hyun Bang Shin and Ernesto Lopez Morales (eds), *Global Gentrification: Uneven Development and Displacement* (Policy Press 2015) 314.

administered.[71] In spite of this federal arrangement, Nigeria has only one police force that operates at the federal level with subsidiary operations at the state and local government levels. Hence, there is no State Police or Local Police Force in Nigeria. The structure of the Nigerian Police can be described as follows:

> The Nigerian Police Force is a centralised and federally administered institution;[72] it is headed by an Inspector-General of Police appointed by, and accountable to, the President;[73] and the Constitution vests the overall operational control of the Nigerian Police Force in the hands of the President.[74]

Section 215(3) of the 1999 Constitution states as follows:

> The President or such other Minister of the government of the federation as he may authorise on that behalf may give to the Inspector-General of Police such lawful directions with respect to the maintenance and securing of public safety and public order as he may consider necessary, and the Inspector-General of Police shall comply with those directions or cause them to be complied with.[75]

It is further provided in the Police Act that:

> The President shall be charged with operational control of the Force and that the Inspector-General shall be charged with the command of the Force subject to the directive of the President.[76]

The Police Act is the main statute that makes provision for the organisation, discipline, powers and duties of the police. The Act was enacted in 1943 during the colonial era, and today, most of its provisions have been outdated. The headquarters of the Nigerian Police Force was previously in Lagos, but was moved to the Federal Capital Territory, Abuja. It is headed by the Inspector-General of Police (IG), who is assisted by several Deputy Inspector-Generals of Police (DIG). Before the restructuring of the Nigerian Police Force, the IG was assisted by only one DIG.

4.8.2 Organisation of the Nigerian Police Force

The organisation of police in Nigeria is central and can be expressed as follows:

> The Nigerian Police Force is currently organised into the Force Headquarters, 12 Zonal Commands, 36 State Commands and a Federal Capital Territory (FCT) Command. The overall head of the Force is the Inspector-General of

[71] Rotimi T Suberu, 'Nigeria: a Centralizing Federation' in John Loughlin, John Kincaid and Wilfried Swenden (eds), *Routledge Handbook of Regionalism & Federalism* (Routledge 2013) 425.
[72] Basil O Nwankwo, *Institutional Design and Functionality of African Democracies: A Comparative Analysis of Nigeria and Uganda* (Tenea Verlag Ltd 2003) 265.
[73] Kemi Asiwaju and Otwin Marenin, 'Policing Nigeria: Challenges and Reforms' in Mercedes S Hinton and Tim Newburn (eds), *Policing Developing Democracies* (Routledge 2008) 289.
[74] The Constitution of the Federal Republic of Nigeria (n 15) Section 215(3).
[75] ibid.
[76] Nigeria Police Act (n 11) Sections 9(4) and (5).

> Police while there is a Commissioner of Police in each State of the federation.[77]

Thus, Section 215(1) of the Nigerian Constitution makes provisions for the overall head of the police force in Nigeria. This is by appointing an Inspector-General of Police to direct the affairs of the force as follows:

> (a) There shall be an Inspector-General of Police, who, subject to Section 216(2) of the Constitution, shall be appointed by the President on the advice of the police Council from among the serving members of the Nigerian Police Force; and
> (b) There shall be a Commissioner of Police for each State of the Federation who shall be appointed by the Police Service Commission.

In addition, each of the 12 Zonal Commands into which the 37 (36 States and 1 FCT) State Commands belong, is categorised under the command of an Assistant Commissioner of Police.[78]

4.9 Current status of the Nigerian Police Force

The standards of policing available to a country play a vital role in the development of that nation. Also, the fact remains that the protection of life and property is one of the bedrocks of a stable nation. Therefore, the police as an agent of security, are expected to carry out their roles effectively. Unfortunately, the Nigerian Police have not been able to live up to expectations in providing satisfactory security to the nation. It is disturbing that despite the powers and functions granted by the Constitution as well as the Police Act to maintain peace and security in the country, the quality of security in Nigeria is currently worrisome. In recent times, in Nigeria, security has generated a lot of controversies. Numerous incidents speak eloquently of a grave breakdown of law, order and security. The police have neither been suitable nor supportive in protecting their mission statement to make Nigeria a safe and secured nation for economic growth and development as well as everyone living in the country.[79] The persistence cases of violence; robbery; extra-judicial killings by the police; political assassinations; kidnaping; among others, are all testimonies to the magnitude of the problem of insecurity in Nigeria. The blame, in the researcher's opinion, can be partly apportioned to the Nigerian Police Force that exudes incompetence, and is assailed with numerous challenges.

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[77] ibid
[78] Nigeria Police Act (n 11) Section 6.
[79] Godly Otto and Wilfred I Ukpere, 'National Security and Development in Nigeria' (2012) 6 African Journal of Business Management Nigeria Police Force 6765, 6765; < http://www.npf.gov.ng/visionmission.php>accessed 8 July 2017.

The Nigerian Police Force today is unmanageable and hopelessly inefficient. The police in Nigeria amounts to nothing more than typical civil servants armed with guns. They are largely corrupt and, in many instances, detain suspects indefinitely with impunity without arraigning them to court.[80] They take bribes and receive other financial inducements before they can execute their statutorily defined functions. They are also faced with shortage in personnel, inadequate facilities and poor remuneration. Besides, they are not moving with emerging technology of policing as is the case in many countries. Derived from the above, it is apparent that the Nigerian Police have not been able to maintain peace and order in the society. The safety and security requirements of local communities in Nigeria can no longer be guaranteed because the police are forced to bow to the superior arms and ammunitions possessed by criminals. Some factors that are responsible for this conspicuous inefficiency and ineffectiveness of the police include the following: corruption; shortages of man power; language communication barrier; poor funding by government to meet the needs of the police; ill-equipped police precincts; and lack of confidence in the police by the general public.[81] If the foregoing has painted a dismal picture of the reality of the Nigerian Police, perhaps, data gathered from different segments of the Nigerian Police Force may assist in corroborating the criticisms and charges laid above. However, prior to doing this, it is important to consider the challenges faced by the Nigerian Police Force in Nigeria's criminal justice sector.

4.10 Challenges of the police in Nigeria's criminal justice system

As a matter of law, there are duties that ought to be performed by the Nigerian Police Force. There are general duties and roles which are obligations cast upon the Nigerian Police Force as provided for in the Police Act. Section 4 of the Act provides as follows:

> The police shall be employed for the prevention and detection of crime; the apprehension of offenders; the protection of law and order; the protection of life and property and the due enforcement of all laws and regulations with which they are directly charged; and shall perform such military duties within or without Nigeria as may be required by them, or under the authority of this or any other Act.[82]

4.10.1 Defective constitutional structure of Nigeria's Police Force

The Constitution of the Federal Republic of Nigeria places the whole country's police under the Presidency, thus, police matters fall under the Exclusive Legislative List No. 48 in the

[80] Nwankwo (n 72) 265.
[81] Charles Bebeye Ndiomu, Deinbo A Briggs and Julie G Sanda, *National Institute for Policy and Strategic Studies Nigeria* (National Institute 2004) 120; Nigeria Vision 2010 Committee, *Report of the Vision 2010 Committee: Main Report* (The Committee 1997) 35.
[82] Nigeria Police Act (11).

Second Schedule to the 1999 Constitution.[83] It is generally believed that this is a major clog to effective policing in the country.[84] This is further codified in the Police Act which states that:

> The President shall be charged with operational control of the force and that the Inspector-General shall be charged with the command of the force subject to the directive of the President.[85]

The foregoing makes it plainly clear that Nigeria operates a Federal Policing System to the disadvantage of state and traditional police approaches.[86] The Nigerian Constitution expressly provides that:

> No other police force shall be established for the Federation or any part thereof; and the overall head of the Nigerian Police Force is the Inspector-General of Police who shall receive directives from the President and the Ministers.[87]

As such, Section 215(3) of the 1999 Constitution stipulates as follows:

> The President or such other Minister may give lawful directives to the Inspector-General of Police with respect to the maintenance and security of public safety and public order as he may consider necessary, and the Inspector-General of Police shall comply with those directions or cause them to be complied with.

Furthermore, the Governors are the Chief Security Officers of their respective States. This is stated in Section 215(2) of the Constitution as follows:

> The Nigeria Police Force shall be under the command of the Inspector-General of Police and that the Nigerian Police Force stationed in a state shall be subject to the authority of the Commissioner of Police of that State.

Also, Section 216(4) of the 1999 Constitution, provides as follows:

> As in Section 216(3) of the 1999 Constitution, the Commissioner of Police of a State shall comply with those directions from the Governor or cause them to be complied with in his State.

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[83] There are two Legislative lists in the 1999 Constitution of Nigeria, that is, the Exclusive and Concurrent Legislative lists. While only the Federal Government may legislate on matters contained in the Exclusive Legislative Lists, it shares the power to legislate on matters contained in the Concurrent Legislative List with the States. However, in cases of conflict the Federal Laws must prevail. See the 1999 Constitution of Nigeria (n 11) Section 4; Item no 48, Under the Exclusive Legislative List, Second Schedule to the Constitution of the Federal Republic of Nigeria 1999.

[84] This is further codified in the Police Act, which states: 'The President shall be charged with operational control of the Force' and that 'the Inspector-General shall be charged with the command of the force subject to the directive of the President. See Police Act (n 11) Sections 9(4) and (5).

[85] Police Act (n 11) Section (9)4.

[86] See Akin ibidapo Obe, *Essays on Human Rights Law in Nigeria* (Concept Publications Ltd 2002) 295-299.

[87] The Constitution of the Federal Republic of Nigeria (n 15) Section 214(1); See also *Willie v Ibiok* (n 79) where the Court elaborates on the establishment and powers of the Nigerian Police.

However, the various Commissioners of Police of States are considered as agents and direct staff of the Federal Government, who are answerable only to the President and the Ministers and not to the Governors. However, the power of the Governors to give lawful order to the Commissioner of Police in the State is qualified subject to the overriding power of the President or the Ministers as the case may be. This is provided for in Section 215(5) of the 1999 Constitution that 'the question whether any, and if so what, directions have been given under this Section shall not be inquired into in any court'. This constitutional power was validated by the judiciary in the case of *Alamieyeseigba v Igoniwari* where the Court of Appeal held as follows:

> A State Commissioner of Police may, before carrying out directions given to him by the Governor of a State, request that the matter be referred to the President of the Federation of Nigeria and the appropriate Minister for further directions.[88]

Furthermore, this centralisation of the police system is a clear indication that the President has absolute powers over the police force in Nigeria.[89] Moreover, the centralisation of the police is often justified on the grounds that a society like Nigeria, with diverse ethnic nationalities, requires a unified police organisation that unites the country together. There have been serious agitations and expressions of discontent on the issue of centralisation of the police among scholars, some of which are discussed later.

4.10.2 High rate of crime

The rate of unemployment in Nigeria is so high and bothersome and has been on the increase in the past several years.[90] Recently, a former presidential aspirant in Nigeria and Director of Lagos Business School, Patrick Utomi, stated that:

> Nigeria is experiencing a rising rate of unemployment despite its rating as one of the fastest growing economies in the world;[91] unemployed youths are readily available for anti-social criminal activities that undermine the stability of society;[92] the rising rate of unemployment has additionally affected the effectiveness of the police in combating crime;[93] and the police are often dazed with the enormity and frequency of crime committed.[94]

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[88] The Constitution of the Federal Republic of Nigeria (n 15) Section 215(4).
[89] Akinseye-George (n 30) 228.
[90] Eme Okechukwu Innocent, 'Unemployment Rate in Nigeria: Agenda for Government' (2014) 4 Academic Journal of Interdisciplinary Studies 103, 103.
[91] ibid 107.
[92] Monday Akpakan, Kia Bariledum and Nwibor Barika Lucky, 'National Insecurity and Youth Unemployment in Nigeria: The Case of Niger-Delta Region' (2015) 13 British Journal of Humanities and Social Science 104, 107.
[93] Anthony Abayomi Adebayo, 'Social Factors Affecting Effective Crime Prevention and Control in Nigeria' (2013) 3 International Journal of Applied Sociology 71, 74.
[94] ibid 76.

Based on the figures in Table 1, it is clear that millions of Nigerians are unemployed while several millions of those categorised as employed are, in essence, underemployed. In Table 1, the population of the unemployed increased from 4,006,220 in 2011 to about twice the number (8,036,102) in 2015. The rate of unemployment has continued to maintain a high level in Nigeria with 10.4% as at 2015 and 14.2% in 2016. Unfortunately, many of those employed are underemployed because of the nature of jobs they do. The situation was so bad that the figure rose from 6.0% in 2011 to 21% in 2016.

Table 1: Labour force statistics, 2011-2016

Labour parameter/Year	2011	2012	2013	2014	2015	2016
Labour force population	67,256,090	69,105,775	71,105,800	72,931,608	76,957,923	76,957,923
Fully employed	51,208,594	50,198,596	53,508,478	55,206,940	54,506,107	54,506,107
Unemployed	4,006,220	7,301,634	7,078,454	4,672,449	8,036,102	8,036,102
Underemployment rate	17.9	16.8	17.1	17.9	18.7	21
Unemployment rate (%)	6	10.6	10	10.4	10.4	14.2

Source: Federal Ministry of Labour and Productivity, Abuja

This rate of unemployment and underemployment that has continued to increase is a major cause of the high rate of crime in Nigeria. Due to the fact that unemployment readily creates a large army of potential criminals, effective policing has remained a mirage in Nigeria. Several reports have shown that the rate of crime is high in Nigeria, and the Nigerian Police are those in first contact with offenders. They are the custodians of crime data based on crime detected by them and reports made by the public to the police. The data in Table 2a reveal that crime rate is high and the youth are mostly involved in commission. They take part more in various types of crime. For example bteween 2013 and 2015, Table 2b showed youth involvement in human trafficking and they are most affected as victims in Table 2c particularly the female fold. In most cases, they are trafficked for either prostitution or forced labour as shown in Table 2d. generally speaking, the rate of crime is high in Nigeria with involvement of mostly the youth thereby giving the police herculean task to combart.

Furthermore, data obtained from each of the States and the Federal Capital Territory (FCT) selected for this study revealed high incidents of different categories of crime as defined by Nigerian laws as shown in Tables 3a, 3b and 3c. According to the Tables, the rate of crime has continued to be consistently high between 2013 and 2016. The researcher believes these figures are high, considering the fact that research has revealed that most crimes are not always reported by the public to the police in Nigeria because of their lack of

public confidence in the Nigerian Police. Not only that, studies have also shown that majority of cases reported to the police are not recorded, particularly in situations where those involved can afford to buy their way out through some corrupt police officers in Nigeria. The figures could be much higher if every crime is reported to the police by the public, and all documented.

In the same vein, all State Commands recorded high crime incidents in offences against persons in 2013 and 2015. According to Tables 4a and 4b, offences against the state increased between 2013 and 2015. Similar trend was obtained in the offences against propert as shown in Tables 5a and 5b, as well as offences against lawful authority between 2013 and 2015 in Tables 6a and 6b.

Cases of kidnapping were also recorded in the States and FCT, Abuja. This was most rampart in Rivers State followed by Lagos. Forgery, breach of peace and traffic offences ranked high among the crime cases reported by the police with the highest occurrence in Lagos State. It is also important to point out that the job of the police is all encompassing because they can arrest criminal suspects even in cases involving other security agencies like drug-related offences by NDLEA. In fact many of criminal suspects involving drug offences are carried out by the police and handed over to NDLEA for prosecution. That is why it becomes important to mention drug related offences as part of the indirect assignment by the police through synergy that exists among law enforcement agencies. The data on number of arrests, prosecuted and convicted drug offenders in Tables 7a, 7b, 7c and 7d are an extra burden on the job of the police. According to tables, the number contributes to crime rate in Nigeria. Also, Table 8 is an affirmation of the fact that the offence of rape is common in Nigeria which has been on the rise between 2015 and 2017. These incidents of rape do not exclude even children. It happens at home and even schools.

Based on the facts and figures presented above, it is clear that the level of criminality that the police have to contend with is high in Nigeria. Kidnapping is an emerging issue in Nigeria that is now taking a toll on society. The researcher believes the number is high because every incident of kidnapping involves many victims who suffer all kinds of humiliation at the hands of their abductors. Most people part with ransom, some female victims are sexually assaulted, and many lose their lives in the process, even after payment of ransom.

Table 2a: Distribution of youth by type of crime committed, 2013

Crime(s)/Age group (years)	15-19	20-24	25-29	30-35	Total
Abduction/Kidnapping	166	168	335	905	1574
Armed Robbery	455	1595	1002	3940	6992
Arson	193	154	253	841	1441
Burglary	309	271	369	1229	2178
Cocaine and crack cocaine	49	85	105	314	553
Cultism/Ritual	99	182	70	365	716
Curfew violation/Loitering	27	101	51	203	382
Cyber crime (aka yahoo-yahoo)	21	29	37	112	199
Disorderly conduct	149	312	264	1023	1748
Drug law violations	186	338	310	1043	1877
Ecstasy (MDMA)	8	6	2	17	33
Embezzlement	12	7	90	236	345
Forcible rape	163	209	257	798	1427
Forgery and counterfeiting	20	55	111	269	455
Fraud	32	94	153	499	778
Gambling	78	288	322	816	1504
Human trafficking	31	5	41	152	229
Immigration/Emigration offences	0	0	0	5	5
Marijuana	784	1656	1816	5348	9604
Meth	9	36	44	123	212
Murder	261	535	956	2560	4312
Opium (Heroin)	9	47	65	170	291
Prostitution and related offences	83	113	142	378	716
Robbery	60	366	185	684	1295
Sex offences (e.g. Statutory rape)	50	61	111	257	479
Simple assault	617	822	1129	3368	5936
Stolen property	336	916	763	2305	4320
Theft	1602	1367	3061	9179	15209
Traffic offence	134	444	1111	2402	4091
Unlawful possession of weapon	144	374	316	1049	1883
Vandalism	33	89	66	222	410

Source: Nigeria's Police Force Headquarters, Abuja

Table 2b: Number of trafficked persons by age group and sex, 2013-2015

Age group/Year	2013			2014			2015		
	F	M	%F	F	M	%F	F	M	%F
0-5 years	3	9	25	28	26	51.85	19	20	48.72
6-15 years	156	351	30.77	180	393	31.41	214	108	66.46
16-25 years	275	133	67.4	259	88	74.64	358	51	87.53
26-35 years	40	15	72.73	38	11	77.55	75	28	72.82
36 years & above	13	6	68.42	2	1	66.67	10	2	83.33
Total	487	514	48.65	507	519	49.42	676	209	76.38

Source: NAPTIP (National Agency for Prohibition on Trafficking in Persons)

Table 2c: Number of identified victims of trafficking for prostitution by age and sex, 2013-2015

Age group/Year	2013		2014		2015	
	F	M	F	M	F	M
1-7 years	47	0	25	0	37	0
18-27 years	202	0	141	0	261	0
28 years and above	20	0	7	0	41	0
Total	269	0	173	0	339	0

Source: NAPTIP (National Agency for Prohibition on Trafficking in Persons)

Table 2d: Number of identified victims of trafficking for forced labour by age and sex, 2013-2015

Age group/Year	2013			2014			2015		
	F	M	%F	F	M	%F	F	M	%F
1-7 years	106	51	67.52	121	56	68.37	130	65	66.67
18-27 years	106	21	83.46	23	20	53.49	39	22	63.93
28 years and above	13	0	100	0	5	0	2	6	25
Total	225	72	75.76	144	81	64	171	93	64.77

Source: NAPTIP (National Agency for Prohibition on Trafficking in Persons)

Table 3a: Summary of crimes and offences by state, 2013

State/ Offences	Offences against persons	Offences against property	Offences against lawful authority	Offences against local acts	Total
Enugu	564	728	56	0	1348
Gombe	271	698	34	202	1405
Kaduna	302	730	22	25	1079
Lagos	18694	24362	7036	1360	51452
FCT (Abuja)	-	-	-	-	-
Rivers	947	954	390	27	2318
Nigeria	20778	27472	7538	1614	57602

- represents data not available
Source: Nigeria's Police Force Headquarters, Abuja

Table 3b: Summary of crimes and offences by state, 2015

State/Nature of offence	Offences against persons	Offences against property	Offences against lawful authority	Offences against local act	Total
Enugu	886	1,094	124	0	1,004
Gombe	513	1,350	19	356	2,238
Kaduna	338	502	37	74	646
Lagos	15,426	22,835	6,768	306	45,385
Rivers	1,683	897	271	143	2,994
FCT (Abuja)	2,984	9,350	843	4	13,181
Nigeria	45,554	35,397	12,144	2,695	125,790

- represents data not available, Source: Nigeria's Police Force Headquarters, Abuja

Table 3c: Summary of crimes and offences by state, 2016

State/Nature of offences	Offences against persons	Offences against property	Offences against lawful authority	Total
Enugu	935	1,111	171	2,171
Gombe	408	972	33	1.413
Kaduna	385	694	4	1, 083
Lagos	18,926	24,989	7,060	50,975
Rivers	467	1,103	-	1,570
FCT (Abuja)	1,183	4,160	39	5,382
Nigeria	53,641	68,579	12,443	134,663

- represents data not available
Source: Nigeria's Police Force Headquarters, Abuja

Table 4a: Offences against persons by state, 2013

State/ Offence	Murder	Manslaughter	Attempted murder	Suicide	Attempted suicide	Grave harm
Enugu	25	0	21	0	0	21
Gombe	48	0	2	4	0	2
Kaduna	82	0	3	0	34	3
Lagos	348	8	34	65	27	34
Rivers	50	0	0	0	0	0
FCT (Abuja)	-	-	-	-	-	-
Nigeria	553	8	60	69	61	60

- represents data not available
Source: Nigeria's Police Force Headquarters, Abuja

Table 4b: Offences against persons by state, 2015

State/Offence	State murder	Man slaughter	Attempted murder	Suicide	Attempted suicide	Grievous harm wounding	Assault	Child stealing	Slave dealing	Rape & indecent assault	Kidnapping	Unnatural offence	Other offences	Total
Enugu	40	4	31	-	-	72	621	4	-	32	25	1	105	935
Gombe	73	-	1	1	2	111	44	-	-	52	10	4	110	408
Kaduna	128	-	-	-	-	47	26	-	-	95	64	25	-	385
Lagos	216	11	43	47	5	6,523	8,236	65	41	441	98	269	2,931	18,926
Rivers	67	10	3	105	112	-	-	31	23	5	82	29	-	467
FCT (Abuja)	91	3	-	2	-	429	217	3	-	132	49	41	216	1,183
Nigeria	3,219	120	771	333	196	11,191	24,025	345	107	2,279	1,134	1,164	8,757	53,641

- represents data not available
Source: Nigeria's Police Force Headquarters, Abuja

Table 5a: Offences against property by state, 2013

State/ Offence(s)	Assault	Child stealing	Slave dealing	Rape/indecent assault	Kidnapping	Unnatural offences	Other offences	Total
Enugu	383	2	0	18	10	0	55	468
Gombe	58	1	2	26	14	33	169	303
Kaduna	0	0	41	41	0	5	72	159
Lagos	9533	93	44	639	60	156	2693	13218
Rivers	337	3	0	26	119	42	279	806
FCT (Abuja)	-	-	-	-	-	-		-
Nigeria	10311	99	87	750	203	236	3268	14954

- represents data not available
Source: Nigeria's Police Force Headquarters, Abuja

Table 5b: Offences against property by state, 2015

State	Armed robbery	Wounding with menace	Theft/stealing	Burglary	House breaking	Store breaking	False pretense & cheating/fraud	Forgery	Receiving stolen property	Unlawful possession	Arson	Other offences	Total
Enugu	52	30	425	71	71	66	114	29	41	115	1	96	1,111
Gombe	89	-	458	-	59	8	164	3	35	10	47	99	972
Kaduna	67	-	133	-	40	43	309	43	27	29	-	3	694
Lagos	370	77	12,724	1,213	668	417	5,623	403	233	764	222	2,275	24,989
Rivers	564	87	121	45	144	4	54	3	20	61	-	-	1103
FCT (Abuja)	384	-	2586	32	129	16	518	7	288	-	12	188	4160
Nigeria	3,527	535	32,348	2,167	3,212	1,873	11,779	801	1,354	2,455	1,086	7,442	68,579

- represents data not available
Source: Nigeria's Police Force Headquarters, Abuja

Table 6a: Offences against lawful authority by state, 2013

State/ Offence(s)	Forgery of currency notes	Coining offences	Gambling	Breach of peace	Perjury	Bribery and corruption	Escape. from lawful custody	Other offences	Total
Enugu	1	0	0	55	0	0	0	0	56
Gombe	1	0	1	4	0	0	2	26	34
Kaduna	1	0	0	15	0	5	1	0	22
Lagos	616	11	205	5632	4	179	47	342	7036
Rivers	3	0	0	269	0	0	0	118	390
FCT (Abuja)	-	-	-	-	-	-	-	-	-
Nigeria	622	11	206	5975	4	184	50	486	7538

- represents data not available
Source: Nigeria's Police Force Headquarters, Abuja

Table 6b: Offences against lawful authority by state, 2015

State	Forgery of currency	Coining offence	Gambling	Breach of peace	Perjury	Bribery & corruption	Escape from custody	Other offences	Total
Enugu	-	-	-	125	-	-	-	-	125
Gombe	13	-	1	4	-	-	1	14	33
Kaduna	-	-	2	-	-	-	2	-	4
Lagos	23	13	72	6,183	35	4	18	712	7,060
Rivers	-	-	-	-	-	-	-	-	-
FCT (Abuja)	-	-	-	11	-	-	-	28	39
Nigeria	111	46	471	9,605	65	17	123	2,240	12,678

- represents data not available
Source: Nigeria's Police Force Headquarters, Abuja

Table 7a: Number of arrested suspects for drug related offences, 2012-2017

State/Year	2012	2013	2014	2015	2016	2017
Enugu	151	173	171	163	112	144
Gombe	111	115	167	86	90	94
Kaduna	172	384	346	245	319	222
Lagos	321	490	434	251	222	452
Rivers	281	213	232	261	291	282
FCT (Abuja)	254	285	425	478	268	118
Nigeria	5,371	5,913	5,967	5,975	5,845	9,609

Source: National Drug Law Enforcement Agency (NDLEA), Abuja

Table 7b: Total number of drug cases by geo-political zones, 2010-2015

Zone	2010	2011	2012	2013	2014	2015
North-East	816	1,052	606	765	1,017	1,132
North-Central	493	1,052	1230	1,323	1,416	1,447
North-West	1,880	2,542	2,185	2,288	2,261	2,275
South-East	749	943	960	1,155	1,136	1,119
South-South	1,059	1,442	1,480	1,371	1,314	1,358
South-West	1,071	1,608	1,591	1,941	1,682	1,977
Nigeria	6,168	8,639	8,052	8,843	8,826	9,308

Source: National Drug Law Enforcement Agency (NDLEA), Abuja

Table 7c: Number of prosecuted and convicted for drug-related offences by state, 2012-2016

State/Year	2012		2013		2014		2015		2016	
	Number prosecuted	Number convicted	Number prosecuted	Number convicted	Number prosecuted	Number convicted	Number prosecuted	Number convicted	Number prosecuted	Number convicted
Enugu	70	28	26	26	18	18	13	13	61	53
Gombe	58	58	37	37	48	47	58	58	95	95
Kaduna	57	57	65	65	151	151	29	29	33	33
Lagos	123	67	76	76	125	125	143	142	211	211
Rivers	13	13	60	60	86	76	51	51	64	61
FCT (Abuja)	-	-	-	-	-	-	-	-	146	146
Nigeria	210	110	264	264	428	417	294	293	2,276	2,287

- represents data not available
Source: National Drug Law Enforcement Agency (NDLEA), Abuja

Table 7d: Number of convictions secured for drug-related offences by state, 2012-2016

State/Year	2012	2013	2014	2015	2016
Enugu	28	26	18	13	53
Gombe	58	37	47	58	95
Kaduna	57	65	151	29	33
Lagos	67	76	125	142	211
Rivers	13	60	76	51	61
FCT (Abuja)	-	-	-	-	146
Nigeria	223	264	417	293	2287

- represents data not available
Source: National Drug Law Enforcement Agency (NDLEA), Abuja

Table 8: Rape incidence in Nigeria, 2015-2017

Place of rape	Age group (years)	year		
		2015	2016	2017
Home	17 and below	539	657	261
	18-27	440	426	121
	28 & above	216	279	156
school	17 and below	75	335	169
	18-27	452	79	18
	28 & above	34	31	9
others	17 and below	147	151	79
	18-27	126	250	124
	28 & above	114	196	116
National rape incidence		2143	2404	1053

Source: Nigeria Police Force/Federal Ministry of Justice

4.10.3 Poor funding and inadequate training of the police

Government attitude towards the quality of training and welfare of the police has a huge effect on their performance.[95] The police in Nigeria suffer from poor funding. Despite the fact that in recent times, the budgetary allocation has been increased from what it used to be, it is still inadequate. The consequence of this poor budgetary allocation to the police is that there is little, if any, money for their daily operations.[96] Kunle Falayi sheds light on some situations that are keeping Nigeria's Police afloat in the face of inadequate funding. He observes that police divisions have no budgets to run their offices, thereby left to solicit to keep their

[95] Olushola O Karimu, 'Effect of the Nigerian Police Force Personnel Welfare Condition on Performance' (2015) 3 European Journal of Research and Reflection in Arts and Humanities 26, 30.
[96] Oteh Chukwuemeka Okpo, Flora Ntunde O and Alexander Anichie, 'The Nigerian Police, Safety and Public Policing: An Overview' (2012) 2 Asian Economic and Social Society 1172, 1176.

offices running through companies located in their domains and community development associations of their areas of jurisdiction.[97] The question remains unanswered as to where such assistance is not forthcoming and they have to service and fuel the vehicles used to patrol the streets and chase criminals.[98] In such situations, they have no option but to turn to suspects and those who have come to them to report crimes, to get funding for their operations. Often, a complainant is made to pay so that police investigators can carry out their functions. In 2014, the then Inspector-General of Police, Mohammed Abubakar, said that the Nigerian Police Force might not be able to pay the salaries of its personnel due to a shortfall in the budget allocated to pay them.[99] Also, in June 2017, the Lagos State Commissioner of Police, Mr Fatai Owoseni, said that a police station in Nigeria was getting 45,000 Naira in three months as running costs.[100] This is yet another confirmation of the pathetic state of affairs within the Nigerian Police Force. The amount is ridiculous in contrast to the tasks they are expected to perform.[101]

In every society, effective policing is enhanced by the closeness to the people and availability of police facilities. Imagine a place where a crime is committed and there are no police facilities at all or such facilities are far away from the crime scene for prompt reporting to the police or prompt response by the police to emergency calls. Tables 9a, 9b, 9c and 10d show that the number of police facilities, including police commands, divisions, stations and posts are grossly inadequate relative to the size of the state in square kilometres. For example,

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[97] Kunle Falayi, Nigeria Police: A Force Surviving on Donations <http://punchng.com/nigeria-police-a-force-surviving-on-donations >accessed 10 October 2017.

[98] The Nigeria Police Force and Poor Funding< http://leaders.ng/the-nigeria-Police-force-and-poor-funding >accessed 15 August 2017. The Third Schedule of the 1999 Constitution created the Nigerian Police Council and the Police Service Commission, The Nigerian Constitution established these two principal organs for the control of the Nigeria Police Force. In essence, the Police are directly accountable to the organs. The Council is the highest organ of the State responsible for the policy on organization and administration of police in the country and an important organ of police accountability Section 216(2) requires the President to consult the Nigerian Police Council before making appointment to the office of the IGP and before removing him or her. Also The Police Service Commission (Establishment) Act, No. 15 of 2001, in Section 6 charged the Commission with the responsibility of: 1. appointing and promoting all officials of the NPF (other than the IGP); 2. Dismissing and exercising control over disciplinary issues of poice officers; 3. Formulating policies and guidelines for the appointment, promotion, discipline and dismissal of officers of the NPF; 4. Identifying factors inhibiting and undermining discipline in the NPF; 5. Formulating and implementing policies aimed at efficiency and discipline within the NPF; 6. Performing such other functions as, in the opinion of the Commission are required to ensure optimal efficiency in the NPF; and 7. Carrying out such other functions as the President may from time to time direct.

[99] Mohammed Abubakar, Police budget can't pay salaries of officers, Inspector-General Lament <https://www.premiumtimesng.com/news/155784-nigeria-police-budget-cant-pay-salaries-of-officers-ig-laments.htmlnigeria > accessed 10 October 2017.

[100] <https://www.vanguardngr.com/2016/11/police-station-gets-n45000-running-cost-three-months-lagos-cp/> accessed 10 October 2017.

[101] The Nigeria Police Force and Poor Funding< http://leaders.ng/the-nigeria-Police-force-and-poor-funding/> accessed 15 August 2017.

as at 2011, the number of area commands in all the states studied and FCT, Abuja, had not increased since 2006. The same situation can also be observed in all the parameters considered in the Tables. Unfortunately, this situation did not improve as no major changes were observable in 2016 data. Considering the number of police facilities in each area studied in this research, many major towns and cities have inadequate police facilities while police posts are virtually absent in many villages. For example, the data revealed that there were no village posts in Enugu, a State in the Eastern part of Nigeria with many villages a nd settlements. This, undoubtedly, makes such areas a suitable den for criminal activities. This inadequacy in police facilities, as a result of underfunding by government, is a major challenge faced by the Nigerian Police Force. Most often, criminal activities are already committed, and the perpetrators escaped before complaints could be lodged to the police or before the police could arrive at the crime scene. Effective policing continues to be a mirage in such instances where the Nigerian Police Force is not adequately funded and provided with modern equipment and police facilities that would facilitate effective policing of the community.

Table 9a: Number of area commands, divisions, stations and police posts, 2006-2007

State/Year	Land area (Square kilometers)	2006					2007				
		No. of Area Commands	No of Divisions	No of Police Stations	No of Police Posts	No of Village Posts	No. of Area Commands	No of Divisions	No of Police Stations	No of Police Posts	No of Village Posts
Enugu	7,534	3	23	6	50	79	3	23	21	50	79
Gombe	17,100	3	29	34	74	129	3	29	34	74	129
Lagos	42,481	8	0	128	78	298	8	0	128	78	298
Kaduna	3,671	3	36	59	108	202	3	36	59	105	202
Rivers	10,575	3	38	34	63	103	3	38	34	63	103
FCT (Abuja)	7,607	3	16	11	44	7	3	16	11	44	7
Nigeria	909,890	126	1,040	1,576	2,631	3,919	126	1,040	1,598	2,634	3,820

Sources: Nigeria's Police Force Headquarters, Abuja and National Population Commission, Abuja

Table 9b: Number of area commands, divisions, stations and police posts, 2008-2009

State/Year	Land area (Square kilometers)	2008					2009				
		No. of Area Commands	No. of Divisions	No. of Police Stations	No. of Police Posts	No. of Village Posts	No. of Area Commands	No. of Divisions	No. of Police Stations	No. of Police Posts	No. of Village Posts
Enugu	7,534	3	29	34	74	129	3	29	34	74	129
Kaduna	42,481	3	36	59	105	202	3	36	59	105	202
Lagos	3,671	8	84	128	78	298	8	84	128	78	298
Rivers	10,575	3	38	34	63	103	3	38	34	63	103
FCT Abuja)	7,607	3	16	11	44	7	3	16	11	44	7
Total	909,890	129	1,164	1,680	2,505	3,762	129	1,165	1,680	2,574	3,780

Sources: Nigeria's Police Force Headquarters, Abuja

Table 9c: Number of area commands, divisions, stations and police posts, 2010-2011

State/Year	Land area (Square kilometers)	2010					2011				
		No. of Area Commands	No of Divisions	No of Police Stations	No of Police Posts	No of Village Posts	No. of Area Commands	No of Divisions	No of Police Stations	No of Police Posts	No of Village Posts
Enugu	7,534	3	23	6	54	0	3	23	6	54	0
Gombe	17,100	3	29	34	74	129	3	29	34	74	129
Kaduna	42,481	3	36	59	105	202	3	36	59	105	202
Lagos	3,671	8	84	128	78	298	8	84	128	78	298
Rivers	10,575	3	38	34	63	103	3	38	34	63	103
FCT (Abuja)	7,607	3	16	11	44	7	3	16	11	44	7
Total	909,890	129	1165	1260	2609	3780	129	1,165	1680	2,609	3,780
MET), Abuja											

Sources: Nigeria's Police Force Headquarters, Abuja

Table 9d: Number of area commands, divisions, stations and police posts, 2016

State	Area commands	Divisional HQ	Police stations	Police posts	Village posts
Enugu	5	51	NIL	50	NIL
Gombe	4	26	30	38	NIL
Kaduna	4	51	59	105	95
Lagos	14	112	22	NIL	NIL
Rivers	9	88	25	40	NIL
FCT (Abuja)	5	40	27	28	1
Nigeria	217	1,730	1,212	2,020	328

Source: Nigeria's Police Force Headquarters, Abuja

The inadequate budgetary allocation, coupled with misappropriation and mismanagement of available resources, have been serious hindrances to the effective performance of police duties. Training and retraining of police personnel in line with the

dynamics of policing is the standard practice for effective policing.[102] Unfortunately, this is not so in Nigeria because a police personnel can serve until retirement without taking part in any meaningful retraining.[103] Training and retraining of police personnel will not only assist the police organisation to function properly, it could provide lasting solutions to their productivity problems.[104] This a sure way to accomplishing organisational goals or targets.[105] Effective training remains the best solutions to the efficiency problems of the Nigerian Police. This will assist in producing competent police corps that will work towards achieving the aims and objectives of the police organisation. It is, however, important that police organisation in Nigeria must take the issue of staff training with all the seriousness it deserves. Government must stop paying lip service to training police personnel; and deliberate efforts have to be geared towards the police discharging their duties in accordance with Section 4 of the Police Act.[106]

4.10.4 Ill-equipped nature of the police in Nigeria

The police, often times, have not been able to meet the safety and security needs of the society and are frequently overpowered by well-armed and many violent criminals.[107] The police lack modern equipment to effectively combat crime in Nigeria.[108] A former Inspector-General of Police, Mr Sunday Ehindero, in 2008, observed that the police had only 5,900 serviceable vehicles.[109] This is against the over 30,010 recommended vehicular needs.[110] The result is that there is a short fall of 24,051 vehicles. The question that comes to mind is: how can the police fight crime under such condition? In his assertions, Sunday Ehindero reported the state of infrastrural inadequacies in the Nigerian Police Force as follows:

> Infrastructural facilities and the much-needed equipment are in short supply in the Nigerian Police Force; vehicles, communication equipment, scientific tools for investigation, intelligence gathering, and control equipment are grossly inadequate; less than 5% of police officers in the States and Federal Capital Territory have walkie-talkies for communication during patrols; less than 20% of the police stations have telephones to respond to distress calls from the public during emergencies; in terms of vehicles, about 5% of the commands

[102] Otwin Marenin, 'The Futures of Policing African States' (2009) 10 Police Practice and Research 349, 350.
[103] Remi Anifowose and Adelaja O Odukoya, 'Towards Curbing Electoral Violence in Nigeria' in John A Ayoade and Adeoye A Akinsanya (eds), *Nigeria's Critical Election, 2011* (Rowman & Littlefield 2013) 302.
[104] ibid.
[105] ibid
[106] Musa B Abdulkadir, 'Improved Training on Disciplinary Investigations' in Etannibi E O Alemika and Innocent C Chukwuma (eds), *Civilian Oversight and Accountability of Police in Nigeria* (Centre for Law Enforcement Education CLEEN 2003) 8.
[107] Idowu Johnson, 'Policing in Contemporary Nigeria: Issues and Challenges' (2013)16 African Journal for the Psychological Studies of Social Issues 71, 75.
[108] ibid 417.
[109] ibid 36.
[110] ibid.

> have one or no lorry and other operational vehicles; and the situation has not really changed till now.[111]

Often, robbers normally kill police officers because they have more sophisticated weapons than the police do. The position of the Nigerian Police is like sending a child to school without a pen to write. Even the marine Section of the Police is not left out. They do not have sufficient boats to carry out operations. For example, Lagos, which is the commercial capital of Nigeria, is poorly policed. The situation is so bad that Adekunle Ojedokun stated as follows:

> It is important to note that the Nigerian Police Force today is among the most poorly-equipped police forces in the world, with only 90,000 arms, 92 million rounds of ammunition, 365 million pieces of riot control equipment, 5,900 serviceable vehicles, 108 serviceable marine boats, 742 horses, 89 dogs and 3 functional helicopters.[112]

It is evident from the above that the facilities are far from the standard requirements. As such, he further stated as follows:

> However, the global minimum requirements were 140,000 arms, 150 million rounds of ammunition, 600 million pieces of riot control equipment, 35,000 vehicles, 500 marine boats, 2000 horses, 600 dogs and 30 helicopters.[113]

This lack of modern equipment is part of what is responsible for non-recovery of numerous stolen vehicles in Nigeria as discussed earlier, as against what happens in many countries, where such vehicles are easily tracked and recovered using modern technology. [114] Also, lack of modern equipment for crime detection, for example, through biometrics, has contributed immensely to the inability to detect crime suspects, which is responsible for long-term investigation of criminal cases such as armed robbery, murder, kidnapping and terrorism. In fact, the Nigerian Police Force can be described as an impotent force in the face of crime.[115]

4.10.5 Police homicide

The rate at which criminals are killing police officers in recent times is alarming, thereby inflicting fear in the mind of police officers in discharging their duties. For example, when policemen are posted to volatile areas in the country, like in the North where there is

[111] As stated by Sunday Ehindero in Open Society Initiative (n 1) 32.
[112] Usman Adekunle Ojedokun, 'Contributing Factors to Police Homicide in Nigeria' (2014) 87 Police Journal: Theory, Practice and Principles 41, 44.
[113] ibid.
[114] Eke Chijioke Chinwokwu, 'Crime and Criminal Investigation in Nigeria: A Study of Police Criminal Investigation in Enugu State' (2013) 1 International Journal of African and Asian Studies 66, 66-67; Dominic Okereke, Africa's Quiet Revolution Observed from Nigeria (Paragon Publishing 2012) 1007; Kelvin G Karpiak, 'The Anthropology of Police' in Ben Bradford, Ian Loader, Beatrice Jauregui and Jonny Steinberg (eds), *The SAGE Handbook of Global Policing* (SAGE 2016) 115.
[115] Chinwokwu (n 114).

insurgence of Boko Haram, they will not go there.[116] They may even prefer resigning to going there because the terrorists possess more sophisticated ammunitions than they do.

Generally, across the globe, policing remains one of the most dangerous occupations. police officers, by the nature of their profession, usually encounter ferocious and felonious criminals and are unprotected from dangerous situations. Armed criminals have killed a large number of police officers in active service while discharging their duties. For example, on March 30, 2017, suspected armed robbers reportedly killed two police officers during the robbery of a commercial bank.[117] Not only that, recently, in April 2017, five out of the gallant, brave and patriotic police officers lost their lives during an operation while they were out to rescue a kidnapped victim. One of them was a Nigerian Army Captain, while the remaining four were police officers.[118] The horrible and dreadful murder of police officers by criminal elements in Nigeria are being reported on a daily basis. In fact, police officers being victims of violent attacks in Nigeria started as far back as during the creation of the Consular Guards by the British colonial administrators in 1861, which later became the Nigerian Police Force.[119]

The unfavourable condition under which the Nigerian Police work contributes immensely to police homicide in Nigeria. Inadequate funding brings about inadequate supply or outright lack of modern equipment required for effective policing, thereby making police officers prone to danger.[120] This often leads to preventable murder of officers of the force, particularly by notorious criminals with more sophisticated equipment.[121]

4.10.6 Language barrier

Language barrier is also one of the problems inhibiting effectiveness in the Nigerian police system. Language and cultural barriers usually occur when police officers are posted to terrains different from their local region; it becomes difficult to communicate with local people. In the Ankpa area, Ibos and other Southern part of Nigeria's indigenous groups were often maltreated by the Igala Native Authority Police because the police regarded them as arrogant on the grounds that they could not speak to them in the language they could

[116] Osita Agbu, 'An overview of Party Formation in Nigeria, 1960-1999' in Osita Agbu (ed), *Elections and Governance in Nigeria's Fourth Republic* (CODESRIA 2017) 13.
[117] Premium Times June 8 2017 < http://www.premiumtimesng.com/regional/north-central/227505-armed-robbers-kill-two-Police-office>accessed 17 July 2017.
[118] Four Nigerian Policemen, army officer killed in clash with kidnappers<http://www.africanews.com/2017/04/10/4-Nigerian-Policemen-army-officer-killed-during-clash-with-kidnappers/ >17 July 2017.
[119] Gbenemene Kpae and Adishi Eric, 'Community Policing in Nigeria: Challenges and Prospects' (2017) 3 International Journal of Social Sciences and Management Research 47, 49.
[120] Isawa J Elaigwu, *Security and Peace* (Adonis & Abbey Publishers Ltd 2014) 79.
[121] Ojedokun (n 112).

communicate in.[122] There is an adage that says that information is power; when there is an information as to what is going on underneath in an area, the police will be able to proactively plan towards that direction.

4.10.7 Absence of useful information to the police for combatting crime

It is important to have good interaction between the police and members of the community for effective and efficient policing, but this is not the case in Nigeria. This is because when a crime is reported by a person to the police, such an individual becomes the prime suspect and may get into some sort of trouble. Generally, people refrain from coming forward to give useful information that may assist the police in their work. This situation has even received judicial notice. For instance, in the case of *Ogundare v State*,[123] the Supreme Court noted in its judgment that, it was the common practice that Nigerian witnesses would not come forward to give evidence by avoiding trouble.[124] They would have information about a criminal who lives beside them and keep quiet. This should not be the case since they know the nooks and crannies of their environment. Not only that, they know their neighbours better than any police officer. They should be able to give first-hand information that can assist in tackling security issues in the environment.

4.10.8 Political interference in police affairs

The police in Nigeria today, have become an instrument in the hands of politicians for settling political scores. Accordingly, in the case of *A S E S A v Ekwueme*,[125] the Court of Appeal admonished the police to desist from being wrongly used by politicians to perpetrate evils. Nigerians have no fundamental human rights before the police and are not protected and served, except those that count as influential citizens or have a connection with political elites.[126] Therefore, the time is now set to make efforts to develop a police force that is formidable in performing the roles to maintain law and order as well as protecting the lives and property of the people without discrimination, as cast upon them by the Constitution.

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[122] Otwin Marenin, 'Policing Nigeria: Control and Autonomy in the Exercise of Coercion' (1985) 28 African Studies Review 73, 84.
[123] (1995) 5 NWLR pt 395 at 266.
[124] ibid.
[125] (2001) FWLR pt 51 at 450-457.
[126] Oluwagbenga Michael Akinlabi, 'Do the Police really protect and serve the Public? Police deviance and Public Cynicism towards the Law in Nigeria' [2061] Journal of Criminology and Criminal Justice 1, 2.

4.10.9 Shortage of manpower

The Nigerian Police Force was established to cater for few on the belief that only very few people would commit offences against the law.[127] Today, the reverse is the case. The rate of crime has become untenable as discussed earlier. Unfortunately, the police population in Nigeria has continued reduce despite increase in human population that is bringing about increase in crime as shown in Tables 10a, 10b, 10c and 10d, covering a period between 2006 to 2015. This is quite dangerous because increase in human population and crime rate has not been matched by a dependable increase in the number of police officers in the Nigerian Police Force, an indication that the police are undermanned and gradually overburdened with the task of effective policing in Nigeria. The strength of the Nigerian Police Force, as at November 2016, was about 371,800 (as an estimate provided by the Inspector-General of Police). This left the police/citizen ratio at 1:688 in 2016. This ratio falls short of acceptable international standard of 1:400 as a recommended ideal by the United Nations standards.[128] Although there were plans to increase police personnel to 650,000 by adding new recruits to the existing ones,[129] this was never implemented, and even if implemented, the number would not have matched up with the existing rate of crime in Nigeria. In addition, investigation reveals that one-third of police personnel in Nigeria serve some selected individuals as Special Police Guards. The implication is that the number available to fight crime and defend the public from harm is lessened. It, therefore, means from the analysis above that, about 140 million Nigerians rely on the services of 210,177 police officers (that is, one police officer for every 666 persons).[130] The ratio of police officers in Nigeria today is comparatively smaller due to the ever-increasing population. Apparently, this ratio is bad for the image of the country.[131] Thus, it is pertinent to employ more hands with adequate training into the Nigerian Police Force if Nigeria's criminal justice system is to function effectively.

Based on available data, it is a clear fact that the number of police personnel in the Nigerian Police Force is grossly inadequate considering the enormous task of effective policing. The police-citizen ratio has failed to meet international standards of one police officer to 400 people. In Tables 10a, 10b, 10c and 10d, it is obvious that there were extra people above the recommended international standard per police officer in the states. It is, however, apparent that the trend has not changed because as at 2015, the number of excess

[127] Obaro (n 41) 425.
[128] Nigeria Vision 2010 Committee (n 81).
[129] Nigerian Police Recruitment 2017 <http://shiloh-2016.com.ng/nigeria-Police-recruitment-2017/>accessed 14 August 2017.
[130] Akinseye-George (n 30) 236.
[131] Babalola (n 12) 138.

people per police personnel had increased substantially. The worst of it is that even in states where police-people ratio was ideal, a large percentage of officers are used as private and official bodyguards of the rich and political elites called the Very Important People (VIPs), thereby making them unavailable to communities. From the facts presented, therefore, it is glaring that the Nigerian police is faced with inadequate manpower for the huge task of efficient and effective policing of life and property in Nigeria.

Table 10a: Number of policemen by state, 2006-2007

State/Year	2006				2007			
	Human population	Police population	Number of police to people ratio	Number of extra people per police officer	Human population	Police population	Number of police to people ratio	Number of extra people per police officer
Enugu	3,267,837	4,126	792	292	3,365,872	4,288	892	392
Gombe	2,365,040	1,448	1633	1133	2,440,721	4,609	601	101
Kaduna	6,113,503	1,396	4379	3879	6,296,908	11,397	628	128
Lagos	9,113,605	22,937	397	-	9,405,240	15,934	670	170
Rivers	5,198,716	9,049	575	75	5,375,472	10,907	558	58
FCT (Abuja)	1,406,239	13,292	106	-	1,537,019	12,060	136	-
Nigeria	140,431,790	319,872	439	-	144,925,607	309,483	531	31

- represents data not available
Sources: Nigeria's Police Force Headquarters, Abuja and National Population Commission, Abuja

Table 10b: Number of policemen by state, 2010-2011

State/Year	2010				2011			
	Human population	Police population	Number of police to people ratio	Number of extra people per police officer	Human population	Police population	Number of police to people ratio	Number of extra people per police officer
Enugu	3,706,629	5,717	648	148	3,825,242	5,695	672	172
Gombe	2,682,608	4,726	568	68	2,768,452	3,986	695	195
Kaduna	6,934,400	11,659	595	95	7,156,301	-	-	-
Lagos	10,337,345	25,882	399	-	10,668,140	-	-	-
Rivers	5,896,779	15,458	381	-	6,085,476	-	-	-
FCT (Abuja)	1,595,063	13,035	122	-	1,646,105	-	-	-
Nigeria	159,288,426	354,189	450	-	164,385,654	90,088	1825	1325

- represents data not available
Sources: Nigeria's Police Force Headquarters, Abuja and National Population Commission, Abuja

Table 10c: Number of policemen by state, 2012-2013

State/Year	2012				2013			
	Human population	Police population	Number of police to people ratio	Number of extra people per police officer	Human population	Police population	Number of police to people ratio	Number of extra people per police officer
Enugu	3,912,311	5,624	695	195	4,031,459	5,854	689	189
Gombe	2,865,649	3,897	735	235	2,958,833	5,133	576	76
Kaduna	7,319,192	-	-	-	7,542,095	11,987	629	129
Lagos	11,042,686	-	-	-	11,401,767	29,504	386	NA
Rivers	6,375,176	-	-	-	6,595,659	17,340	380	NA
FCT (Abuja)	2,456,945	-	-	-	2,696,403	14,655	184	NA
Nigeria	170,157,060	91,366	1,906	1,472	175,690,143	389,107	743	664

- represents data not available, NA means not applicable
Sources: Nigeria's Police Force Headquarters, Abuja and National Population Commission, Abuja

Table 10d: Number of policemen by state, 2014-2015

State/Year	2014				2015			
	Human population	Police population	Number of police to people ratio	Number of extra people per police officer	Human population	Police population	Number of police to people ratio	Number of extra people per police officer
Enugu	4,154,235	6,102	681	181	4,280,750	6,112	700	200
Gombe	3,055,047	5,051	605	105	3,154,389	4,119	766	266
Kaduna	7,771,785	10,892	714	214	8,008,472	9,674	828	328
Lagos	11,772,524	23,765	495	NA	12,155,337	21,324	570	70
Rivers	6,823,767	11,339	602	102	7,059,764	11,201	630	130
FCT (Abuja)	2,959,199	10,678	277	NA	3,247,608	8,222	395	NA
Nigeria	181,403,148	372,972	719	574	187,301,926	372,132	1,213	1,234

- represents data not available, NA means not applicable
Sources: Nigeria's Police Force Headquarters, Abuja and National Population Commission, Abuja

4.10.9.1 Appraisal of the debate on state policing in Nigeria

For quite some time now, the creation of State Police has generated a lot of debate as an area of interest in modern policing by many scholars.[132] This has generated resilient arguments for or against the proposal. The creation of a State Police Force in Nigeria is like two sides of a coin, the antagonist and the protagonist. Antagonists of state policing have argued strongly against the creation of a State Police, justifying the position that Nigeria is not yet ripe for it, considering its level of democracy and the mentality of do or die in the political terrain of the country, insisting and maintaining the fact that State Governors have the potency to turn them into a personal army to fight political disagreements.[133] In addition, the establishment of a State Police in Nigeria today may not be feasible according to the antagonists due to the problem of funding. Ode and Naji argue that it would be difficult for States to fund the State Police and state as follows:

> Virtually all the States depend on federal allocations for survival in Nigeria. This is already challenging the viability of many States whose incomes are hardly enough to meet their expenditure. To add police responsibility to the affairs of States, most of which are still battling the payment of minimum wages or even payment of salary, appears to be overkilling and overegging the pudding of the State.[134]

Prior to the military era in 1966, there were Local Police between 1930 and 1966, which coexisted with the Federal Police Force.[135] Local Police Forces served the regional powers both in the North and Western parts of Nigeria.[136] It appeared that politicians of the First Republic abused the multiple police forces.[137] The termination of Local Police Forces was attached to a number of points. At the emergence of the newly independent nation in 1966, they were disbanded by a Committee headed by Yusuf Gobir. This Committee recommended the abolition of Local Police Forces on the grounds that they were poorly trained, and also being used as an instrument of suppression of opponents by traditional rulers and politicians in Northern Nigeria as well as by political parties and governments in power in the then Northern and Western Regions.[138] These local forces were eventually abolished.[139] Ever since then, there has been a Federal Police Force, but in recent times, the protagonists of

[132] Michael (n 122) 2.
[133] Ode and Nanji (n 13) 413.
[134] ibid.
[135] Oteh Chukwuemeka Okpo, Flora O Ntunde and Alexander Anichie, 'The Nigerian Police, Safety and Public Policing: An Overview' (2012) 2 Asian Economic and Social Society 1172, 1176.
[136] ibid.
[137] ibid; Ikuteyijo and Rotimi (n 59) 224.
[138] Ohonbanu Obarogie, 'The Dilemma of Police Organiation Under a Federal System: The Nigerian Example' (1972) 6 The Nigerian Law Journal 73, 73-74.
[139] Obarogie (n 138); Ikuteyijo and Rotimi (n 59).

state policing are clamouring that the *status quo* must remain in order to tackle the security challenges facing Nigeria.[140] There is this fear because of what happened to the Local Police in the past, which led to their demise,[141] that our politicians of today as well might not have the required temperament that can withstand multiple police forces. Apart from that, the Nigerian Police Force has been labeled as corrupt, oppressive and obedient to the powers that be.[142] This system of policing results, to a large extent, in distrust and detestation of the police.[143]

In the past, Nigeria was part of the secured nations of the world. In the last few decades, Nigeria has witnessed a huge growth in the incidents of crime and criminality as the country has suddenly transformed into a place of suicide bombings, kidnappings, armed robberies, killings, assassinations, political violence and hooliganism, among others. Armed robbers, kidnappers and terrorists have virtually taken over the nation.[144] The security situation of Nigeria is captioned by Linus Ugwu as follows:

> Insecurity has eaten deep into the fabrics of every fa cet of the Nigerian society; this escalating insecurity, in recent times, has called to question the centralisation of policing in the country and forward-looking the need to decentralise the Force, to ensure that states establish, maintain and control their police formations; creation of the State Police is the only solution to all Nigeria's security challenges and precursor to this is the idea of community policing.[145]

Vital to the idea is the neighbourhood principle that presumes that everyone in the vicinity knows each other thereby, making it easy to monitor deviants in the community.[146] It encourages the police to deviate from their out-dated style placed on crime fighting and take proactive steps to look toward to the community and solve problems from their origins.

Community policing endorses good working connections between the police and members of the public in the sense that they collectively identify precise problems faced by the community and work in partnership to solve them. That is to say, the police are not the only

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[140] Michael (n 122).
[141] The most famous example of this was when the Colonial Police Force was used to violently suppress workers strike in 1945, 1947 and 1949 as well as Women's riot of 1929-1930 and 1948. It was also used to suppress Kano communal riots of 1953 and Tiv land communal riot of 1959-1960 which results to deaths of many people and destruction of property. See Ikuteyijo and Rotimi (n 59) 225; Tenumo (n 25).
[142] Etannibi E O Alemika, 'Colonialism, State and Policing in Nigeria' (1993) 20 Crime Law and Social Change 187, 187.
[143] John Mukum Mbaku, *Corruption in Africa: Causes, Consequences, and Cleanups* (Lexington Books 2007) 46; Mwalimu (n 37) 866.
[144] Isawa Elaigwu, *Security and Peace* (Adonis & Abbey Publishers Ltd 2014) 7-8.
[145] Odo Linus Ugwu, 'The Impact and Consequences of Corruption on the Nigerian Society and Economy' (2015) 4 International Journal of Arts and Humanities 177, 177.
[146] Ibid.

keepers of law and order; rather, community members are associates who team up to advance safety within the community.

This type of policing is pigeon-holed by the view that police 'service' and not 'police force', where the priority of the police performance is public fulfilment, serenity and self-reliance.[147] This knowledge of community policing started in the United States in the early 1970s when it was discovered that persons and neighbourhood groups were proficient in contributing to their own safekeeping.[148] Community policing is designed to develop effective partnerships with neighbourhood groups. The idea relies upon structural decentralisation and a re-orientation patrol in order to facilitate two-way communication and cordial relationships between the police and the public.[149] Therefore, community policing is premised on the fact that a strong relationship between the police and the people of the community will have a huge effect to upsurge public safety and decrease the rate of crime in society.[150]

Thus, numerous threats were posed to the nation's security due to the unceasing upsurge rate of sophisticated crime, persistent killings as well as security and religious crises over a period of time combined with the defencelessness, unsympathetic and slothful disposition of the Nigerian Police that is centrally-controlled. This forms the basis for which people are clamouring for the creation of the State Police in Nigeria.[151] The protagonists of the creation of the State Police argue as follows:

> The establishment of a State Police is in accordance with the principle of Federalism on which Nigeria styles its Constitution. As a Federal State, the power of the Federal Republic of Nigeria is divided between the central government called the Federal Government and the 36 States of the Federation.[152] Law making function in the centre is the responsibility of the National Assembly while the States Houses of Assembly perform similar functions subject to the limit permissible by the legislative list contained in Second Schedule to the Constitution.[153] In addition, the executive powers of the Federation are vested in the President while those of the States are vested in the Governors. The exercise of these executive powers, in both cases, extend to the execution and maintenance of the Constitution and all laws made

[147] Madaki and Kurfi (n 13) 131; John Domingo Inyang and Ubong Evans Abraham 'Policing Nigeria: A case for partnership between formal and informal Police Institutions' (2013) 1 Merit Research Journals 053, 056.
[148] Leonard U Ngwu and Chukwunka Clement Ahuruonye 'The Efficacy of Community Policing in Nigeria' (2017) 7 International Journal of Social Sciences and Humanities Reviews 168, 168.
[149] Wesley G Skogan and Susan M Hartnett, *Community Policing Chicago Style* (Oxford University Press 1997) 5.
[150] Ihekwoaba D Onwudiwe, 'Community Policing: The case of Informal Policing in Nigeria' in Dominique Wisler and Ihekwoaba D Onwudiwe (eds), *Community Policing: International Patterns and Comparative Perspectives* (CRC Press 2009) 81.
[151] Odeh and Nanji (n 134) 412.
[152] The Constitution of the Federal Republic of Nigeria (n 15) Section 2(2); Odeh and Nanji (n 134) 416.
[153] The Constitution of the Federal Republic of Nigeria (n 15) Section 4.

> by either the national or state assemblies, as may be appropriate, [154] If there are State Courts, why not State Police? Since human beings are not static, therefore, matters relating to human beings cannot be static. A decentralised form of policing cannot continuously be ignored.[155]

The above shows that the formation of a State Police is a welcome development in Nigeria. This will make it possible for State Governments to promptly address security issues at the level of the state without taking permission from the Federal Government against the provision of the Constitution that:

> Before a State Police Commissioner carries out an order issued by the State Governor, he may request that the matter be referred to the President or such Minister of the government of the Federation as may be authorised in that behalf by the President for his directions.[156]

In addition, the huge amount of money the Federal Government is spending on security is negatively affecting funding of other sectors such as education, agriculture and health, but unfortunately, the insecurity persists. Besides, the creaction of State Police will enhance transparency, accountability and judicious use of security votes that State Governors receive annually, amounting to billions of Naira. Many Nigerians, including the researcher, believe that the security votes allocated to State Governors on a monthly basis from the Federal account should be channelled into funding the State Police rather than the current situation where such funds go to the private accounts of State Governors. In addition, the creation of a State Police will provide an avenue for government to employ, especially the youth who contribute largely to increased crime rate in the society. This will go a long way in reducing the rate of crime. When one is gainfully employed, there will be no time or the need to be thinking of crime.[157] In addition, it will increase the numerical strength of the entire police force to meet international standards and serve as an active stimulus that will encourage community policing.

National security is an inviolable and non-compromisable part of human society.[158] These proofs lend credibility to the fact that insecurity calls for a reform in the security sector, because government has the sole responsibility of protecting the lives and property of people. A government that cannot assure and ensure adequate security for its citizens, has lost

[154] ibid Section 5(1).
[155] The effectiveness of the Nigerian Police Force has come seriously into question, as its ability to carry out satisfactorily its constitutional responsibilities can no longer be guaranteed. This is evidenced by the general situation of insecurity of life and property all over the country. Olong Matthew Adefi, Agbonika Josephine and Aladi Achor, 'Re-Awakening the State Police Controversy in Nigeria: Need For Rethink' (2013) 3 International Journal of Asian Social Science 2307, 2313.
[156] The Constitution of the Federal Republic of Nigeria (n 15) Section 215.
[157] Odeh and Nanji (n 134) 419.
[158] Odeh and Nanji (n 134) 413.

its essence.[159] Security of lives and property should be the cardinal objective of the modern society.[160] The most unfortunate thing is that the Police Commissions in the various States in Nigeria are strictly under the active control of the Inspector-General of Police. Thus, if Nigeria is to curtail the current trends of insecurity in the country, an informed constitutional method and policy decision must be taken to overhaul the security sector through target-oriented creative reforms. Interestingly, taking stock from policing systems existing in other parts of the world, it is noteworthy that both the Federal and State Government-run Police have operated successfully in different countries such as the US and Canada.[161]

4.11 Challenges posed by the police to Nigeria's criminal justice system

Apart from the problems faced by the Nigerian Police in effective delivery of their services in crime prevention and control, they themselves pose certain challenges to the Nigerian Criminal Justice System as discussed below.

4.11.1 The problem of holding charge

Holding charge, as the name implies, is a frame up charge.[162] It is usually used by the police to hold a criminal suspect in prison custody before investigations are conducted and evidences gathered to arraign the accused person before a competent court of law for trial. This has constituted a major source of congestion in Nigeria's prisons and a major clog in Nigeria's criminal justice system.[163] Holding charge is a visible evidence of the inefficiency of Nigeria's criminal justice system. It is a product of police inefficiency which causes congestion in prisons and police cells. Majority of awaiting trial inmates are kept in prisons under this remand procedure referred to as holding charge. According to this practice, Magistrate Courts that do not have jurisdiction to try or grant bail to the accused charged for a crime such as felony, can remand such people pending the conclusion of investigations by the police for proper arraignment of such a person in a competent court. The court issuing the remand order or warrant is not bothered by whether there is evidence that links the person with the crime accused of, but only relies on the police charge sheet accusing such a person of committing crime. The researcher believes such an act can violate the rights of the criminal suspect; lack of jurisdiction of a court to try a case should be total, that is, it should also deprive the court to order such remand. This holding charge is a major problem in Nigeria's criminal justice system not only because of the congestion it causes in Nigeria's Prisons but

[159] ibid.
[160] Oarhe and Aghedo (n 140) 127.
[161] Martha A Field, 'The differing Federalisms of Canada and the United States' (1992) 55 Law and Contemporary Problems 107, 109.
[162] Akinseye-George (n 30); Adebayo (n 98).
[163] ibid 305-306.

also the inappropriate and unconstitutional disregard for the fundamental human rights of accused persons.[164] A closer look at Tables 11 shows that the problem of criminal suspects staying in jail for periods longer than the statutory prescript while awaiting trial, is caused mainly by the police in most cases. In the table, several cases were adjourned in the court as a result of police action in all the States and in FCT, Abuja, which is a reflection of what is happening in Nigeria. This continued to increase from 2003 to 2015, which cannot be different from what is obtainable today since issues relating to the Nigerian Police Force have not been addressed. This corroborates the fact that the Nigerian Police contribute immensely to delays in trial, which consequently leads to prison congestion.

Table 11: Number of cases adjourned at the instance of police in Nigeria by state, 2003-2015

State/Year	2003	2004	2005	2006	2007	2013	2014	2015
Enugu	162	154	50	137	288	335	412	371
Gombe	76	-	76	-	180	116	156	148
Kaduna	142	162	80	163	182	213	225	217
Lagos	564	440	3,536	284	1,089	2,104	2,443	2,793
Rivers	780	522	790	1,071	1,002	1,972	1,432	1,775
FCT (Abuja)	320	212	-	54	-	179	101	197
Nigeria	8,565	8,808	11,427	10,236	16,761	17,867	17,887	18,006

- represents data not available
Source: Nigeria's Police Force Headquarters, Abuja

4.11.2 Corruption within the police organisation in Nigeria

Corruption refers to any conduct that represents misuse of state resources for private benefit.[165] It is a deviation from social norms.[166] Corruption is the use of public office for private gain.[167] The World Bank considers corruption as the single greatest obstacle to economic and social development.[168] Avitus Agbor labels it as the 'invisible enemy amongst us'.[169] Corruption hampers the rule of law; it is a bane of devepment of any nation and weakens the institutional framework for economic growth. The Economic and Financial Crimes Commission (EFCC) Act defines corruption as:

[164] ibid 249.
[165] Angela Ajodo-Adebanjoko and Nkemakolam Okorie, 'Corruption and the Challenges of Insecurity in Nigeria: Political Economy Implications' (2014) 14 Global Journal of human-Social Science 10, 11-12.
[166] Michael Johnston, 'The Definitions Debate: Old Conflicts in new Guises' in Arvind K Jain (ed), *The Political Economy of Corruption* (Routledge 2002) 17.
[167] Colin Q Nicholls, Timothy Daniel, Alan Bacarese and John Hatchard, *Corruption and Misuse of Public Office* (OUP Oxford 2011) 2.
[168] World Bank, A Guide to the World Bank (2nd edn, World Bank Publications 2007) 143; David Weil, *Economic Growth: International Edition* (Routledge 2016) 350.
[169] Avitus A Agbor, 'Prosecuting the Offence of Misappropriation of Public Funds: An Insight into Cameroon's Special Criminal Court' (2017) 20 Potchefstroom Electronic Law Journal 1, 1.

> The non-violent criminal and illicit activity committed with the objectives of earning illegally either individually or in-group or organised manner, thereby violating existing legislation governing the economic activities of government and its administration. It includes any form of fraud; narcotic; drug-trafficking; money laundering; embezzlement; bribery; looting and any form of corrupt malpractices; illegal arms deal; smuggling; human trafficking and child labour; illegal oil bunkering; among others.[170]

Corruption is perceived as:

> A perversion or a change from good to bad, or the violation of established rules of conduct governing the actions of someone in a position of public authority for personal gain and profit at the expense of the general good.[171]

Though corruption is endemic virtually in all segments of the Nigerian society, it is more common among the police, therefore, making the public to lose confidence in them. Without doubt, the Nigerian Police are involved in corruption like several other state institutions.[172] The corrupt situation of the Nigerian Police can be described using the following assertions:

> The degree of corrupt practices in the police has eaten too deep into the fabric of the organisation;[173] if personnel of other institutions engage in corruption at all, they do it with caution while the police do so in the full glare of the public;[174] and the police have always been found wanting and incapable of curtailing the corruption crisis, most especially because of the disregard by members of the public.[175]

This manifestation of corrupt practices in the Nigerian Police has marred the image of the police in the eyes of the public. Put simply, the image of the Nigerian Police is poor. It is now taken for granted that if a person can 'pay his way through', he can manipulate the police as he wishes.[176] The inability of Nigerian Police to prosecute diligently and secure convictions of criminals is because of corruption. In a recent data generated by ICPC in 2016 and published by the National Bereau of Statistics as shown in Table 12a, it is clear that corruption, particularly through bribery, is an integral part of the Nigerian society, and no

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[170] Economic and Financial Crimes Commission (Establishment) Act, 2004, Section 46.
[171] Oluwatoyin O Oluwaniyi, 'Police and the Institution of Corruption in Nigeria' (2011) 21 Policing and Society 67, 69.
[172] Toyin Falola and Bukola Adeyemi Oyeniyi, *Nigeria* (ABC-CLIO 2015) 277; John Mukum Mbaku, 'Confronting Police Corruption in Developing Societies: The role of the Rule of Law' in Kempel Roland Hope (ed), *Police Curruption and Police Reforms in developing Societies* (CRC Press 2015) 34; Valentine Cyndy Egbejimba, *Mugu* (Dorrance Publishing 2009) 183; Eme Okechukwe Innocent and Okon Chukwuma, 'The Police and Criminal Justice System in Africa: Agenda for Reform' (2009) 4 International Journal of Development and Management Review 166, 166.
[173] Aleyomi B Micheal, 'Is State Police a Panacea to Security Threat in Nigeria?' (2013) 4 Afro Asian Journal of Social Sciences 1, 13.
[174] Peter F Adebayo and Emmanuel Ojo Olugbade, 'The Challenges of Effective Policing as Measure of Controlling the Phenomenon of Police Corruption in Nigeria Today' (2009) 4 International NGO Journal 070, 072.
[175] Micheal (n 129) 13.
[176] ibid.

sector can be said to be completely free. Although there are several means of bribery in the country, Table 12a reveals that about 65.4% of bribery cases in Nigeria is by direct request from the officials involved. This is common among police officers as they often shamelessly request openly for bribes as earlier mentioned. Table 12b in Chapter Four further indicates that the police was the most corrupt organization in Nigeria with 46.40% of the personnel involved in one form of bribery or the other. This is an empirical evidence of the fact that corruption has eaten deep into the rank and file of the Nigerian Police Force. Additionally Table 12c shows that the number of people involved in bribery with the police ranged between 480,628 and 2,472,022 among the selected States and FCT Abuja. This can be said to be on a high side, and as such, justice is bound to be perverted when bribery is involved.This is a major reason why they don't perform their functions effectively.

Table 12a: Corruption cases in Nigeria by bribery, 2016

Type of bribe request	Percentage
Direct request from the official	65.4
The official indirectly requested a payment	19.9
Nobody asked for it, I did it to facilitate/accelerate the procedure	8.2
Do not know/NA	3.7
A third person requested the extra payment	2.8
Total	100

Source: Independent Corrupt Practices and Other Related Offences Commission, Abuja

Table 12b: Prevalence of bribery by type of public officials in Nigeria, 2016

Car registration/driving license agency officers	28.50%
Immigration Service officers	30.70%
Judges/Magistrates at the court	31.50%
Prosecutors	33.00%
Police officers	46.40%

Source: Independent Corrupt Practices and Other Related Offences Commission, Abuja

Table 12c: Prevalence of bribery among the police in Nigeria, 2016

State	Number of people who paid a bribe	Average number of bribes paid by payers	Average bribe size (₦)
Enugu	480,628	5.52	5,431.98
Gombe	230,537	7.48	5,172.74
Kaduna	1,600,713	2.64	6,322.88
Lagos	2,472,022	4.54	3208.62
Rivers	1,218,838	4.69	9,943.00
FCT (Abuja)	591,353	4.15	9,088.19

Source: Independent Corrupt Practices and Other Related Offences Commission, Abuja

Corruption has become institutionalised by police officers. It is a well-established fact that corruption is deeply rooted in the Nigerian Police Force, particularly in extorting money from motorists at illegally mounted roadblocks and checkpoints. They collect money unashamedly in the full view of passengers and other road users.[177] Most police officers in Nigeria engage in extorting money from people at the slightest opportunity, particularly at taxi parks and market places on a daily basis. In fact, checkpoints and roadblocks strategically meant for combatting crime, have been converted to extortion points by the Nigerian Police in the full glare of the public. Habitually, these checkpoints have been transformed into 'toll gates', especially for commercial vehicles; the difference, of course, being that the proceeds go into private pockets.[178] These checkpoints have become illegal business ventures for the police to enrich themselves from bribes that drivers and passengers alike are forced to give.[179] Police extortions, often times, result in confrontations between them and frustrated road users to the extent that some escalate into problems that are more severe. Motorists are commonly held, humiliated and threatened until the victims pay through their noses before securing their release. Many have lost their lives at the hands of the police because they have refused to pay bribes as low as twenty Naira only.

The corruption-related activities of the police have contributed in no little way to increasing the rate of crime in Nigeria. For instance, from 2005 to 2015, despite the numerous road blocks and check points mounted (Tables 13a, 13b and 13c), the Police never recovered

[177] Alice Hills, 'The dialectic of Police Reform in Nigeria' (2008) 15 Modern African Studies 215, 219.
[178] Olusola O Karimu, 'Nigeria Police Force performance in Crime Prevention and Control: An Assessment' (2014) 6 International Journal of Academic Research and Reflection 81, 87; Cheri (n 131) 46; See generally Adiza Mercy Odeh and Umoh Nanji, 'State Policing and National Security in Nigeria' (2015) 6 Mediterranean Journal of Social Sciences 412, 418.
[179] ibid.

the large number of the stolen vehicles. In 2005 for example, none of the 4 and 11 vehicles stolen in Gombe and Rivers States respectively was recovered while 24 and 555 vehicles were lost to thieves in Enugu and Lagos respectively. This trend continued till 2015 and the situation is still the same today. Thisjustifies inefficiency, connivance with thieves and robbers and corruption by demanding bribes from motorists thereby making it difficult to curb the criminal act, thus having negative effect on Nigeria's criminal justice system.

Table 13a: Total number of vehicles stolen, recovered and not recovered, 2005-2006

State/Year	2005			2006		
	Number of vehicles stolen	Number of vehicles recovered	Number of vehicles not recovered	Number of vehicles stolen	Number of vehicles recovered	Number of vehicles not recovered
Enugu	40	24	16	80	25	55
Gombe	4	-	4	4	1	3
Kaduna	-	-	-	20	5	15
Lagos	1,157	555	602	1,048	495	553
Rivers	11	-	11	118	98	20
FCT Abuja	-	-	-	102	62	40
Nigeria	1,749	760	989	2,191	1,063	1,128

- represents data not available
Source: Nigeria's Police Force Headquarters, Abuja

Table 13b: Total number of vehicles stolen, recovered and not recovered, 2007-2009

State/Year	2007			2008			2009		
	Number of vehicles stolen	Number of vehicles recovered	Number of vehicles not recovered	Number of vehicles stolen	Number of vehicles recovered	Number of vehicles not recovered	Number of vehicles stolen	Number of vehicles recovered	Number of vehicles not recovered
Enugu	9	1	8	78	17	61	15	4	11
Gombe	1	0	1	0	0	0	15	5	10
Kaduna	0	0	0	41	15	26	31	8	23
Lagos	0	0	0	1,134	1,108	26	0	0	0
Rivers	0	0	0	0	0	0	147	0	147
FCT (Abuja)	0	0	0	258	61	197	204	131	75
Nigeria	582	187	395	2,433	1,464	970	-	-	-

- represents data not available
Source: Nigeria's Police Force Headquarters, Abuja

Table 13c: Total number of vehicles stolen, recovered and not recovered, 2013-2015

State/Year	2013			2014			2015		
	Number of vehicles stolen	Number of vehicles recovered	Number of vehicles not recovered	Number of vehicles stolen	Number of vehicles recovered	Number of vehicles not recovered	Number of vehicles stolen	Number of vehicles recovered	Number of vehicles not recovered
Enugu	52	25	27	15	4	11	24	17	7
Gombe	0	0	0	15	5	10	128	82	46
Kaduna	0	0	0	67	50	17	0	0	0
Lagos	0	0	0	69	30	39	0	0	0
Rivers	0	0	0	17	7	10	2	2	0
FCT (Abuja)	0	0	0	214	139	75	75	47	28
Nigeria	551	341	210	1,174	600	574	817	436	251

Source: Nigeria's Police Force Headquarters, Abuja

Collection of monetary tokens in order to alter the course of justice, embezzlement and diversion of police funds to private accounts are typical of the Nigerian Police Force. A typical example is the infamous case of the former Inspector-General of Police, Tafa Balogun, who was forced to resign from his position in January 2005 due to allegations of money laundering, corruption, theft and unlawful enrichment. Corruption allegations levelled against him left a dirty stain on the image of the police. On 23rd November 2005, the trial judge, Justice Binta Nyako of the Federal High Court in Abuja, held in her judgment that Tafa Balogun was a first offender in the case and had shown remorse throughout the trial and, consequently, sentenced Mr Tafa Balogun to six months imprisonment and a fine of five hundred thousand Naira (₦500 000) on each of the eight charges against him. It was further held that his assets be seized after he pleaded guilty to an eight-count charge bordering on money laundering, corruption, theft of public resources and unlawful enrichment.[180] A staggering sum of 17 billion Naira was traced to his personal account.[181] This is an organisation which he presided over and which he claimed to be poorly equipped. This shows that the money meant for improving the capacity of the police to conduct patrols, respond to emergency calls or investigate crimes, go into private pockets of high-ranking police officers. The researcher is of the opinion that, a leader should lead by example; if the head of the police could do this, his subordinates should have done more damage in denting the police image in their greater numbers. The Nigerian Police is an institution that cannot be regarded

[180] *Federal Government of Nigeria v Tafa Balogun & Others* (Unreported) Charge No. FHC/ AB/CR/14/ (2005); Bolaji Akinola, *Authority Stealing: How Greedy Politicians and Corporate Executives Loot the World's Most Populous Black Nation* (Author House 2012) 55.

[181] George Oji and Lillian Okenwa, Corruption: Balogun Pleads Guilty, Jailed 6 Months< http://nm.onlinenigeria.com/templates/?a=6126#> accessed 17 October 2017; <EFCC http://www.efccnigeria.org/index.php?option=comcontent&task=view&id=1704&Itemid=2 >accessed 17 October 2017.

as people's friends, despite their motto which reads 'police is your friend'.[182] Of course, the police are supposed to be a friend of the society, but high levels of corruption inhibit such a connection with the organisation.

Police job in Nigeria appears to be prone to corruption because offenders will do everything possible to escape from the law, but this is not enough reason for the police, who are supposed to fight corruption in the society, to be corrupt themselves. Corruption in the police is a monster that has been devastating the Nigerian society.[183] In fact, a corrupt police force is tantamount to having no police at all or even worse. If those legally bound to enforce the law now turn themselves to law breakers, which is the situation in Nigeria today, it is unfortunate. This has brought the police in Nigeria to a state of being negatively rated by the society. Of course, a police force with negative rating by the public is already stalled *ab initio* from effective performance and is bound to fail. People are distrustful about giving police officers information because it could result in them extorting money from the informant or he/she turned into a suspect. In short, the police is dysfunctional in Nigeria because of the culture of corruption that has eaten deep into its marrow. Indiscipline, unprofessional conduct and dishonesty have continued to be the challenge of the Nigerian Police for a long time, a condition that negatively affects the quality of service delivery. Members of the public have lost all confidence in the police.[184] In fact, the police and corruption in Nigeria today have mutated into the legendary Siamese twins that are not easy to separate.[185] Until the act of corruption is reduced to the berest minimum or completely phased out, if possible, effective and efficient policing in Nigeria will continue to be a mirage.

Furthermore, nepotism and ethnicity abound in the Nigerian Police Force.[186] This is a situation whereby the affairs of an institution are based on tribal, political and religious sentiments. In Nigeria, there is a general belief that a particular tribe constitutes top officials of police presently, and recruitments as well as promotions often follow the same trend.[187] This discourages the hardworking members of the force from putting in their best, with an overall negative effect on service delivery.

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[182] Ezenwa Okoro, *Mental Masturbation: The Throbs of a Young Biafran Soul* (ABIC Books 2003) 12.
[183] Odey Mercy Adiza, 'The Effects of Corruption on Good Governance in Nigeria' (2015) 4 International Journal of Development and Sustanability 292, 294.
[184] Osumah Oarhe and Iro Aghedo, The Open Sore of a Nation: Corruption Complex and Internal Security in Nigeria' (2010) 3 African Security Journal 127, 139; Tim Newburn, 'Introduction: Understanding Policing' in Tim Newburn (ed), *Handbook of Policing* (2nd edn, Willian Publishing 2004) 2-3.
[185] Onyeozili (n 28) 49.
[186] Oladipo B Stephen, 'Ethnicity and Marginalization within the Nigerian State: A Case study of the Nigeria Police Force' (2013) 3 Research on Humanities and Social Sciences 79, 83.
[187] ibid.

4.11.3 Illegal practices of the Nigerian Police Force

The Nigerian Police Force has also deviated from their primary assignment by undertaking countless illegal practices. In particular, the Nigerian Police Force has turned themselves into debt collectors in many cases.[188] The general attitude of using the police as debt collectors is appalling and shameful. This practice was condemned in the case of *McLaren v Jennings*,[189] the Justice of the Court of Appeal, Justice Salami, stated that the Nigerian Police have to put an end to wasting energy on recovery of debts and focus on statutory duties.[190] It was held that the Nigerian Police was not statutorily empowered to arrest or detain persons for purposes of collecting debt or rent. The court stated as follows:

> I have scrutinised the provisions of Section 4 of the Police Act and I am unable to see a provision empowering the police to enforce a contract or collect debt. The Appellant and the policemen went to Kano State to collect a debt which is not one of the several duties assigned to the police under the provisions of the police Act to which the court has directed and has not been able to find any provision of the Act empowering or constituting the Nigeria Police Force to one of debt or rent collector. It followed that the police officers who accompanied the appellant to Kano and assisted in the arrest of the respondent, were on frolics of their own because only civilised people can be used as debt or levy collectors but not the police.[191]

The provision of Section 4 of the Police Act, the Nigerian Law 2004, is very unambiguous on the responsibilities and powers of the police in the society, is basically to maintaining peace, law and order. Without a shred of doubt, debt collection or loan recovery is not within the domain of the legal duties and powers of the police. It is not the statutory responsibility of the police to enforce recovery or settlement of debts for individuals, organisations or commercial institutions such as banks.[192] The mandate of the police is to discharge its duties as strictly stated under the law.[193]

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[188] Open Society Justice Initiative, *Criminal Force Torture, Abuse, and Extrajudicial Killings by the Nigeria Police Force* (Open Society Institute 2010) 88.
[189] (2003) FWLR pt154 at 28; Administration of Criminal Justice Act, 2015 Section 8(2).
[190] *Arab Contractors Nigeria Limited v Umanah* (2012) WRN pt 28 at 91-92.
[191] ibid.
[192] See *OSIL v Balogun* (2012) WRN pt 38 at 150; See *Yusuf Umar v A A Salami & Others* (2001) CHR pt 1 at 413; Also, in the unreported case of *Ibiyeye & Others v Gold & Others* Appeal No. CA/1C/M 95/2010 delivered on 7-12-2011 the Court of Appeal, Ilorin Judicial Division in Nigeria, where it was held as follows. I have to add that the resort to the Police by parties for recovery of debt outstanding under contractual relationship has been repeatedly criticized by the Court. The Police have also been condemned and rebuked several times for abandoning its primary duties of crime detection, prevention and control to dabbling in enforcement or settlement of debts and contract between quarrelling parties, and for using its coercive powers to breach citizens, rights and or promote legalities and oppression. Unfortunately, despite all the decided cases on this issue, the problem persists and the unholy alliance between aggrieved contractors/ creditors with the Police remains at the root of many fundamental rights breaches in our Court' See also *Fawehinmi v Inspector-General of Police* (2001) NWLR pt 1 at 767 the Court described the Police power as the exercise of the sovereign right of the government to promote order, safety, health, morals and general welfare within constitutional limits and it is an

In addition, some police officers even involve themselves in armed robbery, hired assassinations and other heinous crimes. In the case of *Oyakhare v State*,[194] the appellant and two others were convicted for turning their gun on defenseless people whom they were supposed to defend. Also, recently, on 16th August 2016, four policemen (Musbahu Yahaya, Ugenlo Sylvester, Musa Umar and Omale Edich) attached to the Kogi State command, were arrested for compromising and conspiring with one, Zakari Ya'u Isiaka, a notorious armed robber, kidnapper and murderer, who had been on the wanted list of the police in Kogi State. The suspect confessed to having been actively involved in many armed robberies, kidnappings and murder cases within Kogi and other North-Central States.[195] Five assorted rifles and different calibre of ammunition were recovered from the suspect and other members of his gang. This led to their dismissal as they were interrogated and found to have conspired and compromised their call of duty.[196] The time is, therefore, overdue to overhaul the present parlous state of the police in Nigeria and re-package the force.

4.11.4 Poor mode of investigation

The emergence of new trends in the development of criminal investigation is a major challenge of policing in Nigeria. DNA profiling and fingerprinting are the two notable advances in the conduct of criminal investigations. While this has been working in developed countries such as the United States of America, Canada and Britain in the apprehension and conviction of lots of criminal suspects, the Nigerian case is sad in this area. The most pitiful aspect of this challenge is that the Federal Government is not acquiring the needed instrument as well as proper training for the police to perform their functions effectively.[197]

In addition, forensic science is now largely regarded as the vital and essential pointer of criminal investigators in many countries. This is, however, not the case in Nigeria. Up till now, forensic investigations are still novel in Nigeria.[198] Daniel Ngboawaji emphasised the importance of forensic evidence and forensic experts in Nigeria's criminal justice system.[199] According to police reform experts, the Nigerian Police Force have insufficient well-trained

essential attribution of government. Indeed, the Police are outward civil authority of the power and might of a civilized country.

[193] Dias Reginald Walter Michael, *Jurisprudence* (5th edn, Butterworth 1985) 22.

[194] (2006) All FWLR pt 305 at 703-709.

[195] Nigerian Police dismiss 14 officers for criminal misconduct<http://www.premiumtimesng.com/newhe/sheadlines/215997-nigeria-Police-dismiss-14-officers-criminal-misconduct.html>accessed 6 June 2017.

[196] ibid.

[197] Johnson (n 153) 75.

[198] Alexander Ladapo Oluwafemi, 'Effective Investigations, a pivot to Efficient Criminal Justice Administration: Challenges in Nigeria' (2012) 5 African Journal of Criminology and Justice Studies 79, 86.

[199] Daniel Nte Ngboawaji, 'An Evaluation of the Challenges of Forensic Investigation and Unresolved Murders in Nigeria' (2012) 6 African Journal of Criminology and Justice Studies 143, 143.

work force to address policing needs adequately.[200] Forensic evidence is proof obtained by scientific methods such as ballistics, blood and DNA tests and used in the court. Forensic evidence usually helps to establish the guilt or innocence of suspects. According to Ngboawji,

> forensic identification is the application of forensic science, or 'forensics' and technology to identify specific objects from the trace evidence they leave, often at a crime scene or the scene of an accident; forensic means for the courts.[201]

All over Nigeria, there is no single forensic science laboratory and the equipment, which was reported to have been acquired for use in the police laboratory for crime detection by the Federal Government since 1991, from a German company, is still in their shipping crates unpacked, uninstalled and unutilised.[202] The only laboratory used for forensic analysis in Nigeria is located at the Federal Institute of Industrial Research, Oshodi (FIIRO) in Lagos State. The facilities and scientists of FIIRO are now the ones saddled with the burden of forensic tests and analysis by the Nigerian Police despite the fact that forensic research is not part of their research mandates, and that its facilities are neither forensic science-oriented nor are their personnel trained forensic scientists.[203] This always results in shoddy investigations by the police. One of such cases happened in 2013 after the gruesome murder of Olaitan Oyerinde by suspected hired assassins. It is ridiculous to discover that while the suspected assassins were being paraded by the police in Edo State, the State Security Service paraded another set of people as the alleged assassins in Abuja. This is not unconnected with shoddy investigations carried out by the security agencies. In the light of this, Justice Lawal Gunmi stated as follows:

> It is a shameful episode of a bewildering case of one murder, two government agencies and two different culprits; this development has set off speculation that the investigation into the murder was most likely bungled'.[204]

If government can acquire all these improved technological facilities and provide training to police personnel, it may assist the police to resolve so many unresolved criminal cases and will earn the Nigerian Police a more positive image.[205]

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[200] ibid; Karimu (n 109) 26.
[201] Ngboawaji (n 173) 144.
[202] John Oladapo Obafunwa, Francis Adedayo Faduyile, Sunday Sokunle Soyemi, Uwom Okereke Eze, Edmund J C Nwana and William Olufemi Odesanmi, 'Forensic Investigation of mass disasters in Nigeria: A review' (2015) 56 Nigerian Medical Journal 1, 2.
[203] ibid.
[204] Femi Falana, illegal parade trial-criminal suspects, <http://www.vanguardngr.com/2017/03/illegal-parade-trial-criminal-suspects/>accessed 15 August 2017.
[205] Johnson (n 147) 76.

4.11.5 Poor personality of police officers

In Nigeria, the Nigerian Police Service Commission is saddled with the responsibility of recruiting officers into the Nigerian Police Force.[206] The Commission is not usually meticulous in ascertaining the personality of the person to be recruited. Considering the importance of the nature of people recruited to the police force, Micheal opined as follows:

> It appears that the Police Service Commission is careless about the recruitment process to test the emotional stability of a potential recruit in order to ensure that only those that can meet the challenges of police work in Nigeria, at present and in the near future, are recruited;[207] and the personality of a police officer talks about his or her behaviour, performance and relationship with the public.[208]

In the developed countries, there is usually a careful investigation into the personality of the person they are recruiting into the police force. Potential recruits are subjected to a series of psychological and other tests with a view to determining their emotional status and social relation competence. Also, there is need to recruit police that possess minimum literacy.[209] There are cases where people are recruited into the Nigerian Police Force with fake certificates. It will be a waste to recruit an individual who does not possess adequate academic qualification, strong emotional and moral qualities and a patriotic commitment to Nigeria, in this age or era characterised by computer crimes, sophisticated and technology-assisted financial crimes, piracy, terrorism and espionage.[210] Therefore, it becomes imperative for the NPF and its Service Commission to review the recruitment process currently in use in this regard.[211]

4.11.6 Lack of co-operation and negative perception of the police by the public

In Nigeria, the perception of the people about the police is nothing to write home about. This is not unconnected with the fact that many officers of the force have soiled their reputation. The public perception of the police in Nigeria can best be described by the assertions of Adebayo as follows:

> Nigerian Police crime prevention and control is a collective responsibility; the police cannot do it alone but the vast majority of Nigerians do not believe in the saying that the 'police is your friend' either because of past experiences with police or for some other reasons known to them; the public view of the police in Nigeria has greatly lowered the level of support given to them in combating crime; as a result of this, many refrain from giving valuable information to the police, which could have helped to close in on crime;

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[206] Police Service Commission (Establishment) Act, 2001 Section 6(1) (a); Nwabueze (n 59) 121.
[207] Micheal (n 129) 15.
[208] ibid.
[209] Okoiye O Emmanuel, 'The Inclusion of emotional Intelligence in Nigerian Police Recruits Training Programme: Agenda for Police Personnel Pro-Social Development and Effective Policing' (2011) 2 Journal of Research in Education and Society 61, 62.
[210] Patrick Edobor Igbinovia, 'Police in Trouble - Administrative and Organisational Problems in the Nigeria Police Force' (1982) 28 Indian Journal of Public Administration 334, 334.
[211] ibid.

> meanwhile, public participation is very important in assisting the police to achieve the desired effective crime prevention and control.[212]

Table 14a shows cases reported to the police by the public between 2005 and 2015. The data revealed a reduction in the number of cases reported to the police from 180,295 in 2005 to 108,245 in 2009. This also fell from 172,321 in 2006 to 90,370 in 2009 and only experienced a minor increase from 2009 to 2011. Similar trend was obtained till 2015. A similar trend was also experienced when the cases were separated into minor and major crimes (Tables 14b and 14c). Generally, cases reported to the police in recent times have either reduced or where there was an increase, it was not commensurate with increasing human population. As shown in Table 15 below, human population has continued to increase: between 2006 and 2016, the population of Enugu (3,267,837), Gombe (2,365,040), Kaduna (6,113,503), Lagos (9,113,605), Rivers (10,575) and FCT, Abuja (1,406,239) increased by about 17% each in 2016. In tandem, the Nigerian population also increased from 140,431,790 in 2006 to 193,392,517 in 2016 (about 17% increase). Of course, increase in human population leads to increased crime rate in every society but this is not the situation in Nigeria at present. This is a pointer to the fact that most crimes are no longer reported to the police by the public.

All these are indicative of the level of corruption among the rank and file of the Nigerian Police Force. This arises from the reality that the police are at liberty to decide who to prosecute or not. In some cases, criminals pay their way through the police authority to escape prosecution while those who do not have the wherewithal to give a bribe, are prosecuted. Therefore, the continuous drop in the number of cases reported to the police, even when crime is noticed by the community, can be attributed to lack of public trust in the police due to their corrupt activities and inefficiency.

[212] Adebayo (n 98) 74.

Table 14a: Crimes reported to the police, 2005-2015

Year/Cases	Cases reported	Cases prosecuted	% of cases prosecuted	Cases pending investigation	% of cases pending investigation	Cases closed	% of cases closed
2005	180,295	134,134	74	38,466	29	6,090	3
2006	172,326	133,553	78	32,265	24	6,507	4
2007	-	-	-	-	-	-	-
2008	90,370	51,443	57	25,124	49	4,004	4
2009	100,303	39,145	39	20,754	53	7,270	7
2010	107,820	39,586	37	31,367	79	13,773	13
2011	108,245	39,781	37	32,821	83	10,572	10
2012	-	-	-	-	-	-	-
2013	127,311	48,021	36	34,720	57	9,333	10
2014	129,683	46,484	39	35,367	63	14,031	14
2015	132,483	49,373	40	356,498	78	14,844	16

- represents data not available

Source: Nigeria's Police Force Headquarters, Abuja

Table 14b: Minor crimes and offences reported to the police, 2005-2015

Crime/Year	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
False pretense/Cheating	9,580	6,395	5,860	5,058	5,909	6,857	6,227	6,234	6,456	5,928	6,192
Unlawful possession of firearms	8,772	8,666	1,931	1,462	905	1,605	1,472	1,149	1,257	2,070	2,113
Receiving stolen property	3,892	7,308	813	1,190	686	809	770		692	711	608
Arson	1,268	1,010	1,105	812	672	545	587	792	871	887	754
Perjury	3	5	10	11	1	17	22	16	26	24	27
Gambling	631	473	54	99	57	130	188	110	178	192	189
Breach of peace	7,967	5,945	4,273	3,170	5,376	4,700	4,977	4,867	4,387	4,666	5,108
Escape from custody	99	132	81	48	23	70	109	129	135	109	143
Local acts	3072	2,610	19	1,387	1,215	1,380	1,663	1.768	1,186	1,345	1,744
Other crimes	891	914	429	86	155	225	128	775	694	376	355
Total	13,935	33,458	14,575	13,323	14,999	16,338	16,143	14,074	15,882	16,308	17,233

Source: Nigeria's Police Force Headquarters, Abuja

Table 14c: Serious crimes reported to the police, 2005-2015

Offence(s)/Year	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Murder	2,074	2,000	1,891	1,956	38,955	2,114	1,655	2,182	4,213	2,812	3,556
Manslaughter	11	2	11	17	11	43	43	27	35	42	51
Felonious wounding	22,858	26,434	6,175	6,405	11,475	7,708	6,156	6,965	6,876	7,223	7,891
Assault	33,991	32,838	15,136	14,692	14,075	12,621	14,172	15,294	17,332	16,967	16,994
Other crimes against	9,333	10,151	8,523	9,647	6,652	10,358	8,048	8,339	9,235	8,876	9,415
Armed robbery	2,275	2,863	2,327	2,340	2,147	1,914	3,612	2,723	2,684	2,776	3,061
Burglary, house and store	16,115	11,985	5,656	5,917	12,729	5,547	5,048	6,234	9,583	8,775	7,990
Larceny	-	-	-	23,927	39,987	19,309	15,649	17,384	16,849	16,367	17,208
Currency forgery	58	118	36	65	6	83	76	56	64	72	63
Other crimes against	6,659	6,744	10,105	6,443	179,268	6,256	5,655	5,987	7,498	6,101	6,338
Bribery and corruption	19	10	42	13	5	28	108	201	169	223	249
Total	93,822	93,145	49,902	71,422	305,310	65,981	60,222	67,404	74,538	72,248	74,831

- represents data not available
Source: Nigeria Police Force Headquarters, Abuja

Table 15: Population of Nigeria, 2006-2016

State/Year	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Enugu	3,267,837	3,365,872	3,466,848	3,570,854	3,706,629	3,825,242	3,912,311	4,031,459	4,154,235	4,280,750	4,411,119
Gombe	2,365,040	2,440,721	2,518,824	2,599,427	2,682,608	2,768,452	2,865,649	2,958,833	3,055,047	3,154,389	3,256,962
Kaduna	6,113,503	6,296,908	6,485,815	6,680,390	6,934,400	7,156,301	7,319,192	7,542,095	7,771,785	8,008,472	8,252,366
Lagos	9,113,605	9,405,240	9,706,208	10,016,807	10,337,345	10,668,140	11,042,686	11,401,767	11,772,524	12,155,337	12,550,598
Rivers	5,198,716	5,375,472	5,558,238	5,747,219	5,896,779	6,085,476	6,375,176	6,595,659	6,823,767	7,059,764	7,303,924
FCT (Abuja)	1,406,239	1,537,019	1,679,962	1,836,198	1,595,063	1,646,105	2,456,945	2,696,403	2,959,199	3,247,608	3,564,126
Nigeria	140,431,790	44,925,607	149,563,227	154,349,250	159,288,426	164,385,654	170,157,060	########	181,403,148	187,301,926	#########

Source: National Population Commission, Abuja

4.11.7 Failure of accountability by the police

Accountability is frequently used without a generalised definition from both the academia and legal system. Literarily, it means answerability and responsibility. Andreas Schedler provides a rigorous, yet broad definition of accountability. Accountability is vital as it makes provisions for checks and balances, for surveillance and institutional constraints and in the exercise of power and authority by the Police.[213]Accountability, according to Andreas Schedler,

> is not intended to eliminate or undermine power but rather control it from becoming an instrument of repression and exploitation, and to ensure that power is exercised in a transparent manner and according to rules.[214]

[213] Andreas Schedler, 'Conceptualizing Accountability' in Andreas Schedler, Larry Diamond and Marc F Plattner (eds), *The self-restraining State Power and Accountability in New Democracies* (Lynne Rienner Publishers 1999) 13.
[214] ibid.

Police accountability means a situation whereby police power and conduct is being monitored and checkmated. The Police Act as well as the Police Regulations make provisions for internal mechanisms on punitive measures in the Nigerian Police Force by the use of the Code of Conduct for the police. This internal control mechanism used by the police to deal with cases of misconduct is often not transparent. In cases of misconduct against any of them, there is always the tendency for the police to frustrate the trial as police would always cover their tracks. For example, in *Odekunle v State*,[215] the Supreme Court condemned the attitude of the police force for crippling investigation and trial of members of the force.[216] This shows that internal control has not been working in Nigeria. Corroborating this fact, Innocent Chukwuma decalred as follows:

> The internal control mechanism has not been working because they have, on many occasions, proved to be non-effective; it is usually only when the police are being vilified by the press for egregious violations of human rights such as extra-judicial killings or when the victim is a prominent person that you hear about their internal disciplinary systems.[217]

It is worth noting that instances abound in failure of accountability by the police. An example was reported by a national newspaper as follows:

> The death of 52-year old Mr Ismail Quadri, a citizen of Nigeria, who was arrested and beaten by a police officer and later died in Lagos, did not attract any punishment for the policeman despite the fact that he was identified.[218]

The issue of accountability within the police system is very important in a democratic society like Nigeria in which acts of gross misconduct by the police often go unpunished because there is no independent body responsible for discipline of police officers. the situation of police accountability in Nigeria was described as follows:

> It appears that the decades of military rule and the overall lack of accountability in all aspects of public life in Nigeria have combined to weaken

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[215] (2006) All FWLR pt 332 at 1452-1457, the Court Mohammed JSC, Justice of the Supreme Court held as follows: 'I cannot end this judgment without commenting on the efforts made by the Police to frustrate the action of the prosecution to successfully prosecute this case against their colleague. Although the incident that led to the death of the deceased took place in the presence of all the five members of the Police anti-crime patrol who were therefore all competent witnesses for the prosecution … not only that, the prosecution in its application to the trial Court gave names of seven witnesses with their full addresses the prosecution wanted to call in the course of the trial but only the two witnesses who testified were served. The remaining witnesses could not be procured for the prosecution up to the end of the trial in the course of which it was revealed that even the Police case diary containing relevant documents necessary for the effective prosecution of the case missing from custody of the Police'. Akinseye George (n 30) 248.

[216] Akinseye George (n 30) 248.

[217] Innocent Chukwuma, 'Internal Disciplinary Systems as important Complement to External Oversight of Police in Nigeria', in Etannibi E Alemika and Innocent C Chukwuma (eds), *Civilian Oversight and Accountability of Police in Nigeria* (Centre for Law Enforcement Education CLEEN 2003) 46.

[218] *The Nation Newspaper* (2011) September 4.

> the mechanisms for police accountability. Effective accountability mechanisms are essential if the police are to achieve their goals of lawful behaviour and legitimacy.[219]

It is imperative to note that police accountability is necessary because if the powers of the police are not meticulously monitored and laid open to accountability mechanisms, the rights and freedom of the people may be endangered.[220] The internal control mechanism reportedly used by the police to deal with cases of misconduct is often not transparent, the general public does not know what is going on, and even the police do not usually produce any public report in that respect.[221] Innocent Chukwuma argues as follows:

> There should be both internal and external disciplinary mechanisms within the police, which are not only necessary but also complementary to each other. In fact, the two must mesh in order to be effective.[222]

To establish an effective and accountable system of policing in the Federation of Nigeria, just as established in the U.S, there is need for multiple mechanisms of controls - internal, external and social.[223] Jerome Sholnick and James Fyfe stress the significance of accountability within the system, and precisely, accountability of superior officers for the wrongdoing of junior officers under them.[224] Etinnabi Alemika argues that:

> For proper accountability, there is need to strengthen police accountability mechanisms of police accountability through the oversight bodies established by the Constitution of the Federal Republic of Nigeria, including the Police Service Council (PSC) and Nigeria's Police Council (NPC).[225]

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[219] Olusola Karimu and Adebukola Foluke Osunyikanmi, 'A Comparative Analysis of Police Accountability in Nigeria and United States' (2012) 2 International Journal of Humanities and Social Science 250, 250; Samuel Walker, 'Police accountability: Current issues and research needs' < http://www.ncjrs.gov/pdffiles1/nij/gran Police accountability> accessed 10 July 2017: It is a fundamental principal of a democratic society that the Police should be held to account by the public for their actions. Accountability includes both what the Police do and how they perform. Accountability involves both the performance of Police departments as agencies (e.g., the control of crime and disorder, meeting public needs and expectations) and the conduct of individual Police officers (lawful behavior, respect for citizens, equal treatment.

[220] Etannibi E Alemika, 'Police Accountability in Nigeria: Framework and Limitations' in Etannibi E Alemika and Innocent C Chukwuma (eds), *Civilian Oversight and Accountability of Police in Nigeria* (Centre for Law Enforcement Education CLEEN 2003) 3.

[221] ibid.

[222] ibid.

[223] Kenneth J Peak, Policing America: Challenges and Best Practices (7th edn, Pearson Education Inc. 1997) 3-6.

[224] Skolnick H Jerome and Fyfe J James, *Above the Law: Police and the Excessive Use of Force* (Free Press 1993) 7.

[225] Alemika (n 188).

4.11.8 Human rights abuse by the police

In the performance of police duties, there have been serious allegations and proven cases of police ineffectiveness, inefficiency and infringement on the rights of the people.[226] Some of the areas of human rights abuse are discussed below.

4.11.8.1 Unlawful arrests and detention

The Nigerian Police Force has consistently been accused of arbitrarily arresting and detaining people in cells for long periods without trial.[227] The police routinely use torture and other forms of ill-treatment to obtain information from suspects and also to break the spirit of suspects or detainees.[228] This happened in the case involving Chukwudumeme Onwuamadike (Evans), who was arrested by the police as a kidnaping suspect.[229] His lawyer, Olukoya Ogungbeje, in July 2017, accused the Nigerian Police of infringement on the fundamental rights of his client as enshrined in the Constitution.[230] He stated that the police detained Evans in their custody without charging him to court for over three months. He challenged the police to publish the Court Order it purportedly secured to detain the suspect for three months in custody.[231] The fact that the Nigerian Police could detain a suspect for three months without being brought before the court, is clear evidence of human rights abuse by the police, which is a gross violation of the constitutional provision that:

> An accused should be brought before a court of law within a reasonable time, which is usually considered to be 24 hours, especially where there is a court of competent jurisdiction within 40 kilometres.[232]

4.11.8.2 The use of confessional statements as evidence in the court

The information or 'confessions' obtained from detainees is, in many cases, used in court as evidence. For instance, in the case involving Chukwudumeme Onwuamadike (Evans) mentioned earlier, his lawyer, Olukoya Ogungbeje, also accused the police of denying him access to his client since the arrest, while the suspect was being deceived, brainwashed, threatened, subjected to media attacks and coerced to obtain confessional statements, which they would use in court against him.[233] Police have, in many instances, malevolently violated

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[226] Otu (n 7) 146.
[227] Ibid 145.
[228] ibid.
[229] <http://punchng.com/billionaire-kidnapper-evans-files-fresh-suit-against-police-seeks-n300m-in-damages >accessed 23 September 2017.
[230] Olukoya Ogungbeje, < https://www.vanguardngr.com/2017/06/meet-evans-lawyer-ogungbeje-known-unpopular-cases >accessed 23 September 2017.
[231] ibid.
[232] The Constitution of the Federal Republic of Nigeria (n 15) Section 35(5) (a) and (b).
[233] Ogungbeje (205); Otu (n 7).

the rights of members of the public with impunity.[234] This is contrary to national and international human right laws.[235] For an effective and efficient police organisation in Nigeria, the personnel should be reoriented towards adequate care and respect for human dignity, people's fundamental rights and privileges.[236]

4.11.8.3 Unlawful killings and extra-judicial execution of criminal suspects

Hundreds of people are unlawfully killed by the Police in Nigeria every year.[237] Some people die because they fail to pay police officers a bribe.[238] Others are killed because the police use excessive force during arrest or in extra-judicial executions. Once in custody and away from the public eye, some people are tortured to death in police stations, while others may even disappear from custody.[239]

Many criminal suspects have been killed extra-judicially by the police under the guise that the victims attempted to evade arrest or escape from custody.[240] The Nigerian Police have continued to display this brutality despite several court judgments against it.[241] In *Isaac Edoh v Edo State Commissioner of Police*, it was reported that

> the applicant's son was arrested by the police and paraded before the media in Benin, Edo State, where he was accused of involvement in kidnapping; and when the applicant visited the police station to secure his bail, the police denied ever arresting his son.[242]

In the suit filed by the applicant, the police maintained that the applicant's son was never arrested until the Channels Television was summoned to produce the video tape of the press conference where the deceased was paraded. In the Federal High Court, Abuja, Justice Abubarka Malami declared the killing illegal and awarded the sum of 15 million Naira

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[234] Nwankwo (n 74) 265.

[235] Declaration on the Protection of All Persons from being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, United Nations General Assembly Resolution 3452 (XXX) U.N. Doc. GAOR, 3452nd Session, 2433rd meeting, U.N. Doc. A/RES/3452 (XXX) (1975) Article 1 (1); Code of Conduct for Law Enforcement Officials, United Nations General Assembly Resolution 34/169 U.N.GAOR, 34th Session, 106th meetings, U.N.Doc., A/RES/34/169 (1979) Article 5 (b); The Constitution of the Federal Republic of Nigeria (n 15) Section 34(1) (a); The Banjul Charter, Organization of African Unity, OAU Doc. C AB/LEG/67/3 (1981) Article 5.

[236] Zems S Mathias, 'Police-Public Relations as a Potent Tool for Combating Crime, Insecurity, and Social Disorder in Nigeria' (2016) 5 International Journal of Business and Management Invention 12, 19.

[237] Grace O Okoye, *Proclivity to Genocide: Northern Nigeria Ethno-Religious Conflict, 1966 to Present* (Lexington Books 2014) 214.

[238] Larry J Siegel and Joseph J Senna, *Introduction to Criminal Justice* (Cengage Learning 2007) 256.

[239] Amnesty International Research, Nigeria justice systems,9 December 2009 <https://www.amnesty.org/en/documents/AFR44/038/2009/en/> accessed 15 August, 2017.

[240] Umar Lawal Yusuf and Mohammed Ali Mechanic, 'Sociological Analysis of Police Public Relations in Yobe State, Nigeria' (2014) 3 International Journal of Humanities and Social Science Invention 14, 14.

[241] ibid.

[242] (Unreported Suit No: B/460m/2011).

damages to the applicant. Also, in *Abudu v the Nigerian Police*,[243] the applicant alleged that his wife was shot dead by the police on December 12, 2008. The police justified the killing by claiming that the deceased was the head of a robbery gang, and her corpse decked with charms and a pistol was paraded by the police before the media. The trial judge condemned the iniquitous killing of the deceased and the parade of the corpse, and consequently awarded 5 million Naira as reparation to the applicant.[244]

4.11.8.4 Media parade and trial of criminal suspects

In spite of the presumption of innocence of the accused by virtue of Section 36 of the Constitution of the Federal Republic of Nigeria and Article 7 of the African Charter on Human and People's Rights Act, the Nigerian Police Force have continued to subject suspects to media trial and parade before arraignment in a criminal court. This act has generated a lot of debate among scholars. In a Protest by Femi Falana, a human right activist, he argues as follows:

> Media parade of criminal suspects is an infringement on the fundamental rights to fair hearing and dignity of criminal suspects; the suspects are usually subjected to 'cross-examination' by law enforcement officials at crowded press conferences where media personnel are given the liberty to interview and interrogate the suspects with a view to confirming their involvement in the criminal offences alleged against them, and in the process, the suspects are compelled to make incriminating statements which are prejudicial.[245]

Many of such cases have ben challenged in the courts and in virtually all the decisions, the courts have continually frowned at them, thus declaring public parade of criminal suspects illegal. For instance, in *Nice v AG*, Justice Banjoko held as follows:

> The act of parading him (the suspect) before the press as evidenced by the exhibits annexed to the affidavit was uncalled for and a callous disregard for his person. He was shown up to the public the next day of his arrest even without any investigation conducted in the matter. He was already prejudged by the police who are incompetent, so to have such function, it is the duty of the court to pass a verdict of guilt and this constitutes a clear breach of Section 36(4) and (5) of the Constitution of the Federal Republic of Nigeria, 1999 on the doctrine of fair hearing.[246]

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[243] Unreported Suit No: M/13/2011).
[244] ibid.
[245] Femi Falana, <https://www.pulse.ng/gist/femi-falana-human-rights-lawyer-urges-police-to-stop-public-parade-of-suspects-id3407463.html> accessed 29 October 2018. He observed that it is offensive and illegal to parade a suspect as it is contrary to the provisions of law which provides for presumption of innocent until contrary is proved; The Constitution of the Federal Republic of Nigeria (n 15) Section 36 (5); ICCPR, United Nations General Assembly Resolutions 2200A (XXI), U.N. Doc. GAOR, 2200th Session, 1496th meeting, U.N. Doc. A/RES/2200(XXI) (1966). Section 14 (2).
[246] *Nice v AG* (2007) CHR pt 218 at 232.

Similarly, in *Dyot Bayi and 14 Others v Federal Republic of Nigeria*, the Economic Community of West African States' (ECOWAS) Court condemned the media trial of the applicants when it held that:

> The court is of the opinion that for the fact that the defendants presented the applicants before the press when no judge or court has found them guilty, certainly constituted a violation of the principle of presumption of innocence such as provided in Article 7(b) of the same African Charter and not a violation in the sense of Article 5 of the said Charter. [247]

The court proceeded to award damages of US$42,750.00 to each of the 10 applicants and US$10,000.00 as costs payable by the Federal Government. [248]

The illegal activities of the police including brutality and illegal execution without recourse to the law run contrary to the submission that:

> Arbitrary use of firearm is likely to affect fundamental human rights; that is, right to life, liberty and security. The utmost priority must be given to those rights as enshrined in the laws of the land and provisions of international instruments[249].

It is the opinion of the researcher, therefore, that, the government of Nigeria has the responsibility to end all unlawful killings, bring perpetrators to justice and ensure that the families of victims receive adequate compensation.

4.11 International instruments on policing with Nigeria as a State Party

Having considered the challenges of the Nigerian Police and the roles they play in criminal justice administration in Nigeria, there is need to identify relevant international instruments to which Nigeria is a state party, as well as national laws that relate to acceptable police conduct in the course of performing their duties. This becomes imperative due to the fact that they form the basis upon which the standard of policing in Nigeria can be measured. It is also helpful to unravel the extent to which the Nigerian Police comply with the provisions of the instruments.

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[247] (2004-2009) CCJLER Pt 245 at 265.

[248] ibid.

[249] ibid The Supreme Court per Oputa Justice of the Supreme Court, reprimanded the State thus: The premature killing of Aliu 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 (Aliu 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, Aliu 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. *Aliu Bello v Attorney-General of Oyo State* (1986) 5 NWLR pt. 45 at 828.

The police, as a law enforcement agency, must be responsive and accountable to the community as a whole if the Nigerian Criminal Justice System must work.[250] The Constitution of the Federal Republic of Nigeria is a local instrument in respect of police organisation and administration as approved by the National Assembly. Thus, the Nigerian Constitution stipulates as follows:

> The Nigerian Police Force shall be organised and administered in accordance with such provisions as may be prescribed by an Act of the National Assembly.[251]

Also, Section 214(2) (b) of the 1999 Constitution provides as follows:

> The members of the Nigeria Police Force shall have such powers and duties as may be conferred upon them by law. Section 214(2) of the Constitution offers that the National Assembly may make provisions for branches of the Nigeria Police Force forming part of the Armed Forces of the Federation or for the protection of harbours, waterways, railways and airfields.

However, international norms in respect of police conduct are generally regarded as best practices in policing. Just like local instruments, for any international instrument to have a binding effect, such must be domesticated in Nigeria's legislation. Thus, the reception of international law in Nigeria's legal system is governed by Section 12 of the Constitution which provides as follows:

> No treaty between the Federation and any other country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly.[252]

Based on the above constitutional provision, the application of any international instrument in Nigeria is not automatic; it must be domesticated because Nigeria operates dualist approach in which treaties must be domesticated before it can be legally enforceable, that is, the National Assembly must give assent to it. To this end, Nigeria has ratified several international instruments. In the United Nations human rights system, various international human rights instruments exist. The essence of the instruments is to provide guidelines for member states to regulate police conduct towards people in the course of discharging their duties. However, those that specifically address the code and conduct of police in the course of discharging their duties within Nigeria's criminal justice system are fully considered in this study.

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[250] Ralph Crawshaw and Leif Holmstrom (eds), *Essential Texts on Human Rights for Police: A Compilation of International Instruments* (2nd edn, Martinus Nijhoff Publishers 2008) 357.
[251] The Constitution of the Federal Republic of Nigeria (n 15) Section 214(2) (a).
[252] ibid Section 12.

4.12.1 Universal Declaration of Human Rights (UDHR), 1948

The Universal Declaration of Human Rights was adopted by the General Assembly Resolution in 1948.[253] The UDHR came into being as a result of cruel violation of basic rights of individuals during the 2nd World War across the globe. After this period of the 2nd World War, the world was in serious disarray, and thus, the need to enshrine fundamental human rights came on board.[254] The UDHR, though not legally enforceable instruments, is a milestone document in the history of the instruments; it is recognised as the most comprehensive and universal, marking a turnaround in the generalisation of the international safeguard of human rights. Hence, it remains the first document of the whole United Nations human rights instruments and has been the foundation of international human rights law as it sets out the ideal principles on the way States Parties must treat their people.[255] The Universal Declaration of Human Rights is a mere declaration, thus, in the international legal perspective, it is regarded as 'soft law', meaning that it is a persuasive source of law with non-binding effect,[256] although some scholars view it as binding as long as it is ratified.[257] Nigeria is a state party to this instrument and joined the United Nations in 1960 without reservation to the UDHR.[258] To this effect, the Universal Declaration of Human Rights is expressed in very clear terms, and the rights contained therein are universal. This is evident in the use of some phrases such as 'no one', 'every one', 'every individual' and 'all persons'.[259] These words underscore the fact that the rights as contained in the instrument, is available to everyone, everywhere. This simply means that the right must be respected and protected everywhere. Therefore, States Parties have a duty to uphold and make these universal rights a living reality for everyone, everywhere. This reveals the whole essence of the Universal Declaration of Human Rights, which states as follows:

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[253] Universal Declaration of Human Rights, United Nations General Assembly Resolutions 217 A, U.N. Doc. GAOR, 217th Session, 183rd meeting, U.N. Doc. A/RES/217/A (1948).

[254] Gordon Brown, *The Universal Declaration of Human Rights in the 21st Century: A Living Document in a Changing World* (Open Book Publishers 2016) 1.

[255] ibid 9.

[256] Richard Pierre Claude and Burns H Weston (eds), *Human Rights in the World Community: Issues and Action* (University of Pennsylvania Press 2006) 271; Frans Viljoen, *International Human Right Law in Africa* (2nd edn, Oxford University Press 2012) 32; Kathrin Limbach, *Uniformity of Customs Administration in the European Union* (Bloomsbury Publishing 2015) 2235.

[257] International Labour Office, *Social Protection Floors for Social Justice and a Fair Globalization: Fourth Item on the Agenda, Part 1* (Cambridge University Press 2011) 17; Barend Van Der *et al* (eds), *Reflections on the Universal Declaration of Human Rights: A Fiftieth Anniversary Anthology* (Martinus Nijhoff Publishers 1998) 109.

[258] Cosmas Emeziem, 'The Human Right to Clean Water and Sanitation-A Perspective from Nigeria' in Julien Chaisse (ed), *Charting the Water Regulatory Future: Issues, Challenges and Directions* (Edward Elgar Publishing 2017) 204.

[259] Universal Declaration on Human Rights (n 253) Article 2.

> Whereas, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.[260]

From the foregoing, it is clear that everyone is generally entitled to all the rights set out in the instrument without discrimination. Conversely, the police, in Nigeria's criminal justice system, must comply with all that is written in the instrument, that is, it must serve as a guide to their conduct.[261] Additionally, as reported by Johannes Morsink in his article, Charles Malik, a Lebanese delegate, declared as follows:

> The Universal Declaration of Human Rights was inspired by opposition to the barbarous doctrines of Nazism and Fascism that do not have any regard for human rights and, therefore, leaving no room for freedom.[262]

In the same vein, in Howard Tumber and Silvo Waisbord's book, a delegate from Philippines, Carlos Romulo, also made a beautiful contribution by including in the Universal Declaration of Human Rights that: 'respect for human rights applied to everyone and everywhere without distinction as to race, sex language and religion'.[263]All these efforts expunged the superiority complex which had led to loss of lives of so many people in the international community and to completely eradicate discrimination of any kind that can further lead to cruel violations of fundamental human rights in which the police in Nigeria must strictly adhere to.[264] Hence, the whole essence of the Universal Declaration of Human Rights is to add value to human life as expressed in Article 2 as follows:

> Everyone is entitled to all the rights and freedoms set forth in this declaration, without distinction of any kind, such as race; colour; sex; language; religion; political; or other opinion; national or social origin; property; birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional, or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.[265]

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[260] ibid See Para 1 of the Preamble.
[261] For example, Article 7 of the Universal Declaration of Human Rights provides that: 'all are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination'.
[262] Johannes Morsink, 'World War Two and the Universal Declaration' (1993) 15 Human Rights Quarterly 357, 357; David Weissbrodt (ed), *The Development of International Human Rights Law, Volume1* (Routledge 2017) 89.
[263] Howard Tumber and Silvo Waisbord (eds), *The Routledge Companion to Media and Human Rights* (Taylor &Francis 2017) 33; Ramananda Chatterjee, *The Modern Review Volume 87* (Prabasi Pess Private Limited 1950) 84.
[264] Ingrid Nifosi-Sutton, *The Protection of Vulnerable Groups Under International Human Rights Law* (Taylor and Francis 2017) 67; Morsink (n 262) 360-363.
[265]Universal Declaration of Human Rights (n 253).

4.12.2 International Covenant on Civil and Political Rights (ICCPR), 1966

The instrument was adopted by the General Assembly Resolution in 1966,[266] and was subsequently ratified in Nigeria in 1993.[267] The International Covenant on Civil and Political Rights is a central international instrument that pronounces the fundamental civil and political rights of people. The content of ICCPR is similar in nature to that of Universal Declaration of Human Rights; they both share the notion of universality as seen in the use of some words in ICCPR such as 'no one shall be…' and 'everyone has a right to…'. These universal terms used in ICCPR are indications that every form of discrimination is prohibited everywhere, including police cells. Article 9 of this instrument sets out some guidelines that affect the conduct of police officers as follows:

> Everyone has the right to liberty and security of person, no one shall be subjected to arbitrary arrest or detention, no one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law;[268]
> all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.[269]

In the real sense of it, despite the existence of this law, there is still rampant unlawful arrest/detention by the police in Nigeria.[270] In some cases, they arrest the wife in place of the husband if the husband cannot be found. For example, it was reported in an incident that:

> When a police in the process of trying to arrest one Paxton Idowu, went to his house and could not find him, they arrested his wife who was 8 months pregnant in lieu of her husband; she was thrown into a stinking, narrow and dark cell, which she shared with a male suspect held for felony, until the next morning when her husband appeared.[271]

There are also instances whereby a relative of an accused person is arrested pending when their target could be apprehended. All these constitute abuse of human rights as it amounts to unlawful arrest and detention. The victims undergo emotional torture and are often times,

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[266] International Covenant on Civil and Political Rights (n 220).
[267] Teresa Okure, 'Nigeria Colossians' in Daniel Patte, Jose Severino Croatto and Teresa Okure (eds),*Global Bible Commentary* (Abingdon Press 2004) 490.
[268] International Covenant on Civil and Political Rights, United Nations General Assembly Resolutions (n 220) Article 9(1).
[269] ibid Article 10(1).
[270]Derri Damfebo Kieriseiye, *Alternative Dispute Resolution in Nigeria: A Functional Approach* (Malthouse Press 2016) 34; Ilufoye S Ogundiya, *Assessment Of Democratic Trends in Nigeria* (Gyan Publishing House 2011) 101; Charlse Nwalimu, *The Nigerian Legal System, Volume 2* (Peter Lang 2005) 903; Henry O Omorere, *Lost Legacies: And Broken Promises of our Fathets* (Xlibris Corporation 2011) 115.
[271] Clement Nwankwo *et al*, *The Crisis of Press Freedom in Nigeria* (Constitutional Right Project 1993) 39; Ayo Olutokun, *Repressive State and Resurgent Media Under Nigeria's Military Dictatorship, 1998-98* (Nordic Africa institute 2004) 44; Wade Adebanwi and Ebenezer Obadare (eds), *Encountering the Nigerian State* (Springer 2010) 168.

subjected to physical torture, cruel, inhuman, degrading treatment and punishment,[272] which is forbidden by the law.[273] Apart from the above, the International Covenant on Civil and Political Rights provides as follows:

> Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgment.[274]

In the same vein, going by the provision of the Nigerian Constitution,

> a detained person has to be informed within 24 hours of their crime, and be brought before a competent court within 24 hours provided the court is within 40 kilometres from the place of detention or 48 hours if it is more than 40 kilometres.[275]

Furthermore, the accused has to be tried within two months from the date of arrest or detention, and within three months in the case of a person not entitled to bail.[276] However, despite the existence of these instruments, instances abound in Nigeria where accused persons are indiscriminately detained in police cells without being brought to court for trial within the stipulated period by the law.[277]

4.12.3 International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966

The Covenant was adopted in 1966 by the General Assembly Resolution and subsequently ratified by Nigeria in 1993.[278] It is a multidimensional and multifaceted treaty. This instrument makes provision for an array of rights, which are available to everyone, ranging

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[272] Civil Liberties Organisation Nigeria, *Annual Report* (Civil Liberties Organisation 1999) 95; Folashade B Okeshola, 'Human Rights Abuse by Nigerian Police in Four Selected States and the Federal Capital Territory, Abuja' (2013) 13 British Journal of Arts and Social Sciences 242, 243; Okonkwo Cyprian O, 'The Nigerian Penal System in the Light of the African Charter for Human and People's Rights' in Kalu A and Osinbajo, Yemi (eds), *Perspectives on Human Rights* (Federal Ministry of Justice 1992) 94; Comfort Chinyere Ani, 'Reforms in the Nigerian Criminal Procedure Laws' (2011) 1 Journal on Criminal Law and Justice 52, 58.

[273] International Covenant on Civil and Political Rights, United Nations General Assembly Resolutions (n 220) Article 7.

[274] International Covenant on Civil and Political Rights, United Nations General Assembly Resolutions (n 220)Article 9(3).

[275] The Constitution of the Federal Republic of Nigeria (n 15) Section 35(5).

[276] ibid Section 35(4).

[277] Sylvia Ada Akpala, *Legal Aid Services in Nigeria: The Humanitarian Perspective* (Society for the Welfare of Women Prisoners 2001) 76-78; 'Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that the court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful'. International Covenant on Civil and Political Rights (n 220) Article 9(4).

[278] Cosmas Emeziem, 'The Human Right to Clean Water and Sanitation-A Perspective from Nigeria' in Julien Chaisse (ed), *Charting the Water Regulatory Future: Issues, Challenges and Directions* (Edward Elgar Publishing 2017) 204.

from social and cultural rights, economic rights of natural persons such as the right to education, adequate standard of living, health and wellbeing, to housing and social security. Even though it makes no specific reference to persons in police detention, nonetheless, just as ICCPR prohibits every form of discrimination, ICESCR imposes an obligation on member states to make sure that the rights contained therein are available and enjoyed by everyone, everywhere.[279]

Furthermore, International Covenant on Civil and Political Rights provides as follows:

> All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person,[280] accused persons shall, in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as un-convicted persons based on the principle of presumption of innocence,[281] in the same vein, juvenile accused persons shall be separated from adults and brought as speedily as possible for adjudication.[282]

Unfortunately, all the provisions above are not complied with by the Nigerian Police.

4.12.4 Declaration on the Protection of All Persons from being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

This instrument was adopted in 1975 by the General Assembly Resolution. It was put in place to protect all persons from all forms of inhuman treatments. What constitutes torture is captured in the Declaration as follows:

> Torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted by or at the instigation of a public official on a person for such purposes as obtaining from him or a third person information or confession, punishing him for an act he has committed or is suspected of having committed or intimidating him or other persons; it does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions to the extent consistent with the Standard Minimum Rules for the Treatment of Prisoners.[283]

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[279] The States Parties to the present Covenant undertake to guarantee that 'the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status'. See International Covenant on Economic, Social and Cultural Rights, United Nations General Assembly Resolutions 2200A (XXI), U.N. Doc. GAOR, 2200th Session, 1496th meeting, U.N. Doc. A/RES/2200(XXI) (1966), Article 2(2); The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health See International Covenant on Economic, Social and Cultural Rights, United Nations General Assembly Resolutions 2200A (XXI), U.N. Doc. GAOR, 2200th Session, 1496th meeting, U.N. Doc. A/RES/2200(XXI) (1966), Article 12(1).

[280] International Covenant on Civil and Political Rights (n 220) Article 10(1).

[281] ibid Article 10(2) (a).

[282] ibid Article 10(2) (b).

[283] Declaration on the Protection of All Persons from being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, United Nations General Assembly Resolution 3452 (XXX) U.N. Doc. GAOR, 3452nd Session, 2433rd meeting, U.N. Doc. A/RES/3452 (XXX) (1975) Article 12(1).

Torture constitutes very serious and deliberate form of cruel, inhuman or degrading treatment or punishment.[284] Article 2 of this Declaration makes it an offence to subject anyone to such act.[285] In addition, the Declaration places an obligation on member states not to permit or tolerate such forms of treatment or punishment.[286] According to Article 4 of the Declaration, it is obligatory for states parties to ensure that measures are taken towards preventing any action that constitutes inhuman treatment within their jurisdictions.[287]

It is worth nothing that the protection of all persons from such is not limited to the above-mentioned instrument alone. Article 7 of ICCPR also prohibits such act.[288] Recognising the importance of adhering to internationally recognised standards of human rights, legislation was made at the national level. This can be seen in the Nigerian Constitution, which provides as follows:

> No person shall be subject to torture or to inhuman or degrading treatment.[289] Meaning that torture or other cruel, inhuman or degrading treatment cannot be justified in any circumstances, it is completely prohibited.[290]

Despite the above laws being in place, torture is the most common way in which the police get confessional statements from accused persons in Nigeria.[291] Unfortunately, the acts constituting 'cruel, inhuman or degrading treatment or punishment' were not specified or interpreted by the General Assembly thereby, giving room to abuses.[292] Besides, the condition of police cells in Nigeria can best be described as torture chambers for detainees. For instance, thirty or more suspects are kept in a police cell meant for ten. Moreover, most

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[284] ibid Article 1(2); Nigel Rodley and Matt Pollard, *The Treatment of Prisoners under International Law* (Oxford University Press 2009) 8.
[285] ibid Article 2.
[286] ibid Article 3.
[287] ibid Article 4.
[288] No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. See International Covenant on Civil and Political Rights (n 219) Article 7; Universal Declaration of Human Rights (n 226) Article 5.
[289] The Constitution of the Federal Republic of Nigeria (n 15) Section 34 (1) (a).
[290] Universal Declaration of Human Rights (n 226) Article 5; The Banjul Charter, Organization of African Unity, OAU Doc. C AB/LEG/67/3 (1981) Article 5 and United Nations Standard Minimum Rules for the Treatment of Prisoners, United Nations General Assembly Resolution 633 C (XXIV) U.N. Doc. GAOR, 633rd Session, meeting, U.N. Doc. A/RES/633 C (XXIV) (1957), Rule 31; Carina Tertsakian, *Nigeria 'Political Shari'a'? Human Rights and Islamic Law in Northern Nigeria* (Human Right Watch 2004) 45; Manfred Nowak, *Torture: An Expert's Confrontation with an Everyday Evil* (University of Pennsylvania Press 2018)107. Gunnar J Weimann, *Islamic Criminal Law in Northern Nigeria: Politics, Religion, Judicial Practice* (Amsterdam University Press 2010) 7.
[291] Said Adejumobi, *Governance and Politics in Post-Military Nigeria: Changes and Challenges* (Springer 2010) 139; Awa U Kalu and Yemi Osibanjo (eds), *Perspective on Human Rights* (Federal Ministry of Justice 1992) 51; Sonya Maldar, *Rest in Peace: Police Torture and Deaths in Custody in Nigeria* (Human Right Watch 2005) 125; Sam Erugo and Charles O Adekoya, *Lawyering With Integrity: Essays in Honour of Earnest Ojukwu* (Lulu.Com) 130.
[292] United Nations Code of Conduct for Law Enforcement Officials, United Nations General Assembly Resolutions34/169, U.N. Doc. GAOR, 34th Session, 169th meeting, U.N. Doc. A/RES/34/109(1979). Article 5 (c).

police cells in Nigeria are poorly ventilated without toilet facilities.[293] The cells are built in such a way as to keep detainees irritable and uncomfortable.[294] The researcher believes all these constitute torture, which is contrary to the provisions of international instruments cited herein.

4.12.5 United Nations Code of Conduct for Law Enforcement Officials, 1979

As far as early 1961, there had been agitation for the United Nations to sponsor specific international codes of ethics for the police, but it was not until 1979 when the Code of Conduct was launched by the United Nations General Assembly.[295] In other words, the instrument was adopted by the United Nations General Assembly Resolution in 1979. According to this instrument,

> law enforcement officials include all officers of the law, whether appointed or elected, who exercise police powers, especially the powers of arrest or detention.[296]

The code sets out quality standards for professional practice on such matters as respect for human dignity and maintenance of human rights, use of force, confidentiality and protecting the health of detainees. Hence, the Code of Conduct for Law Enforcement Officials imposes obligations on the member states as follows:

> Law enforcement officials in their respective states shall, at all times, fulfill the duty imposed on them by law, by serving the community and by protecting all persons against illegal acts and be consistent with the high degree of responsibility required by their profession;[297]
> A law enforcement official shall not instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment;[298]
> Police officers shall use force only where it is necessary and to the extent required for the performance of their duty;[299] and
> Law enforcement officials shall not commit any act of corruption.[300]

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[293] Clement Nwankwo *et al*, *Human Rights Practices in the Nigerian Police* (Constitutional Rights Project 1993) 51.
[294] Theresa Akumadu, *Patterns of Abuse of Women's Rights in Employment and Police Custody in Nigeria* (Civil Liberty Organisation 1995) 49.
[295] John Cleinig, 'Professional Law Enforcement Codes: A Documentary Collection' in John Cleinig and Yorong Zhang (eds), *Contemporary International and Foreign Codes* (Greenwood Publishing Group 1993) 97; Dinah L Shelton (ed), *The United Nations System for Protecting Human Rights Volume 4* (Routledge 2016).
[296] United Nations Code of Conduct for Law Enforcement Officials (n 265) Article 1(a).
[297] ibid Article 1.
[298] ibid Article 1.
[299] ibid Article 3.
[300] ibid Article 7.

4.12.6 Basic principles on the Use of Force and Firearms by Law Enforcement Officials, 1979

This was adopted by the United Nations General Assembly Resolution in 1979. The primary purpose of this instrument is to prevent the arbitrary use of fire arms by police officers in the course of discharging their duties. Although the use of force and firearms is a necessity for law enforcement officials to fulfill their responsibility, the way in which they use force and firearms has an immediate effect on the relationship between the law enforcement institution and the community as a whole, particularly where the use of force is arbitrary, excessive or otherwise unlawful.[301] To this end, it is stated in clear terms that:

> Law enforcement officials shall not use firearms against persons, except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.[302]
>
> The express implication of the above provision is that the use of fire arm is only allowed in unavoidable circumstances against imminent or present threat.[303] Therefore, arbitrary use of firearm is likely to affect fundamental human rights; that is, right to life, liberty and security. The utmost priority must be given to those rights as enshrined in international instruments.[304]

4.12.7 The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 2006

The instrument was adopted by the United Nations General Assembly Resolution in 2006. It requires that member states should follow a practice of visiting the places of police detention as well as where suspects are being interrogated by the police on a regular basis.[305] Not only that, the visit is to be made by independent international or national bodies to places where people are deprived of their liberty. The essence is to ensure police accountability in order to

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[301] International Committee of Red Cross, *International Rule and Standard for Policing* (ICRC 2015) 34.

[302] Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 1990 Article 9.

[303] Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall:
(a) 'Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved';
(b) 'Minimize damage and injury, and respect and preserve human life'. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 1990 Article 5; see also Simon Bronitt, Miriam Gani and Saskia Hufnagel (eds), *Shooting to Kill: Social- Legal Perspectives on the use of Lethal Force* (Bloomsbury publishing 2012) 153; Jan Amo Hessbruegge, *Human Right and Personal Self-Defence in International Law* (Oxford University Press 2017) 111.

[304] Universal Declaration of Human Rights (n 226) Article 7; International Covenant on Civil and Political Rights (n 220) Article 6(1)

[305] The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2006) Article 1, 4(1).

prevent police misconduct in the treatment accorded to detainees so as to prevent torture and other cruel, inhuman or degrading treatment or punishment.[306] States parties are obliged to take effective measures to prevent acts that constitute inhuman treatment or related issues in any territory under their jurisdictions.[307]

4.12.8 The Global Standards to Combat Corruption in Police Forces/Services, 2008

The International Police Organisation's Group of Experts on Corruption (Interpol) came up with global standards to address corruption in the police sector.[308] Interpol is the acronym for the International Police Organisation, which is a nongovernmental organisation founded to coordinate the activities of the police of member states.[309] All member states are encouraged to comply with rules and guidelines provided in the instrument. It is apposite to mention that Nigeria is a party to it.[310] The purpose of the instrument is stated as follows:

> The purpose of this instrument is to ensure that the police forces/services of each Member State of Interpol have high standards of honesty, integrity and ethical behaviour in connection with the performance of their policing function;[311] it is meant to promote and strengthen the development of measures by each Member State of Interpol to prevent, detect, punish and eradicate corruption in the police forces/services within its national boundaries and to bring to justice police officers and other employees of police forces/services who are corrupt.[312]

This instrument was adopted knowing fully well that corruption renders the enforcement of law ineffective and exerts negative impact on police functions and the delivery of justice.[313] The purpose of the instrument is further declared as follows:

> The instrument is meant to make corruption within police forces/services a high-risk crime; promote and maintain a high standard of honesty; integrity and ethical behaviour within the police forces/services of each member; and

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[306] ibid Article 3.
[307] The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2006) see the preamble
[308] Global Standards to Combat Corruption in Police Forces/Services Interpol Resolution No. AG-2002-RES-1.
[309] ibid; James S E Opolot, *Police Administration in Africa: Towards Theory and Practice in the English-Speaking Countries* (University of America Press 2008) 117.
[310] Amechi Nweze *et al* (eds), *Policing Nigeria: Reminiscences* (Malthouse Press 1994)145; Tekena N Tanmuno, *The Police in Modern Nigeria, 1861-1965: Origins, Development, and Role* (University of Ibadan Press 1970) 279; Igbinovia Partric Edabor and Edabor Igbinovia Blessin, The Economic and Financial Crime Commission in Nigeria: An Appraisal (Safari Books Ltd 2014) 180.
[311] Global Standards to Combat Corruption in Police Forces/Services (n 281) Article 1(a).
[312] ibid Article 1(b).
[313] Peter Gottschalk and Perry Stainslas (eds), *Public Corruption: Regional and National Perspectives on Procurement Fraud* (CRS Press 2017); Tim Prenzler, *Police Corruption: Preventing Misconduct and Maintaining Integrity* (CRS Press 2009) 15.Commonwealth Human Right Initiative *et al*, 'Police Accountability: Too Important to Neglect, too Urgent to Delay' in Maja Daruwala and Clare Doube (eds), *Accountability to the Community* (Chri 2005) 80; International Covenant on Civil and Political Rights (n 220) Articles 6(1) and 9(1) the right to life, liberty and security.

> foster the recruitment and training as police officers of persons of high levels of integrity, honesty, ethical standards and expertise.[314]

Additionally, there is need for external bodies to monitor corruption within the police system in Nigeria, to ensure that the fight against corruption is not limited to an internal body alone, which might not be effective.[315] To this effect, the rule provides that:

> A mechanism should be established such as an oversight body or bodies to monitor the systems and measures established for preventing, detecting, punishing and eradicating corruption within the police forces/services and the adequacy, application and effectiveness of such systems and measures.[316]

It also provides a broad definition of corruption within the police system as:

> The offering or granting, whether directly or indirectly, to a police officer or other employee of a police force/service of any money, article of value, gift, favour, promise, reward or advantage for the police officer or other employee or for any person, group or entity in return for any act or omission already done or omitted or to be done or omitted in the future in or in connection with the performance of any function of or connected with policing.[317]

4.13 The role and challenges of the prosecutor in Nigeria's criminal justice system

Drawing from the discussion above, a number of pertinent observations can be made. Firstly, the police in Nigeria are conferred with the power to maintain law and order. Secondly, a lot of accusations have been steamrolled against them in relation to how they have been carrying out their duties. They have been accused of arbitrariness in exercising their powers; unlawful arrests; widespread corruption; sub-standard conduct of investigations; arraignment of accused persons in court for trial pending gathering of evidences for prosecution; application of holding charge to incarcerate pre-trial detainees; and human rights abuse; among others. It was also demonstrated in that the police are the first contact that an offender has with the criminal justice system. It was established that a policeman is known as the gatekeeper of the criminal justice system as he decides who goes into the system. An important aspect of the criminal justice system in Nigeria is the Prosecutor. Even though it has been briefly mentioned above that the police can also prosecute offenders, this section focuses mainly on the roles of the prosecutors in Nigeria's criminal justice system and the challenges faced or posed in the course of discharging their duties.

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[314] The Global Standards to Combat Corruption in Police Forces/Services (n 281) Article 3.

[315] Jude Uddoh, *Corruption Risks in Nigeria's Defence and Security Establishments: An Assessment* (Author House 2016) 1996; Tim Prenzler, *Police Corruption: Preventing Misconduct and Maintaining Integrity* (CRS Press 2009) 153; Ngozi Okonjo Iweala, *Reforming the Unreformable: Lessons from Nigeria* (MIT Press 2014) 81; Tim Prenzler and Janet Ransley (eds), *Police Reform: Building Integrity* (Hawkins Press 2002) 18; Ayandiji Daniel Aina, *Corruption and the Challenge of Human Development* (Babcock University Press 2007) 251.

[316] Global Standards to Combat Corruption in Police Forces/Services (n 281) Article 4(14).

[317] ibid Article 2 (b).

4.13.1 Who is a prosecutor?

A prosecutor is a person who brings charges against an accused person or a corporate entity.[318] It is the duty of the prosecutor to explain to the court what crime was committed and to detail what evidence has been found, which incriminates the accused.[319] The burden of proof is on the prosecutor to prove the guilt of the accused person,[320] since an accused is presumed innocent until the contrary is proved.[321]

Under Nigeria's judicial system, the prosecutor is the chief legal representative of public prosecutions in the country.[322] Prosecutors are the principal representatives of the state in all criminal matters.[323] Prosecution of criminal proceedings involves all matters between persons or between persons and the government in Nigeria.[324] It is important to note that all criminal offences, even when committed against individual persons, are said to be state matters because any offence committed against a person is tantamount to committing it against the state.[325]

It is the responsibility of the police not only to to protect people' lives and property, they also have a duty to apprehend and prosecute offenders before appropriate law courts.[326] Apart from the police, the Nigerian Constitution also empowers some agencies of government and officers, including the Attorney-General, through State Counsels,[327] the Economic and Financial Crimes Commission;[328] Independent Corrupt Practices and Other Related Offences Commission;[329] and National Drug Law Enforcement Agency; to prosecute certain offenders. Prosecutors usually only become involved in a criminal case once a suspect has been identified and charges filed. An office of the government typically employs them,

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[318] See the Constitution of the Federal Republic of Nigeria (n 15) Section 174.
[319] Criminal Procedure Act (n 67) Section 2(1); Onwuchekwe Stanley Ikenna, The Police and Administration of Criminal Justice System in Nigeria <http://www.academia.edu/19792244>The_Police_and_Administration_of_Criminal_Justice_System_In_Nigeria accessed 4 July 2017.
[320] Evidence Act Cap E14 LFN, 2011 Section 139(1).
[321] The Constitution of the Federal Republic of Nigeria (n 15) Section 36(5).
[322] The Constitution of the Federal Republic of Nigeria (n 15) Section 174 (1); Criminal Code Act (n 67); Oshisanya Lai Oshitokunbo, *An Almanac of Contemporary and Comparative Judicial Restatements* (Almanac Foundation 2018) 1019.
[323] ibid.
[324] Elijah A Taiwo, 'Enforcement of Fundamental Rights and the standing rules under the Nigerian constitution: a need for a more libral provision' (2009) 9 African Human Right Journal 546, 547; Sonia Akinbiyi, *Criminal Procedure and Trials in Nigeria* (Ascend Publications 2002) 3.
[325] Imam Ibrahim, *The Nigerian Law of Evidence* (Malthose Press 2017) 93.
[326] Nigeria Police Act (n 11) Section 23.
[327] ibid Section 174(1) and 211.
[328] Economic and Financial Crimes Commission Establishment Act, 2004 Section 6(m).
[329] Independent Corrupt Practices and Other Related Offences Commission Act LFN, 2000, Section 6(a); See Ernest Ojukwu *et al*, *Handbook on Prison Pre-Trial Detainee Law Clinic* (Network of University Legal Aid Institution 2012) 72; The Constitution of the Federal Republic of Nigeria (n 15) Sections 174 and 211.

with safeguards in place to ensure such an office can successfully pursue prosecution of government officials.[330]

4.13.2 The role of prosecutors in Nigeria's criminal justice system

The criminal justice system of a nation represents a system or structure through which the laws guiding the existence of such society are presented in an orderly manner.[331] It can also be described as a social agent characterised by orderliness in most societies. It should be noted that the correct procedure in the order of primary contact of crime; investigation; arrest; arraignment and trial; among others, must be followed in the delivery of justice, and interestingly, there cannot be a trial without a prosecutor. Hence, to achieve efficient delivery of criminal justice in Nigeria, the role of a prosecutor cannot be over emphasised.[332]

The powers to conduct public prosecutions in Nigeria are conferred on certain Departments of the government. According to Dele Peters,

> in the prosecution of criminal proceedings, certain personnel and institutions of government are visible and have a significant role to play in the process;[333] the State and Federal Ministries of Justice are at the forefront of prosecution of criminal proceedings in Nigeria; usually, the personnel in the Department of Public Prosecution of the Ministry of Justice conduct prosecution of criminal cases;[334] the Chief Prosecutor of the State is the Attorney-General. He is conferred with powers to initiate, conduct, take over or discontinue any prosecution of criminal proceedings in the Nigerian courts, except in a Court Martial;[335] the Director of Public Prosecutions (DPP) and other counsel often assist the Attorney-General in carrying out the job of prosecution.[336]

The role of prosecution is also delegated to police officers, who are assigned to prosecute criminal cases for the State when either the case is framed in the name of the State or the Federal Government or in the name of the police officer.[337]

The Criminal Procedure Act empowers Officers of the Police Force to effect arrests of criminal suspects without warrants of arrest.[338] They can also conduct search on any person or premises without restriction. Detention in custody, granting of bails and prosecution of

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[330] Leonard C Opara, 'The Law and Policy in Criminal Justice System and Sentencing in Nigeria' (2014) 4 International Journal of Social Science Journal of Asian Soc ial Science 866, 887.
[331] Dapo Adelugba and Philip Ogo Ujomu, (eds) *Rethinking Security in Nigeria: Conceptual Issues in the Quest for Social Order and National Integration* (African Books Collectives 2008) 47.
[332] Benjamin Obi Nwabueze, *The Machinery of Justice in Nigeria* (Butterworths 1963) 227.
[333] Dele Peters, '*Public Prosecution and the Concept of Restorative Justice in Nigeria*' (2005) 2 Fountain Quarterly Law Journal 79, 79.
[334] ibid.
[335] ibid.
[336] ibid.
[337] Charlse Nwalimu, *The Nigerian Legal System: Public law, Volume 1* (Peter Lang 2005) 923.
[338] The Criminal Procedure Act. Cap C42 Laws of Federation of Nigeria 2004. (n 67) Sections 2-10.

offenders are all within the powers of the police in Nigeria.[339] With reference to Section 174(1) of the Nigerian Constitution, the police can carry out prosecution of criminal suits by their qualified personnel or by engaging legal counsels for that purpose.[340] It is part of the duties of the police to serve as judicial officers who have the knowledge of the law in Nigeria's criminal justice system.[341]. It is within the ambit of the prosecutor, as a judicial officer, to determine whether an individual is guilty of violating the laws of the society, and the appropriate punishment to be meted out to such an individual.[342] Section 23 of the Nigeria Police Act confers the power to prosecute on a police officer as follows:

> Subject to the provisions of Sections 174 and 211 of the 1999 Constitution of the Federal Republic of Nigeria (which relate to the power of the Attorney-General of the Federation and of a State to institute and undertake, take over and continue or discontinue criminal proceedings against any person before any court of law in Nigeria), any police officer may conduct, in person, all prosecutions before any court, whether or not the information or complaint is laid in his name.[343]

The 1999 Constitution of Nigeria also confers powers of prosecution on the Attorney-General of the States and Federation. It provides as follows:

> Therefore, the Attorney-General of the Federation shall have power to institute and undertake criminal proceedings against any person before any court of law in Nigeria, other than a court-martial, in respect of any offence created by or under any Act of the National Assembly;[344] to take over and continue any such criminal proceedings that may have been instituted by any other authority or person;[345] to discontinue at any stage before judgment is delivered, any such criminal proceedings instituted or undertaken by him or any other authority or person;[346] the powers conferred upon the Attorney-General of the Federation under subsection 1 of this section may be exercised by him in person or through officers of his department.[347]

[339] ibid Sections 2-10, 17-20.
[340] The Constitution of the Federal Republic of Nigeria (n 15) Section 174.
[341] The Constitution of the Federal Republic of Nigeria (n 15) Section 174; Nigeria Police Act (n 9) Section 23; Nwalimu (n 342) 923.
[342] Etim E Okon, '*Legal and Socio-Ethical Issues in Punishment*' (2013) 11 Journal of Law Policy and Globalization 25, 28.

[343] Nigeria Police Act (n 11) Section 23.
[344] The Constitution of the Federal Republic of Nigeria (n 15) Section 174 1(a).
[345] ibid Section 1(b).
[346] ibid Section 1(c).
[347] ibid Section 2.

4.13.3 The Attorney-General and prosecution of criminal proceedings in Nigeria

It should be noted that prosecution is not restricted to the Attorney-General's office alone.[348] Section 174 of the 1999 Constitution involves police officers as the said Section provides as follows:

> Any police officer, any other authority or person shall institute criminal proceedings in any court, subject to the power of the Attorney-General taking over and continuing any such criminal proceedings and discontinuing at any stage before judgment is delivered in any criminal proceedings.[349]

The position of the Nigerian laws was critically examined as follows:

> Neither Section 23 of the Police Act, which grants the power to any police officer to institute criminal proceedings in any court in Nigeria nor Section 174(1) (b) of the Constitution (which recognises the right of 'any other authority or person' to institute criminal proceedings in Nigeria) expressly states that such a police officer or any other person must be a legal practitioner to be qualified; hence, if it was the intention of the framers of the 1999 Constitution to exclude those without legal training from the group of those recognised to institute criminal proceedings in any part of Nigeria, they could have clearly stated so inSsection 174 of the 1999 Constitution; the fact that this is not so overtly stated, leaves one with no other option than to hold that by the expression 'any other person' used in Section 174(1)(b) of the 1999 Constitution, the framers meant any other person whether learned in law or otherwise, provided he is a person; also, the phrase 'any other authority' pre-supposes that authority could be represented by a legally qualified person either in that authority or engaged for the purpose by the authority; for instance, in cases of negative averment whereby a person has defaulted in paying taxes, the Board of Inland Revenue can engage the services of a legal practitioner or legally qualified employee of the Board to prosecute the defaulter; it does not mean, however, that in all cases, a legally qualified person must appear; it is only desirable, because superior courts of record have attained the tradition of only legal practitioner, in the main, prosecuting cases whether civil or criminal before them.[350]

Based on the above, the powers of the police to conduct prosecution of criminal proceedings before any court, according to Section 23 of the Police Act, is subject only to as provided by Sections 174 and 211 of the Constitution. These Sections confer prosecutorial powers on both the state and federal Attorney-General to:

> Institute and undertake, take over and continue or discontinue criminal proceedings against any person before any court of law in Nigeria.[351]

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[348] Police Act (n 11) Section 23; The Constitution of the Federal Republic of Nigeria (n 15) Section 174 and 121.
[349] The Constitution of the Federal Republic of Nigeria (n 15) Section 174.
[350] Nigeria Police Act (n 11); The Constitution of the Federal Republic of Nigeria (n 1) Section 174.
[351] ibid.

The Sections are explicit because it is not only the police, many other persons or Departments of Government can conduct prosecution of criminal proceedings.[352] In the course of prosecution, it is not mandatory that the Attorney-General must be the one to conduct prosecution in person, he can delegate any other officer under his supervison to carry out the assignment but reserves the right to take over or continue or discontinue same.[353] Other Departments of Government that are empowered by Nigeria's laws to prosecute criminal proceedings include the National Drug Law Enforcement Agency;[354] National Agency for Food Drug Administration and Control (NDLEA);[355] Independent Corrupt Practices and Other Related Offences Commission (ICPC);[356] Economic and Financial Crimes Commission (EFCC);[357] and Federal Inland Revenue Services (FIRS).[358]

4.13.4 The power of the police to prosecute criminal cases in Nigeria

Generally, the Nigerian Police Force has a mandate to perform according to the Police Act. Section 4 of the Police Act makes provisions for the general duties of the police as follows:

> The police shall be employed for the prevention and detection of crime; the apprehension of offenders; the preservation of law and order; the protection of life and property and the due enforcement of all laws and regulations with which they are directly charged; and shall perform such military duties within or outside Nigeria as may be required of them by, or under the authority of this or any other Act. [359]

In addition to these general duties, Section 23 of the Police Act also confers the power to prosecute in any court on the police as follows:

> Subject to the provisions of Sections 174 and 211 of the Constitution of the Federal Republic of Nigeria 1999 (which relate to the power of the Attorney-General of the Federation and of a State to institute and undertake, take over and continue or discontinue criminal proceedings against any person before

[352] Efemini M Ovo, *Modern Nigerian Constitutional Law: Practices, Principles and Precedents* (Malthouse Press 2017) 263.
[353] Bamigbose Olatokunbo John (ed), Digest of Judgements of the Supreme Court of Nigeria: Volumes 3 and 4 (Safari Books Ltd 2017) 189; Victoria Colvin and Philip Stenning, *The Evolving Role of the Public Prosecutor: Challenges and Innovations* (Routledge 2018) 221.
[354] National Drug Law Enforcement Agency Act, 1990 Section 1(q) power to take charge, supervising, controlling, coordinating all the responsibilities, functions and activities relating to arrest, investigation and prosecution of all offences connected with or relating to illicit traffic in narcotic drugs and psychotropic substances, for example, National Drug Law Enforcement Agency v Babatunde Omidina (2013) NWLR pt 16 at 1381; Efemini Ovo M, *Modern Nigerian Constitutional Law: Practices, Principles and Precedents* (Malthouse Press 2017) 99.

[355] National Agency for Food and Drug Administration and Control Act, 1999 Sections 26 power to conduct proceedings subject to section 174 of The Constitution of the Federal Republic of Nigeria 1999.
[356] Independent Corrupt Practices and Other Related Offences Act, 2000 Section 6. General duties of the Commission to receive investigate complaint and prosecute offenders, etc.
[357] Economic and Financial Crimes Commission (Establishment) Act, 2004, Section 46.
[358] The Federal Inland Revenue Service Establishment Act, 2007 Section 47.
[359] Nigeria Police Act (n 11) Section 23.

> any court of law in Nigeria), any police officer may, conduct in person, all prosecutions before any court, whether or not the information or complaint is laid in his name.[360]

It is worthy to note that police officers are usually appointed to prosecute in Nigerian Courts. This was the practice prior to the promulgation of the Administration of Criminal Justice Act, 2015 and is still being practised today. There have been arguments as to whether or not it is mandatory that prosecuting police officers at Superior Courts should be legal practitioners. This subject has been thoroughly dealt with by the court and scholars. The controversy was ended by the Supreme Court of Nigeria in the case of *FRN v Osahon* where the court held as follows:

> From the colonial period up to date, police officers of various ranks have taken up prosecution of criminal cases in Magistrates and other courts of inferior jurisdiction. They derived their powers under Section 23 of the Police Act. But when it comes to superior courts of record, it is desirable though not compulsory that the prosecuting police officer ought to be legally qualified; this is not deleting from the provisions of Section 174(1) of the Constitution, rather, it maintains age long practice of superior courts having counsel rather than non-lawyers prosecuting matters. The confusion that this matter has caused is rather unfortunate for trial of criminal cases; it has caused a disturbingly long delay. Previous constitutions before 1979 provided for the post of Director of Public Prosecutor, an independent officer, with powers in a statute. The absence of this vital office from subsequent constitutions has created this dilemma. For the foregoing reasons ...I hold that a police officer can prosecute by virtue of Section 23 of the Act, Section 56(1) of the Federal High Court Act, and Section 174(1) of the Constitution of the Federal Republic of Nigeria.[361]

That was the position of the law before the enactment of the Administration of Criminal Justice Act, 2015. As discussed earlier, one of the attention-grabbing features of the Act is Section 106, which makes the prosecution of criminal cases the exclusive preserve of lawyers. In effect, police personnel, who are not lawyers, have lost the right to prosecute. This provision has, by implication, suspended Section 23 of the Police Act, which empowers police officers to prosecute matters in court. This section also, by extension, overrules the Supreme Court decision in *FRN v Osahon* of 2006 mentioned earlier. Largely, this is a welcomed development because many cases were mismanaged in court by police officers due to lack of diligent prosecution and, to some extent, corruption. Based on the promulgation of the Act, it is submitted that a police officer, who is not a legal practitioner, cannot prosecute

[360] ibid.
[361] *FRN v Osahon* (2006) NWLR pt 973 at 18-19.

at any court, be it Superior or Inferior Court, by virtue of Section 106 of the Administration of Criminal Justice Act, 2015.

4.13.5 Duty of the police and interpreter in the prosecution of criminal cases in Nigeria

Section 137(1) of the Evidence Act confers on a prosecuting police officer the responsibility of proving a case against an accused person beyond any reasonable doubt before the court.[362] In the course of achieving this however, all parties must be carried along particularly in terms of language of communication.[363] It is the responsibility of the court to ensure that the plaintiff, defendant and even witnesses understand court proceedings, and in situations where the language in which proceedings are conducted is not understood by any of the parties, there must be an interpreter.[364] The issue of interpretation in court was addressed in the case of *Nwaeze v The State* where it was declared that

> the prosecuting police officer may not understand the language spoken by the accused person, and so, the services of an interpreter are needed; the interpreter understands the language spoken by the accused person and the English language spoken in the court; he speaks to the accused person in the accused person's local language and tells the police officer in English what the accused person said; this is vital in the determination of the case in the court.[365]

4.14 Challenges faced by the prosecutor in Nigeria's criminal justice system

In the course of this research, it was discovered that the prosecuting sector of the Nigerian Criminal Justice System is not without its own challenges in carrying out the obligations placed on them by the law. It appears that prosecutors do not prosecute diligently in most cases, and this has contributed immensely to the failing justice administration in Nigeria.[366] They are usually faced with challenges of missing case files; poor knowledge of the law; impromptu transfer of prosecutors from one jurisdiction to the other; corruption; and deliberate non-diligent prosecution. The fact that the police execute their duties in a federal state also exerberates their challenges in the judicial process.[367]

4.14.1 Government interference in the affairs of the Attorney-General

The Ministry of Justice is a major department of the executive arm of government.[368] The Attorney-General, whether at the state or federal level, is a political appointee of government

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[362] Evidence Act (n 325) Section 137(1).
[363] The Constitution of the Federal Republic of Nigeria (n 15) Section 36(6) e.
[364] ibid; Olatokunbo John (n 358) 271.
[365] *Nwaeze v The State* (1996) 2 NWLR pt 428 at 1.
[366] Agbonika John and Alewo Musa, 'Delay in the Administration of Criminal Justice in Nigeria: Issues from a Nigerian view point' (2014) 26 Journal of Law, Policy and Globalization 130, 134.
[367] ibid.
[368] The Constitution of the Federal Republic of Nigeria (n 15) Section 147(2).

and, therefore, bound to execute instructions given by the President at the national level or Governor of the state.[369] Pressure from government often influences the manner in which cases are prosecuted.[370] This brings about miscarriage of justice, particularly in cases involving government officials.[371] Justice is drawn along the lines of social status and is usually made to favour those with political powers and influence, and the rich in the society; this certainly exerts massive influence on the manner in which prosecution of criminal proceedings is conducted by the Attorney-General or his representative.[372]

Furthermore, poor salary scale of staff, inadequate working facilities and lack of competent staff are some of the myriad of challenges confronting the Ministry of Justice in Nigeria.[373] These have had a negative impact on prosecution of criminal proceedings in Nigeria's Criminal Justice System.[374]

4.14.2 Prosecutors as officers of the Nigerian Police Force

The challenges faced by the Nigerian Police, as discussed in the previous chapter, are enormous. In order to avoid repetition, the problems are summed up in the submission of Kofi Akosah-Sanpong thus:

> The Nigerian Police Force has, indeed, been overwhelmed by worsening domestic insecurity and undermined by its own internal problems, including indiscipline; poor training; lack of expertise; specialised fields; poor pay; strikes; corruption; and widespread dishonesty and failure to report crimes.[375]

The situation became worrisome when police officers embarked on a strike for the first time in the history of Nigeria.[376] In February 2002, junior police officers under the umbrella of the National Union of Policemen, embarked on an industrial action to demand for better conditions of service and improved welfare. This affected the performance of police prosecutors, who are key players in Nigeria's criminal justice system. However, it is imperative to mention specific challenges faced by the police, as they affect prosecution of criminal cases in Nigeria.

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[369] ibid Section 192(2); Benjamin Obi Nwabueze, A Constitutional History of Nigeria (Hurst & Co.Publishers 1982) 247.
[370] Ellen L Lutz and Caitlin Reiger, *Prosecuting Heads of State* (Cambridge University Press 2009) 216.
[371] ibid; Sunday Abraham Ogunode, 'Criminal Justice System in Nigeria: For the Rich or the Poor?' (2015) 4 Humanities and Social Science Review 27, 28.
[372] ibid.
[373] ibid 29.
[374] ibid.
[375] Kofi Akosah-Sanpong, 'Law, Order and Vigilante in Nigeria' (2002) 2 Published in Federations 4, 4.
[376] Derri Damfebo Kieriseiye, *Alternative Dispute Resolution in Nigeria: A Functional Approach* (Malthouse Press 2016) 61.

4.14.3 The Police as a federal institution

It should be recalled that the police in Nigeria are centrally administered. Hence, Section 215(2) of the 1999 Constitution provides as follows:

> The Nigerian Police Force shall be under the command of the Inspector-General of Police and any contingents of the Nigerian Police Force stationed in a State shall, subject to the authority of the Inspector- General of Police, be under the Commissioner of Police of that State.[377]
> The President or other Minister of the government of the Federation as he may authorise in that behalf may give to the Inspector-General of Police, such lawful direction with respect to the maintenance and securing of public safety and public order as he may consider necessary, and the Inspector-General of Police shall comply with those directions or cause them to be complied with.[378]
> Subject to the provision of this Section, the Governor of a State or such commissioner of the government of the State as he may authorise in that behalf may give to the Commissioner of Police of that State, such lawful directions with respect to the maintenance and securing of public safety and public order within the State as he may consider necessary, and the Commissioner of Police shall comply with those directions or cause them to be complied with. Provided that before carrying out any such directions under the foregoing provisions of this subsection, the Commissioner of Police may request that the matter be referred to the President or such Minister of the Federation as may be authorised in that behalf by the President for his directions.[379]
> The question whether any, and if so what, directions have been given under this section shall not be inquired into in any court.[380]

An obvious challenge of a police prosecutor in Nigeria is that the Nigerian Police Force is a federal institution.[381] As such, a police prosecutor is not answerable to state institutions that may require the services of the prosecutor to successfully carry out their duties. One such institution is the Department of Public Prosecution (DPP).[382] For the DPP to carry out its duties on any criminal matter, it must receive the case file. Most of the time, case files are not transferred between the Investigating Police Officer (IPO) and the Department of Public Prosecutions.[383] For example, in the case of *COP v Okoye*, the judge affirmed as follows:

> It is the duty of the magistrate or judge to direct the police prosecutor to transmit the police case file to the Attorney-General, who then, directs the Directorate of Public Prosecution (DPP) and other law officers in his office to

[377] The Constitution of the Federal Republic of Nigeria (n 15) Section 215(2).
[378] ibid Section 215(3).
[379] ibid Section 215(4).
[380] ibid Section 215(5).
[381] Lone Lindholt, *Human Rights and the Police in Transnational Countries* (Martinus Nijhoff Publishers 2003) 71.
[382] John and Musa (n 370) 135.
[383] ibid.

> prepare the evidence;[384] it is the duty of the police officer or any other police officer acting under the general or specific instruction of the State Commissioner of Police to transmit the police case file and the inventory to the Attorney-General.[385]

Furthermore, upon receipt of the police case file and the record made under Section 243 of the Criminal Procedure Act,

> it is the duty of the Director of Public Prosecution and other law officers, acting under and in accordance with the general or specific instructions of the Attorney-General to prepare the proofs of evidence.[386]

Often times, after arraignment by the police and magistrate does the remands, the original case file is not kept within the court by the prosecutor, thereby making the transmission to the office of the Attorney-General difficult and causing delays in rendering legal advice by the Director of Public Prosecution (DPP) in the state.[387] The state courts are always at the mercy of the prosecuting police officers in getting DPP's advice. The worst is that the case file may be missing after a long period of awaiting legal advice.[388] This is attributed to the fact that the police prosecutor is not answerable to any state agency (that is, a federal institution). Thus, if there was a State Police accountable to state institutions, this challenge might not have been there. The challenge of a central police system, whereby prosecutors are not answerable to state agencies, is a major contributor to the increased number of inmates awaiting trial in Nigeria's prisons. This is because DPP must provide legal advice before a trial can commence. The researcher believes that keeping a criminal suspect in detention for a long time without trial is an injustice and a gross violation of his or her fundamental human rights.

4.15 Challenges posed by prosecutors to Nigeria's criminal justice system

The discussions above have revealed that prosecutors as an important sector in Nigeria's criminal justice system, are confronted by some challenges during their service delivery. It should however be noted that they cannot be considered to be free from the blame as some of their activities have negative impacts on the system, as discussed hereafter.

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[384] *COP v Okoye* (2011) WRN pt 48 at 131-134; Criminal Procedure Act (n 67), Section 243.
[385] Criminal Procedure Act (n 67), Section 246.
[386] ibid.
[387] John and Musa (n 49) 134.
[388] ibid.

4.15.1 Poor knowledge of the law by prosecutors

Lack of good knowledge about the law is one of the challenges that have bedeviled the prosecuting sector in Nigeria's criminal justice system. A great number of police prosecutors, who are not lawyers, and perhaps new in the system, have no mastery of the law guiding the work of a prosecutor.[389] In such situations, the magistrate indirectly assumes the position of a prosecutor in assisting police officers to do their job.[390] This, often times, leads to conflict that ultimately encumbers the justice of the case. Considering the fact that the task of prosecution of criminal proceedings requires great expertise, not having competent hands to prosecute amounts to institutional weakness and resource deficit. Therefore, competent hands must be employed to do the prosecution of criminal cases if justice is to be achieved.

4.15.2 Corruption among police prosecutors

Corruption in the rank and file of the Nigerian Police has been discussed extensively in the previous chapter. However, it is pertinent to re-emphasise here that the inability of the Nigerian Police to prosecute diligently and secure convictions of criminals is largely attributed to corruption.[391] Corruption has become so institutionalised in the Nigerian Police Force to the extent that it is only police officers in Nigeria who extort money from the public unashamedly in the full view of people.[392] This is the same in every department of the Nigerian Police Force, including the Prosecuting Department. Making reference to Table 13b again, the prosecutor was reported by ICPC to be next to the police with 33% of them involved in one form of bribery or the other, which is not unconnected with the fact that most prosecutors are police officers. This is part of what is responsible for their ineffective performance.

It should be It is only in Nigeria that prosecuting police officers can collect monetary gratification before carrying out their legitimate duties. Often times, when criminal suspects standing trial cannot offer a bribe, the prosecutor will deliberately be absent from the court, thus making the suspect to remain in prison custody for a longer period of time. It is common in Nigeria for a criminal case to be called by the Court Registrar only to discover that the prosecutor is absent.[393] In addition, many times when a criminal suspect standing trial has been able to offer a bribe, the prosecutor may decide to reduce the charges read against the

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[389] Mwalimu (n 342) 923.
[390] ibid.
[391] Anthony Abayomi Adebayo, '*Social Factors Affecting Effective Crime Prevention and Control in Nigeria*' (2013) 3 International Journal of Applied Sociology 71, 75.
[392] Alice Hills, '*The Dialectic of Police Reform in Nigeria*' (2008) 15 Modern African Studies 215, 219.
[393] Carina Tertsakian, Nigeria "Political Sharia"? Human Rights and Islamic Law in Nigeria (Human Right Watch 2004) 55.

offender or in most cases, adopt non-diligent prosecution until the case is struck out by the preciding magistrate or judge on that basis.[394] Thus, prosecutors who are an integral part of justice administration in Nigeria, must always maintain the integrity, honour and dignity expected of their profession for the efficient delivery of criminal justice in Nigeria.[395]

4.15.3 Impromptu transfer of prosecuting police officers

It is common in Nigeria for an investigating police officer in a criminal case to be transferred from one jurisdiction to another in the middle of a trial.[396] Some of the transfers are deliberate efforts by the police to frustrate trial processes, particularly when bribes or other forms of gratification to desist from carrying out certain duties are involved.[397] In some cases, transfers could be due to the police authority being involved in the responsibility of building political unity.[398] As a result, the accused person remains in custody until the officer in charge is available or a new person is assigned to prosecute the case.[399]

4.15.4 Inadequate training and lack of transparency in the appointment of prosecutors

In Nigeria, there is poor appreciation of training and retraining of police personnel, including prosecutors.[400] Prosecutors lack training on the ideals and ethical duties of their office, thus negatively affecting their performance in prosecuting criminal proceedings.[401] Also, due process is not consistently followed in the appointment of prosecutors. Their appointment is usually through discrimination in terms of religious, political, social or ethnic origin. As such, people without integrity and adequate education are recruited to prosecute criminal proceedings in courts thus, having a negative impact on the administration of criminal justice in Nigeria.[402]

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[394] Ogunode (n 375) 31.
[395] United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 1990 Article 3.
[396] Michael Chukwujindu Ogwezzy, Akintunde Abidemi Adebayo and Alaba Ibironke Kekere 'Restorative Justice and non-Custodial Measures: Panacea to Recidivism and Prison Congestion in Nigeria' (2016) 7 Nnamdi Azikwe University Law Journal 69, 70.
[397] Ogunode (n 375).
[398] Ogwezzy, Adebayo and Kekere (n 396).
[399] Yemi Akinseye-George, *Nigerian Prisons: Justice Sector Reform and Human Rights in Nigeria-Centre for Socio Legal Studies* (CSLS Publishing 2009) 307 303; Alemika Etinabi O 'Trends and Conditions of Imprisonment in Nigeria' (1993) 37 International Journal of Offender Therapy and Comparative Criminology 147, 147; Ololade Olateru Olagbegi 'Delay and Congestion in the Administration of Justice' (2009) 1 Akungba Law Journal 355, 357.
[400] Nwalimu (n 37) 923.
[401] ibid.
[402] ibid.

4.16 International instruments on public prosecution

It is important to mention here that many international instruments focus on the general functions of the police without directly referring to prosecutors,[403] thus, there is need to discuss an international instrument that specifically addresses international standards of public prosecution.

4.16.1 United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 1990

The above instrument was formulated by the United Nations to guide member states in the task of prosecution, more importantly, in safeguarding and championing the course of justice so that effectiveness can be promoted, impartiality upheld, and fairness displayed in the course of prosecuting criminal proceedings. It sets out guidelines on the role of a prosecutor as follows:

> 1. Persons selected as prosecutors shall be individuals of integrity and ability, with appropriate training and qualifications;[404]
> 2. States shall ensure that
> (a) selection criteria for prosecutors embody safeguards against appointments based on partiality or prejudice, excluding any discrimination against a person on the grounds of race, colour, sex, language, religion, political or other opinion, national, social or ethnic origin, property, birth, economic or other status, except that it shall not be considered discriminatory to require a candidate for prosecutorial office to be a national of the country concerned;[405] and
> (b) Prosecutors must have appropriate education and training and should be made aware of the ideals and ethical duties of their office, of the constitutional and statutory protections for the rights of the suspect and the victim, and of human rights and fundamental freedoms recognised by national and international.[406]

Meanwhile, prosecution of criminal proceedings in Nigeria does not conform to the provisions of this instrument, despite the fact that Nigeria is a member state.

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[403] Global Standards to Combat Corruption in Police Forces/Services Interpol Resolution No. AG-2002-RES-1.
[404] 'United Nations Congress on the Prevention of Crime and the Treatment of Offenders1990 Article 1. Prosecutors shall perform an active role in criminal proceedings, including institution of prosecution and, where authorized by law or consistent with local practice, in the investigation of crime, supervision over the legality of these investigations, supervision of the execution of court decisions and the exercise of other functions as representatives of the public interest'.
[405] ibid Article 2 (a).
[406] ibid Article 2(b).

4.17 Summary of chapter

This chapterprovided the challenges militating against the effectiveness of the Police as a component of Nigeria's Criminal Justice System. An analysis of the challenges posed by the police on the Nigerian Criminal Justice System was done. The debate on the creation of a State Police in Nigeria was also elucidated. Additionally, in a bid to show the level of compliance of Nigeria's Police force and their activities with the international standards, relevant instruments and their provisions were discussed.

Prosecutors, as important actors in Nigeria's criminal justice system in terms of the roles they play in the administration of justice in Nigeria were also discussed. The position of the law with regard to prosecution powers was considered in this chapter. A critique was made of police prosecuting powers, and an explanation of the position of prosecutors before the promulgation of the Administration of Criminal Justice Act, 2015 and the present status of the sector, provided. Challenges faced by prosecutors in the course of discharging their duties and implications on the administration of criminal justice in Nigeria were discussed. An international instrument on prosecution of criminal proceedings, which forms the basis for measuring Nigeria's performance in public prosecution, was also examined. The next chapter focuses on the responsibilities and challenges of the judiciary in Nigeria's criminal justice system.

CHAPTER FIVE

RESPONSIBILITIES AND CHALLENGES OF THE JUDICIARY IN NIGERIA'S CRIMINAL JUSTICE SYSTEM

5.1 Introduction

The previous chapter focuses on the role and challenges faced/posed by the police on the within the Criminal Justice System. in Nigeria. The prosecutor as a person who brings charges against an accused person or a corporate entity was also analysed. This chapter therefore, focuses on the responsibilities and challenges of the judiciary as a sub-system of Nigeria's criminal justice system. In addition, courts with criminal jurisdiction; rule of law; separation of powers; and independence of the judiciary as necessities in achieving justice will also be discussed.

To start with, the judiciary has been referred to as:

> The court system, which is the second most important component in a triangular relationship (police, judiciary and correctional systems) of the criminal justice system; and it involves the court system, which is the prescribed institution through which lawful actions are taken against an offender.[1]

It is a place where the guilt or innocence of an accused is established.[2] It is the system, which an accused person goes through until the charges are dismissed and acquitted or convicted and punishment decided.[3] The verdicts and disposition of the court system has a great influence on all other sectors of Nigeria's criminal justice system, thaft is, the police and correctional services.[4]

It is imperative to understand the nature of the criminal justice system as well as the body specifically empowered to do the interpretation, execution and application of the law. The Nigerian system of government is divided into three arms as follows: the executive; legislature; and judiciary.[5] The executive arm of government executes policies and programmes of government while the legislature makes laws.[6] The judiciary, on the other

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[1] Edosa Enaruna and Fenemigho Ernest O, 'The Judiciary as an Organ of Government' (2014) 8 African Research Review, An International Multidisciplinary Journal 92, 92.
[2] Tosin Osasona, 'Time to Reform Nigeria's Criminal Justice System' (2015) 3 Journal of Law and Criminal Justice 73, 73; Frank Belloni and Jacqeline Hodgson, 'The Trial' in Yvonne Jewkes and Gayle Letherby (eds), *Criminology: A Reader* (SAGE 2002) 301.
[3] Sunday Abraham Ogunode, 'Criminal Justice System in Nigeria: For the Rich or the Poor?' (2015) 4 Humanities and Social Science Review 27, 28; Belloni and Hodgson (n 4).
[4] Osasona (n 2).
[5] Angela E Obidimma and Emmanuel O Obidimma, 'The Legislative-Executive Relations in Nigeria's Presidential Democracy' (2015) 3 International Journal of Business and Law Research 71, 71.
[6] ibid.

hand, is charged with the responsibility of interpreting the law to determine the guilt or innocence of an accused,[7] and consequently, administer justice.[8] By so doing, it wields its power to interpret the law.[9]

5.2 Conceptualisation of key terms

For the purpose of clarity, some key terms are hereunder explained.

5.2.1 The Judiciary

The word 'judiciary' is defined as 'the judges of a state or of a country grouped together'.[10] In the same vein, the judiciary is described as the system of courts of justice in a country.[11] The branch of government charged with the responsibility of administering justice is the judiciary.[12] The word 'judiciary' comes from the word 'judicial', which means doing an act with wisdom, foresight, logic, fairness and honesty.[13] The judiciary comprises the court and all those who work in the vineyard of justice.[14]

All these definitions suggest some important qualities that make up the judiciary, which include judges, courts of law and the entire administration of justice. The *Black's Law Dictionary* blends in the definition of judiciary from the meaning of court, and defines it as follows: 'the branch of government responsible for interpreting the laws and administering justice, a system of courts and a body of judges'.[15] Consequently, the judiciary is the machinery for resolving conflicting interests and disputes.[16] Simply put, the judiciary is the court system of a country.

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[7] Enaruna and Ernest (n 1).
[8] Angela E Obidimma and Emmanuel O Chukwudebere Obidimma, 'Judicial Appointments in Nigeria: The Self-Inflicted Inadequate Representation of the Igbos in Federal Courts' (2015) 3 International Law of Business and Law Research 33, 33-34.
[9] ibid.
[10] Albert Sydney Hornby *et al*, *Oxford Learner's Dictionary* (7th edn, Oxford University Press 2005) 804.
[11] John Bovier, *Bovier's Dictionary* (8th edn, St Paul West Publishing Company 1914) 1756.
[12] Osegbue Chike and Madubueze Madumelu, 'The Ombudsman and Administration of Justice in Nigeria; A Study of Anambra State; 2010-2015' (2017) 22 Journal of Humanities and Social Science 40, 49.
[13] Musa G Yakubu, 'Independence of Judiciary' in Bola Ajibola, Yemi Osinbanjo and Kelechi A Kalu (eds), *Law Development and Administration in Nigeria* (Lagos Federal Ministry of Justice Review Series 1990) 546.
[14] Obikeze Obiajulu Sunday and Emeka Anthony Obi, *Government and Politics of Nigeria: the Struggle for Power in an African State* (Book point 2003) 23.
[15] Bryan A Garner, *Black's Law Dictionary* (8th edn, Thomson West 2004) 864.
[16] Duru Onyekachi and Wisdom Ceazar, 'The role and Historical Development of The Judiciary in Nigeria' < https://www.academia.edu/5185440/theroleandhistoricaldevelopmentoftheJudiciary > accessed 6 September 2017.

5.2.2 Justice

Justice is defined by the *Black's Law Dictionary* as proper administration of the rules, which jurisprudentially implies the constant and perpetual disposition of legal matters or disputes to render every man his due.[17]

5.2.3 The Court

Court means a body of people presided over by a judge or magistrate and acting as a tribunal in civil and criminal cases.[18]

5.3 The judiciary in Nigeria's criminal justice system

The role of the judiciary is indispensable in Nigeria's criminal justice system. The concern of the people is to have the assurance that they can rely on the definite, prompt and impartial administration of justice.[19] Therefore, judicial institutions remain an important part of the government machinery, as they help resolve conflicts and ensure the effective running of other government bodies and institutions by keeping them in check. This is true because, where there is separation of powers among the different arms of government, justice may be enhanced.[20]

The judiciary plays an important role in the criminal justice system by upholding the law of the land. The court is one of the major components of the administration of criminal justicein Nigeria; it is second to the police in terms of prominence. A court is a permanently organised body with independent judicial powers defined by law, meeting at a time and place fixed by law for the administration of justice.[21] A court has also been defined as follows:

> It is an agency set up by government to define and apply the law, to order its enforcement and to settle dispute points on which individuals or groups do not agree.[22]

The Nigerian Constitution vests judicial powers in the courts, thus:

> Judicial powers extend to all inherent powers and sanctions of a court of law; judicial powers also extend to all matters between persons or between persons

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[17] Henry Campell Black, *Black's Law Dictionary* (5th edn, West Publishing Co. 1979) 776.
[18] Augus Stevenson, *Oxford Dictionary of English* (Oxford University Press 2010) 400.
[19] Maduekwe Vincent Chucks, Ojukwu Uche Grace and Agbata F Ifeanyi, 'Judiciary and the Theory of Separation of Powers in Achieving Sustainable Democracy in Nigeria, the Fourth Republic' (2016) 4 British Journal of Education 84, 88.
[20] Ogoloma Fineface, 'The Theory of Separation of Powers in Nigeria: An Assessment' (2012) 6 African Research Review 127, 128.
[21] Judicial power means: 'The authority vested in courts and judges to hear and decide cases and to make binding judgments on them; the power to construe and apply the Law when controversies arise over what has been done or not done under it'. See *Anozia v Attorney-General of Lagos State* (2010) 15 NWLR pt 207 at 237.
[22] Abdul-Rahman Bello Dambazau, *Criminology and Criminal Justice* (Nigerian Defence Academy Press 1999) 102.

> and the government in Nigeria, and to all actions and proceedings relating thereto for the determination of any question as to the civil rights and obligations of that person.[23]

Criminal Courts have very important and symbolic roles to play in the administration of justice. Criminal courts in Nigeria have crucial roles to play as provided below:

> They are crucial to an efficient criminal justice system because the adjudication of cases in which there is reasonable cause to believe that an accused person has violated a sp ecific law or laws is the basic role of Criminal Courts;[24] when a crime is committed, formal action must be channeled through the courts;[25] it is only the court that determines the guilt or innocence of the accused person, and the decisions of the courts have important consequences on the other components of Nigeria's criminal justice system.[26]

Administration of criminal justice in Nigeria revolves around the court system.[27] A person who violates the criminal law, is brought before the court and provided with a trial in a court. It is common law that courts are impartial as they usually give each side the opportunity to present its case,[28] followed through with the disposition or judgment made by the court accordingly. A vital feature of of courts in Nigeria is the fact that they have asserted the right to arbitratively interpret the Constitution.[29] It is provided in the Nigerian Constitution that:

> The judicial powers of the Federation shall be vested in the courts to which this Section relates, being courts established for the Federation 'the judicial powers of a State shall be vested in the courts to which this Section relates, being courts established, subject as provided by this Constitution, for a State.[30]

The interpretation of the law is vested in the judiciary as it is provided by the Constitution that:

> The judicial powers vested in accordance with the foregoing provisions of this section:
> (a) shall extend, notwithstanding anything to the contrary in this Constitution, to all inherent powers and sanctions of a court of law;

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[23] See generally the Constitution of the Federal Republic of Nigeria 1999 Cap 23 LFN, 2004 Section 6(6).
[24] Jude Cocodia, 'Identifying causes for Congestion in Nigeria's Courts via Nonparticipant observation: A Case Study of Brass High Court, Bayelsa State, Nigeria' (2010)1 International Journal of Politics and Good Governance 1, 1.
[25] The Constitution of the Federal Republic of Nigeria 1999 (n 23) Section 36.
[26] Osasona (n 1).
[27] Ademola Adetokunbo, 'Personnel Problems in the Administration of Justice in Nigeria' < http://www.scholarship.law.duke.edu/cgi/view content.cgi?article=2939andcontext=lcp>accessed 6 September 2017.
[28] Femi Ogunlade, 'Rethinking The Judiciary for Good Governance and Sustainable Democracy in Nigeria ' (2006) 1 University of Ado Ekiti Law Society Journal 92, 92.
[29] The Constitution of the Federal Republic of Nigeria (n 23) Section 6(1) and (2); Hakeem Olasunkanmi Ijaiya, *Judicial Approach to Interpretation of: A Study of Nigeria, Australia, Canada and India* (Malthouse Press 2017) 100.
[30] The Constitution of the Federal Republic of Nigeria (n 23) Section 6(1).

(b) shall extend, to all matters between persons, or between government or authority and to any person in Nigeria, and to all actions and proceedings relating thereto, for the determination of any question as to the civil rights and obligations of that person;
(c) shall not except as otherwise provided by this Constitution, extend to any issue or question as to whether any act of omission by any authority or person or as to whether any law or any judicial decision is in conformity with the Fundamental Objectives and Directive Principles of State Policy set out in Chapter II of this Constitution; and
(d) shall not, as from the date when this section comes into force, extend to any action or proceedings relating to any existing law made on or after 15th January, 1966 for determining any issue or question as to the competence of any authority or person to make any such law. [31]

5.4 History of the judicial system in Nigeria

In the second chapter of this thesis, the history of the judicial system in Nigeria was extensively discussed. In order to avoid repetition, specific milestones are mentioned. The nature of Nigeria's judicial system is a combination of the English system, customary practices and the Islamic system.[32] The judiciary in Nigeria began prior to the advent of the British colonial administration in the territories, Northern Protectorates and Southern Protectorates, and the Colony of Lagos, which, together, now make up what is referred today as Nigeria.[33] Historical records reveal that before the nineteenth century, each community, which together now forms Nigeria, had a system of administration of justice.[34] This shows that before the amalgamation of the Northern and Southern Protectorates, courts existed in the colonial institutions.[35] In the Northern part of the country, the practice was based on the Islamic system, while in the Southern part, it was based on customary and received English systems.[36]

5.5 The rule of law and the doctrine of separation of powers

The law and judiciary are an inseparable duo, that is to say, they are like Siamese twins that are extremely difficult to separate. Thus, one cannot successfully discuss judiciary as a concept without making recourse to the rule of law as well as separation of powers. Bearing

[31] ibid.
[32] Enyinna S Nwauche, 'Law, Religion and Human Right in Nigeria' (2008) 18 African Human Rights Law Journal 568, 577.
[33] Toyin Falola and Bukola Adeyemi Oyeniyi, *Nigeria* (ABC-CLIO 2015) 41.
[34] Akinwale Olusegun Obilade, *The Nigerian Legal System* (Spectrum Book Ltd 2009) 17.
[35] Yusuf Ali, 'The Evolution of Ideal Nigerian Judiciary in the New Millennium' < www.yusufali.net/articles> accessed 22 July 2017.
[36] Umar Alkali, Abbo Jimeta, Awwal Ilyas Magashi and Tijjani Musa Buba, 'Nature and Sources of Nigerian Legal System: An Exorcism of a Wrong Notion' (2014) 5 International Journal of Business, Economics and Law 1-2.

in mind that one of the tests of excellence of a government is the efficiency of its judicial system,[37] these concepts are vital for the effective functioning of the judiciary.

5.5.1 The rule of law

The term, rule of law, has been defined in various ways. It is defined as:

> A legal principle of general application sanctioned by the recognition of authorities, usually expressed in the form of maxim or logical proposition;[38] and an instrument for exercising state power that, in some circumstances, also serves as a means of protecting people against an arbitrary and abusive government.[39]

Albert Venn Dicey provides three meanings to the rule of law as follows:

> Firstly, the absolute supremacy on the or predominance of regular law as opposed to the influence of arbitrary power, and excludes the existence of arbitrariness, of prerogative, or even of wide discretionary authority on the part of government;[40]
> Secondly, it means equality before the law or the equal subjection of all classes to the ordinary law of the land administered by ordinary law courts. The rule of law, in this sense, excludes the idea of any exemption of officials or others from the duty of obedience to the law, which governs other citizens; and
> Thirdly, the rule of law may be used as a formula for expressing the fact with us, the law of the Constitution, the rules which, in foreign countries, naturally form part of a constitutional code are not the source but the consequence of the rights of individuals as defined and enforced by the courts that, thus, the Constitution is the result of the ordinary law of the land.[41]

According to Albert Venn Dicey,

> no one is above the law, officials and people need to obey the law. The rule of law ensures that the law applies to everyone equally. It guarantees equal protection to all, irrespective of an individual's status.[42]

Additionally, the UN defines the rule of law as:

> A principle of governance in which all persons, institutions and entities, public and private, including the state itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy

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[37] Jagadish Candra Johari, *Comparative Politics* (Sterling Publishers Ltd 1982) 520.
[38] Garner Bryan A, *Black's Law Dictionary* (8th edn, St Paul Minnesota West Publishers 2004) 1359-1360.
[39] Racheal Murray, *The African Commission on Human and People's Rights and International Law* (Hart Publishing 2000) 70.
[40] Albert Venn Dicey, *Introduction to the Study of the Law of the Constitutional Law* (3rd edn, Macmillan and Company 1889) 189.
[41] ibid 190. The Practice of Separation of Powers is *sine qua non* to Independence of the Judiciary.
[42] International Covenant on Civil and Political Rights, United Nations General Assembly Resolutions 2200A (XXI), U.N. Doc. GAOR, 2200th Session, 1496th meeting, U.N. Doc. A/RES/2200(XXI) (1966), Article 3; African Charter on Democracy, Elections and Governance, 2012 Article 3(2).

> of law; equality before the law; accountability to the law; fairness in the application of the law; separation of powers; participation in decision-making; legal certainty; avoidance of arbitrariness and procedural; and legal transparency.[43]

It can, therefore, be deduced that the rule of law calls for a system of checks and balances.[44]

5.5.2 Separation of powers

The doctrine of separation of powers simply means that different persons govern each of the three departments of government: the executive, the legislature and the judiciary. The idea is that none of them is to have controlling power over the others.[45] The application of the theory and practice of separation of powers is required by the judiciary to optimally discharge its constitutionally specified duties.[46] Given the imperatives and paramount importance of an efficient and effective judiciary, the doctrine of separation of powers among the three arms of government becomes necessary to enable the judiciary to discharge its constitutional duties boldly and fearlessly.[47] The doctrine of separation of powers is an essential requirement for good democratic governance.[48] This clarifies why meticulous constitutional safeguards were put in place to ensure that the executive, legislative and judicial organs of government exist with independent authority and functions.[49] John Locke, an English political philosopher, states as follows:

> Separation of powers is a necessity for effective government while it should be noted that there would be tendency and temptation to corruption when the same persons who have powers of making laws also have the powers to execute them.[50]

Assimilating the same line of thinking, Baron de Montesquieu, a French political and legal philosopher, who appreciated the English concept of separation of powers, gave impetus to the theory of separation of powers as a *Baron de Montesquieu* thus: 'for the masses to enjoy a

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[43] Report of the Secretary- General on the Rule of Law and Transitional Justice in Conflict and Post-conflict Societies, (S/2004/616) 'United Nations and the Rule of Law'<https://www.un.org/ruleoflaw/what-is-the-rule-of-law>accessed 18 October 2017.

[44] Alade W Fawole, 'Executive-Legislature Relationship' in Sat A Obiyan and Kunle Amuwo (eds), *Nigeria's Democratic Experience in the Fourth Republic Since 1999: Policies and Politics* (Rowman & Littlefield 2013) 17.

[45] Obidimma and Obidimma (n 8); African Charter on Democracy, Elections and Governance, 2012 Article 2 (2).

[46] Chucks, Grace and Ifeanyi (n 19) 88-89.

[47] John A Ayoade and Adeoye A Akinsaya, *Nigeria's Critical Election 2011* (Rowman & Littlefield 2013) 271.

[48] ibid.

[49] Fisher Louis, *The Politics of Shared Power: Congress and the Executive* (4th edn, Texas and M University Press 1998) 4; African Charter on Democracy, Elections and Governance, 2012 Article 3 (5).

[50] John Locke, *Second Treatise of Government* (Barnes & Noble Publishing 1690) 86; John Locke, Second Treaties of Civil Government 1960 of Legislative, Executive and Federative Power of the Common-wealth< https://www.marxists.org/reference/subject/politics/locke/ch12.htm>accessed 3 August 2017.

criminal justice system and judiciary that would dispense justice boldly and fearlessly, division of power is essential and indispensable'.[51]

The doctrine of separation of powers among the legislature, executive and judiciary is explicitly provided for in the Nigerian Constitution as follows:

> The National Assembly for the Federation, which shall consist of a Senate and a House of Representatives shall have power to make laws for the peace, order and good government of the Federation or any part thereof with respect to any matter included in the exclusive legislative list set out in part 1 of the Second Schedule to this Constitution. [52]
>
> The legislative powers of the States shall be vested in the House of Assembly of the State. The House of Assembly of a State shall have power to make laws for the peace, order and good government of the State or any part thereof with respect to the following matters:
>
> (a) any matter not included in the Exclusive Legislative List set out in Part I of the Second Schedule to this Constitution;
> (b) any matter included in the Concurrent Legislative List set out in the first column of Part II of the Second Schedule to this Constitution to the extent prescribed in the second column opposite thereto; and
> (c) any other matter with respect to which it is empowered to make laws in accordance with the provisions of this Constitution. [53]

From the foregoing, it is clear that the powers of law-making are vested in the legislature.

In the case of the executive arm, the Constitution provides that:

> Subject to the provisions of this Constitution, the executive powers of the Federation shall be vested in the President and may, subject as aforesaid and to the provisions of any law made by the National Assembly, be exercised by him either directly or through the Vice-President and Ministers of the Government of the Federation or officers in the public service of the Federation while the State Governors shall exercise the executive powers of a State either by himself or through the Deputy Governor, Commissioners or officers in the public service of the State and shall extend to the execution and maintenance of this Constitution, all laws made by the House of Assembly of the State. [54]

This is an indication that the executive is vested with the power to execute and maintain the law.

As discussed earlier, the Constitution provides that the judiciary ought to exercise its power of adjudication and interpretation of the Constitution and law made by the legislature through

[51] Baron De Montesquieu, *The Spirit of Laws Thomas Nugent translation* (Hafner Publishing Ltd 1962) 68; Charles de Secondat and Baron de Montesquieu, *The Spirit of the Laws* 1748<https://sourcebooks.fordham.edu/mod/montesquieu-spirit.asp>accessed 23 July 2017.
[52] The Constitution of the Federal Republic of Nigeria (n 23) Section 4(1) and (2).
[53] ibid Parts I and II.
[54] ibid Section 5(1) and (2).

the courts created by the Constitution and other courts as may be established by the National Assembly or any House of Assembly.[55]

In light of the above, the legislature makes laws, the judiciary adjudicates and interprets the laws while the executive maintains and executes the law in accordance with the 1999 Constitution.[56] Despite the clear separation of powers as provided in the Constitution, which distinctly makes provisions for the respective functions of the three arms of government, the legislative arm often times, makes unwarranted incursions into the functions of the judiciary.[57] For example, there are cases where some State Houses of Assembly make laws to oust the jurisdiction of courts.[58] The legislature, sometimes, makes laws relating to criminal offences at the expense of true justice without recourse to the judiciary.[59] In addition, the Nigerian Constitution makes interaction between the three arms inevitable for the successful execution of its provisions.[60] For instance, the judiciary relies on the executive to provide security agents for their protection. More importantly, the money bill extended to the judiciary can only emanate from the executive, which must pass through the legislature for approval before final assent by the executive.[61] This often makes the legislative and executive arms of government to have overbearing influence on the functions of the judiciary, thus frustrating it and apparently rendering it ineffective.[62] This usually perverts justice, consequently, having a negative impact on the Nigerian Criminal Justice System.[63]

5.6 Hierarchy of courts

Nigeria operates a Federal System of Government. Thus, the judicial arrangement is streamlined to reflect this as there are courts at the federal and state levels, which carry out adjudication in their various jurisdictions.[64]

> The Constitution makes provisions for both Superior and Inferior Courts. Hence, Superior Courts of Record are courts of unlimited jurisdiction which are specifically mentioned in the Constitution.[65] They are so-called because there is a minimal limit to their jurisdiction in relation to the type of subject matter

[55] The Constitution of the Federal Republic of Nigeria (n 23) Section 6(6) (b).
[56] The Constitution of the Federal Republic of Nigeria (n 23) Section 4(2), 5(1) (a) and Section 6.
[57] Mamman Lawan, 'Abuse of Powers of Impeachement in Nigeria' (2010) 48 The Journal of Modern African Studies [311], 312.
[58] ibid 323.
[59] ibid.
[60] The Constitution of the Federal Republic of Nigeria (n 23) Sections 4(2), 5(1) (a) and Section 6; Ayoade and Akinsaya (n 47) 274.
61 Ayoade and Akinsaya (n 47) 271.
62 ibid; Okeke Remi Chukwudi and Idike Adeline Nnena, the judiciary and democracy consolidation in Nigeria under the Buhari administration (2017) 2 Journal of Politics and Law 24, 28.
63 ibid.
64 Enaruna and Ernest (n 1) 96.
[65] The Constitution of the Federal Republic of Nigeria (n 23) Sections 241; 242 and 243.

> they can handle but are not limited in jurisdiction on the mere value of the subject matter of a case. In descending order, these courts include the Supreme Court, which is the apex court of the country,[66] the Court of Appeal,[67] the Federal High Courts,[68] the High Court of the Federal Capital Territory,[69] the High Court of a State,[70] the Sharia Court of Appeal of the Federal Capital Territory,[71] the Sharia Court of Appeal of a State,[72] the Customary Court of Appeal of the Federal Capital Territory,[73] the Customary Court of Appeal of a State[74] and the National Industrial Court.[75]

On the other hand,

> Inferior Courts of Record are those that have limits to their jurisdiction in relation to the type as well as value of the subject matter.[76] They are normally subject to the supervisory jurisdiction of the High Court.[77] These courts include the Magistrates' Courts,[78] Area Courts,[79] Sharia Courts[80] and Customary Courts.[81] Criminal proceedings in these courts are generally regulated by the Criminal Procedure Act in the South[82] and the Criminal Procedure Code in the North.[83]

5.7 Courts with criminal jurisdictions in Nigeria

Jurisdiction is the cornerstone and bedrock on which court proceedings are based.[84] The Black Laws Dictionary provides a comprehensive meaning of the word jurisdiction as:

> The power of the court to decide a matter in controversy and presupposes the existence of a duly constituted court with control over the subject matter and the parties … the power of courts to inquire into facts, apply the law, make decisions and declare judgment; the legal rights by which judges exercise their authority.[85]

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[66] ibid Sections 230(1).
[67] ibid Section 237(1).
[68] ibid Section 249(1).
[69] ibid Section 251.
[70] ibid Section 270(1).
[71] ibid Section 260(1).
[72] ibid Section 275(1).
[73] ibid Section 265(1).
[74] ibid Section 280(1).
[75] The Constitution of the Federal Republic of Nigeria (Third Alteration) Act, 2010 Section 254.
[76] Akintunde Olusegun Obilade, *The Nigerian Legal System* (Sweet & Maxwell 1979) 169.
[77] ibid.
[78] Magistrate Courts are established by the Magistrates Law of each States, Charles Nwalimu, *The Nigerian Legal System: Public law, Volume 1* (Peter Lang 2005) 345.
[79] The Constitution of the Federal Republic of Nigeria (n 23) Section 6(c).
[80] ibid Section 244.
[81] The Constitution of the Federal Republic of Nigeria (n 23) Section 6(c).
[82] Cap C41 LFN, 2004.
[83] Cap C42 LFN, 2004.
[84] Cedric Ryngaert, *Jurisdiction in International Law* (Oxford University Press 2015) 63.
[85] Henry Campbell, *Black's Law Dictionary* (6th edn, Centennial Edition 1891-1991) 1194.

At any rate, jurisdiction is the hallmark on which the proceedings of the court is built,[86] because when a court entertains a matter in which it lacks jurisdiction, it is an effort in futility on the part of the lawyer, the litigant and the judge.[87] Therefore, jurisdiction in any court proceeding is very germane. Jurisdiction is also described as follows:

> The power or competence of a court to entertain an action or dispute and decide it, … territorial limits within which judicial or legislative authority may be exercised and enforced.[88]

It is the practice and part of the criminal policy in Nigeria's adjudicatory system that a criminal court must have jurisdiction to entertain a criminal matter before it.[89] Conversely, discourse about criminal jurisdiction of courts is imperative because it is an essential feature of criminal justice administration. In essence, this discussion is to analyse the jurisdiction of the various courts in criminal proceedings in Nigeria.

The importance of jurisdiction has been a matter of discussion among Nigerian jurists. For example, Justice Kayode Eso, while divulging the importance of jurisdiction on court proceedings in Nigeria, stated as follows:

> the sub-stratum of a court is no doubt jurisdiction; without it, the labourer therein, that is, both litigants and counsel on one hand, and the judge on the other hand, labour in vain.[90]

Additionally, Justice Akpata, in his words, maintained as follows:

> A court with jurisdiction builds on a solid foundation because jurisdiction is the bedrock on which court proceedings are based, but when a court lacks jurisdiction and continues to hear and determine judicial proceeding; it builds on quicksand and all proceedings and steps taken on it will not stand.[91]

Simply put, jurisdiction may be defined as the authority of a court of law to exercise judicial powers in a matter brought by litigants and pronounce judgement on the matter or issues raised.

In criminal cases, a court would possess the required jurisdiction if it has the competence to try the person or persons alleged to have committed an offence.

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[86] Ryngaert (n 84).
[87] Bangbose John Olatokunbo, *The Digest of the Judgements of the Supreme Court of Nigeria* (Safari Books Ltd 2017) 26.
[88] Suliman Nchi, *The Nigerian Dictionary of Law* (Tanaza Publishing Company Ltd 1996) 187.
[89] Robert M Regoli and John D Hewitt, *Exploring Criminal Justice System* (Jones and Bartlett Publishers 2008) 226; Jo Stigen, *The Relationship between International Criminal Court and National Jurisdictions: The Principle of Complementarity* (Brill 2008) 3.

[90] *Attorney General of Lagos State v Dosunmu* (1989) 6 SCNJ.
[91] *State v Ollagoruwa* (1992) C.S.C.D. Pt 17 at 19.

The basis of jurisdiction of Nigerian courts is the 1999 Constitution of the Federal Republic of Nigeria. All courts in the Nigerian Federation derive their jurisdiction or competence from it.[92]

It is worthy of mentioning that the Jurisdiction to hear criminal cases in Nigeria can be divided into two main categories as follows. Firstly, courts of general criminal jurisdiction; these are courts with jurisdiction to try persons who are alleged to have committed an offence or offences; and Secondly, courts of special criminal jurisdiction; these are courts of law with jurisdiction to try only certain identified persons or determinate classes of persons alleged to have committed an offence. It is thus, understandable that the issue of jurisdiction is of principal importance in a criminal trial. It is so vital that it can be raised at any point in a criminal proceeding, whether at the court of first instance or at the appellate court, and at the instance of either of the parties or by the court.[93]

5.7.1 The criminal jurisdiction of the Supreme Court of Nigeria

The appellate jurisdiction of the Supreme Court of Nigeria is as provided for in Section 233(1) of the Constitution. The appellate jurisdiction of the Supreme Court confers on the Supreme Court exclusive jurisdiction to hear and determine appeals from the Court of Appeal. An appeal may either lie to the Supreme Court as of right or with leave of that court or the Court of Appeal. An appeal shall lie as of right from decisions of the Court of Appeal to the Supreme Court in the following cases:

(a) Where the ground of appeal involves questions of law alone, decisions in any civil or criminal proceedings before the Court of Appeal.[94]

(b) Decisions in any civil or criminal proceedings on questions as to the interpretation or application of the Constitution.[95]

(c) Decisions in any civil or criminal proceedings on questions as to whether any of the provisions of Chapter IV has been, is being, or is likely to be contravened in relation to any person.[96]

(d) Decisions in any criminal proceedings in which any person has been sentenced to death by the Court of Appeal or in which the Court of Appeal has affirmed a sentence of death by any other court.[97]

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[92] The Constitution of the Federal Republic of Nigeria (n 23) Section 6; *Osadebay v A.G. Bendel* (1991) 1 NWLR Pt. 169 525 at. 557 – 558;
[93] Abubarkar v Usman (2009) 6 NWLR Pt. 1136 at 93-94.
[94] The Constitution of the Federal Republic of Nigeria, 1999 Cap C23 Laws of the Federation 2004 Section 233 (1) (a).
[95] ibid Section 233 (1) (a).
[96] ibid Section 233 (1) (b).

5.7.2 Criminal jurisdiction of Court of Appeal

The jurisdiction of the Court of Appeal covers appeals from the Federal of State High Courts. As such, Section 241(1) of the 1999 Constitution indicates that appeals lie as of right to the Court of Appeal from decisions of the Federal or State High Court in the following cases:

(a) Final decisions in any civil or criminal proceedings before the Federal High Court or a State High Court sitting at first instance.[98]

(b) Decisions in any civil or criminal proceedings where the ground of appeal involves questions of law alone.[99]

(c) Decisions in any civil or criminal proceedings on questions as to the interpretation or application of the Constitution.[100]

(d) Decisions in any civil or criminal proceedings on questions as to whether any of the provisions of Chapter IV of the Constitution has been, is been or is likely to be, contravened in relation to any person.[101]

(e) Decisions in any criminal proceedings in which the Federal High Court or a State High Court has imposed a sentence of death.[102]

5.7.3 Criminal Jurisdiction of the High Court of a State

Section 270(1) of the 1999 Constitution established the High Court of a State. According to subsection (2)(a) and (b), the High Court of a State consists of a Chief Judge of the State and such number of Judges of the High Court as may be prescribed by a law of the House of Assembly of the State. The 1999 Constitution provides for the jurisdiction of the High Court of a State;[103] it stipulates as follows:

> Subject to the provisions of section 251 and other provisions of this Constitution, the High Court of a State shall have jurisdiction to hear and determine any civil proceedings or criminal proceedings which originate from the High Court of a State and those brought before the High Court to be dealt with by the court in the exercise of its appellate or supervisory jurisdiction.[104]

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[97] ibid Section 233 (1) (c).
[98] ibid Section 233 (1) (d).
[99] ibid Section 241 (1) (a).
[100] ibid Section 241 (1) (b).
[101] ibid Section 241 (1) (c).
[102] ibid Section 241 (1) (d).
[103] ibid Section 272 (1).
[104] ibid Section 272 (2).

5.7.4 Criminal Jurisdiction of Magistrate Courts in Nigeria

Magistrate Courts are courts of summary jurisdiction.[105] The power or jurisdiction of a Magistrate Court is derived from statutes to try criminal cases.[106] Magistrate Courts are creature of statutes; they exist solely as a legal entity under the enabling statutes.[107] There are laws that regulate the conduct of the Magistrate in exercising his/her powers.[108] Apparently, it is impossible to touch all Magistrate Courts in Nigeria, thus, it will be appropriate to use Lagos State as an example because, as the former Federal Capital of Nigeria, Magistrate Courts were first established there by the Magistrate Courts Law of 1994, Laws of Lagos State, which served as a template for other States of the Federation. This law sets out the various grades of Magistrate Courts in Lagos State. The law regulates the jurisdiction of the courts as to the type of offence that can be tried as well as the imposition of punishment.[109] In this discourse, the jurisdiction to try offences and prescribe punishments will be considered.

Lagos State has seven grades of Magistrate Courts as follows:

(a) Chief Magistrate Court Grade I;

(b) Chief Magistrate Court Grade II;

(c) Senior Magistrate Court Grade I;

(d) Senior Magistrate Court Grade II;

(e) Magistrate Court Grade I;

(f) Magistrate Court Grade II; and

(g) Magistrate Court Grade III

Hence, the jurisdiction to try offences hinges on the nature of offence that is whether it is an indictable or non-indictable offence.[110] Usually, the nature of the offence will be perused through the lens of the law to determine the true character of the offence. Apart from cases of murder, all grades of Magistrates have jurisdiction to try non-indictable offences; it is only Magistrate Court Grade II and III that lack jurisdiction in cases of murder.[111] A Magistrate Court having jurisdiction to try an indictable offence may possess the jurisdiction to try

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[105] Bryhan Gibson and Mike Watkins, *The Magistrate Courts an Introduction* (Waterside Press 2009)18.
[106] ibid.
[107] ibid.
[108] ibid.
[109] Magistrate Court Laws of Lagos State 1994, Section (4).
[110] Indictable offences are offences that is punishable by an imprisonments more than 2 years, it is also not punishable under summary jurisdiction. See Section 494 of Administration of Criminal Justice Act 2015.
[111] Benjamin O Nwabueze, *The Machinery of Justice in Nigeria* (Butterworth's Publisher 1963) 140; Fidelis Nwadialo, *The Criminal Procedure of the Southern States of Nigeria* (Ethiop Publishing Corporation 1976) 2; Magistrate Court Laws Lagos State 1994 section 1 (a) and (b), (6)2.

murder cases where the necessary consent of the accused person is obtained.[112] It is mandatory for a Magistrate to obtain the consent of the accused as well as that of the prosecutor.[113] The required consent is in relation to the accused person's right to elect whether to be tried summarily by the Magistrate Court or by the High Court. The consent requirement is fulfilled once the accused signals his intention to be tried by the Magistrate Court.[114] With respect to jurisdiction to try offences, stated alongside the various categories of Magistrate Courts, are the maximum punishments, which each of such Magistrate Courts can impose in criminal matters. These are provided below:

1. Chief Magistrate Court Grade I, 7 years imprisonment or ₦4000 fine;[115]
2. Chief Magistrate Court Grade II, 6 years imprisonment or ₦3000 fine;[116]
3. Senior Magistrate Court Grade I, 5 years imprisonment or ₦2000 fine;[117]
4. Senior Magistrate Court Grade II, 4 years imprisonment or ₦1000 fine;[118]
5. Magistrate Court Grade I, 3 years imprisonment or ₦500 fine;[119]
6. Magistrate Court Grade II, 2 years imprisonment or ₦300 fine; and
7. Magistrate Court Grade III, 1 year imprisonment or ₦100 fine.[120]

With regard to the above, Magistrates are not allowed to impose excess fines and punishments. The essence is to make clear demarcation as to the limit of each Magistrate Court. In cases of transfer of a Magistrate, he/she may at any stage of criminal proceedings before judgment, transfer a case to another Magistrate with the consent of such a Magistrate. and the new magistrate must commence the case *de novo* (afresh).[121]

5.8 Appointment of judges and justices in the Nigerian Courts

All judges and justices of courts in Nigeria are appointed by the President or Governor of a State, depending on the nature of the court.[122] If the court is a Federal Court,[123] then the

[112] Nwabueze (n 111) 213.
[113] Nwadialo (111) 108.
[114] ibid.
[115] Magistrate Court Laws Lagos State 1994 Section (6)(5)(a).
[116] ibid Section (6)(5)(b).
[117] ibid Section (6) (5) (c).
[118] ibid Section (6) (5) (d).
[119] ibid Section (6) (5) (e).
[120] ibid Section (6) (5) (f).
[121] ibid Section (31) and (32).
[122] Charles M Fombad, *Constitutional Adjudication in Africa* (Oxford University Press 2017) 141.
[123] The Federal Courts Comprises the Supreme Court, the Court of Appeal, the Federal High Court, National Industrial Court, High Court of the FCT, Shari'ah Court of Appeal FCT and Customary Court of Appeal FCT

appointment is made by the President.[124] On the other hand, if the court is an establishment of the State, the appointment is made by the Governor of the State.[125] It is imperative to note that:

> Some of the appointments shall, in the first instance, be recommended by the National Judicial Council (NJC) and thereafter, be confirmed by the Senate or th e States Houses of Assembly as the case may be.[126] These types of appointments consist of that of the Chief Justice of Nigeria (CJN), the Supreme Court Justices, President of the Court of Appeal, Chief Judge of the Federal High Court, President of the National Industrial Court, Grand Kadi of the Sharia Courts of Appeal and President of the Customary Courts of Appeal.[127]

The appointments of some judges or justices to courts other than those mentioned earlier, after being recommended by the NJC, do not require confirmation by the Senate or the State Houses of Assembly as the case may be.[128] These include Appeal Court and Federal High Court Justices; State High Court Judges; Justices of the National Industrial Courts and Sharia Courts of Appeal; and Customary Court Judges.

5.9 The constitutional roles and mandates of the judiciary

It is imperative to discuss the role of the judiciary under the Nigerian Constitution in order to clarify significant specifications.

The judiciary plays an indispensable role in preserving the rights of persons and stability of the society. The judiciary is the most important arm on which rests the rights and liberty, and sometimes, the very life of the people. It is for this reason that scholars have published several chestnuts to protect the judiciary.[129] For instance, the judiciary has been

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[124] In respect of the Chief Justice of Nigeria (CJN) and Justices of the Supreme Court. The Constitution of the Federal Republic of Nigeria (n 25) Section 231(1) and (2); In respect of the President of the Court of Appeal and other Justices of the Court of Appeal. The Constitution of the Federal Republic of Nigeria (n 25), Section 238(1) and (2).

[125] The Constitution of the Federal Republic of Nigeria (n 23) Section 270(2) (a) and (b), 271 (1-3) in respect of the appointment of the Judges of the High Courts; See the Constitution of the Federal Republic of Nigeria (n 25), Section 275(2) in Respect of the States' Shari'ah Courts of Appeal Kadis and See the Constitution of the Federal Republic of Nigeria (n 23) Section 281 in respect of the States' Customary Courts of Appeal Judges.

[126] Joshua Samson Ayobami, 'The Provisions of 1999 Constitution of Nigeria on Appointment, Discipline and Removal of Judicial Officers and Implications for an Effective and Independent Judiciary ' (2014) 28 Journal of Law, Policy and Globalization 170, 171.

[127] See the following sections for instance: The Constitution of the Federal Republic of Nigeria (n 25), Sections 231(1) and (2); Section 238(1); Section 271(1); Sections 260(2) and 275(2); both Shari'ah Courts of Appeal of the FCT and States Respectively; and Sections 266 and 281 of the Constitution for both Customary Courts of Appeal of the FCT and States Respectively.

[128] For example, See the Constitution of the Federal Republic of Nigeria (n 253 Section 23(2) in Respect of the Justices of the Court of Appeal.

[129] Obidimma and Obidimma (n 8) 34; Abubarkar M Sanni, 'The Nigerian Judiciary Trends Since Independence'<http://9jalegal.com.ng/downloads/Cases/Legal%20System/THE%20NIGERIAN%20JUDICIARY%20TRENDS%20SINCE%20Independence%20A.M.%20SANI%20ESQ.pdf> accessed 3 February 2018.

termed as the temple of justice with the judge as the high priest.[130] It is referred to as the last hope of the common man;[131] the guardian of justice;[132] the sentinel of justice;[133] the institution vested with the power to play God's role;[134] the citadel of justice; and the exact dwelling place of justice.[135] Its main function is to adjudicate.[136] It adjudicates matters between the state and individuals as well as between individuals and corporations or corporate bodies.[137] It hears grievances of parties to disputes and applies the law in resolving them.[138] This plays a critical role in Nigeria's criminal justice system, particularly in the aspect of provision of justice to the people at all levels, regardless of their religion, sex, ethnic nationality, social status or political inclination.

The interpretation of the law of the land is another function performed by the judiciary. The judiciary has the sole power of interpreting the law.[139] Not only that, it also determines the extent and scope of the powers conferred on each arm of government. This position of the judiciary, as an interpreter, was asserted in the case of *Attorney-General of Bendel State v Attorney-General of the Federation* where the Supreme Court held as follows:

> The court of law is a guardian of the Constitution of the country, thus, the court must always rise up to its duty by declaring any ostensible contravention of the Constitution null and void.[140]

Equally, in *Obi v INEC,* the Supreme Court stated that the power of interpretation must be lodged somewhere and the practice of the Constitution of the Federal Republic of Nigeria has lodged it in judges.[141]

The judiciary serves as a shield to the Constitution. It interprets the laws and settles disputes among people. It adjudicates in conflicts between the executive and the legislature,[142] and ensures that every exercise of power by the other organs of government, is in accordance with the dictates of the rule of law.[143] It carries out these functions through the

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[130] Israel Olu Osokoya, *Crusader for National Unity and Social Justice* (Laurel Educational Publishers 1993) 47.
[131] Oyeniran B Adediji, *Challenging Issues and Accountability in Nigeria's Public Administration* (AuthorHouse 2012) 183.
[132] ibid.
[133] Obidimma and Obidimma (n 8) 34.
[134] ibid.
[135] ibid.
[136] Enaruna and Ernest (n 1) 93.
[137] The Constitution of the Federal Republic of Nigeria (n 23) Section 6(6).
[138] ibid.
[139] Ijaiya Hakeem Olasunkanmi, *Judicial Approach to Interpretation of Constitution: A Study of Nigeria, Australia, Canada and India* (Malthouse Law Books 2017) 1.
[140] (1983) 3 NCLR 1 at 40.
[141] (2007) 11 NWLR pt 1046 at 565.
[142] Enaruna and Ernest (n 1) 93.
[143] See *Military Governor of Lagos State v Ojukwu* (1986) 1 NWLR pt 18 at 621.

various established courts.[144] It is the role of the judiciary to uphold the rule of law in society.[145] In the course of playing these roles, the judiciary makes new laws referred to as Case Laws. Case Laws focus on interpreting the law to fit into the changing circumstances and technologies in society, in this case, Nigeria.

An additional function of the judiciary is to review the actions of government agencies, the lower courts as well as other arms of government.[146] It is the role of the judiciary to check the excesses committed by the other arms of government in exercising their executive or legislative powers. Among the three arms of government, the judiciary has the power and competence to monitor and review the actions of the other two, and where the need arises, declares them null and void.[147] This is referred to as the power of judicial review.[148] Consequently, Alao ka-Basorun states as follows:

> The judiciary is an arm of government, which alone, can pronounce the acts and deeds of the legislative and executive unconstitutional, illegal, null and void, and of no effect; the role of the judiciary is that of guardian of the Constitution; this role privileges the judiciary to exert checks and balances on the activities of the other arms of government.[149]

5.10 The Challenges faced by the judiciary in Nigeria

expectations of the judiciary in Nigeria, under a democratic dispensation, remain an unresolved problem due to the negative perception with regard to the performance of the judiciary in the discharge of its constitutional duties and responsibilities, and most importantly, the prevalence of allegations of corruption and unethical behaviour against judicial officers.[150] In Nigeria, there are several notable issues with the judiciary, which have had negative implications on Nigeria's criminal justice system. Such challenges include delays in trial; miscarriage of justice; lack of access to justice; loopholes in laws enabling the judiciary to abuse its discretionary powers and lack of independence of the judiciary; among others.[151]

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[144] Nwalimu, (n 78) 332.
[145] The Constitution of the Federal Republic of Nigeria (n 23) Sections 6(2).
[146] ibid Sections 6(6); Obidimma and Obidimma (n 10) 36.
[147] *Attorney-General of Bendel State v Attorney-General of the Federation* (1983) 3 NCLR pt 1 at 40.
[148] Enaruna and Ernest (n 3) 93.
[149] Alao Aka-Basorun, 'The Supreme Court and the Challenges of the 90s' in Akinseye George (ed), *Law, Justice and Stability in Nigeria: Essays in Honour of Justice Kayode Eso* (Shalom Multiservice Bureau 1993) 113.
[150] Okechukwu Oko, 'Seeking Justice in Transitional Societies: An Analysis of the Problems and Failures of the Judiciary in Nigeria ' (2005) 31 Brooklyn Journal of International Law 9, 16.
[151] Benjamin Obi Nwabueze, Constitutional Law of the Nigerian Republic (Butterworths 1964) 291.

5.10.1 Independence of the judiciary in Nigeria

In every society, the effectiveness of the judiciary rests largely on the extent of its level of independence from other arms of government. In view of this, the independence of the judiciary is guaranteed in the Constitution of Nigeria.[152] In spite of the constitutional provision for judicial independence, the judiciary in Nigeria is currently highly dependent on other arms of government.[153] This is because funds are allocated to the judiciary by the legislature while the executive makes provision for the capital and recurrent expenditures of all courts.[154] The power to provide facilities in the courts and to pay salaries of judicial workers is vested on the executive. Consequent upon this, the legislature and the executive use this power of controlling the purse to have an over-bearing influence over the judiciary.[155] This often results in perversion of the justice system in court cases involving the other arms of government simply because the judiciary is at their mercy for funding. This has a negative impact on Nigeria's criminal justice system.

It takes an independent judiciary to uphold the rule of law and dispense justice with equity and fairness. According to Justice Chikwudiku Oputa,

> The courts are among the last (if not the last) lines of the defence in a free society. When the courts are overrun by the ever-advancing avalanche of moral decay or interference or of pressure, or of all three, then the warning shots are being fired for the inauguration of a reign of terror and chaos.[156]

An independent, efficient, effective and well-funded judiciary pivots the rule of law. The judiciary is the fortress of the society and the last hope for the common man. Thus, it should be independent so as to discharge its duties effectively. Knowing fully well that the judiciary occupies a very vital, significant and tactical position in Nigeria's criminal justice system, a decent, upright, independent and incorruptible judiciary must, therefore, be guaranteed. Recently President Muhammed Buhari signed the state judiciary financial autonomy to law by giving assent to the provision of the Fourth Alteration Act 2017 of the Nigerian Constitution. If implemented it will resolve a lot of issues in the judiciary.[157] The judiciary is the watchdog of the people as well as their bastion of hope as it provides a formidable remedy to the sufferings and predicament of the people. It should be independent enough in Nigeria in order to prevent any unjustifiable attempt by the executive to intrude into, exert

[152] The Constitution of the Federal Republic of Nigeria (n 23) Sections 17(1) (e).
[153] Ayoade and Akinsaya (n 47) 271.
[154] Chales M Fombad, *Separation of Powers in African Constitutionalism* (Oxford University Press 2016) 255.
[155] ibid (n 122) 255.
[156] Chukwudifu A Oputa, *The Law and Twin Pillars of Justice* (Government Printers 1981) 75.
[157] Mark Kesselman, Joel Krieger and William A Joseph, *Introduction to Comparative Politics: Political Challenges and Changing Agendas* (8 edn, Centage Learning 2018) 537.

any influence on the liberty of the people, or make itself supreme authority in the matters of conscience.[158] According to Kehinde Mowoe,

> courts provide a forum for resolving disputes through application of the law, although not all disputes are brought before these courts in Nigeria; in resolving disputes, Nigeria's criminal courts must enjoy judicial independence, free from outside pressures, and judging their cases dispassionately; as the symbols of justice emblazoned in the justice scale, the public sees Nigerian courts as the platform for fairness and impartiality.[159]

It is unfortunate that the courts in Nigeria have largely shirked their responsibilities in proper dispensation of justice. Perversion of justice is not uncommon, and this has made people to lose confidence in Nigeria's justice system. The court must, therefore, be above board,[160]

5.10.2 Slow pace in trial

Inordinate delays in the administration of justice in Nigeria are a major challenge in terms of access to justice.[161] The delays in the judicial process are conspicuous and are evident from the filing of papers to the hearing of cases. In summary, the entire judicial process is riddled with delays in most jurisdictions.[162] It is practically impossible to determine the length of trials as these are rarely ever concluded within a reasonable time, owing to endless adjournments of cases for a multiplicity of reasons.[163]

It is no gainsaying the fact that Nigeria has been bewildered with with delays in criminal trials for decades without any possible solution to it. Habitually, it is only in Nigeria that minor offences can last for several years before being disposed of. A lot of factors could explain this delay, ranging from lawyers seeking adjournment of cases, the inability to bring accused persons to court by the Nigerian Police or Prison during trial thereby, stalling court processes, to delays in the delivery of judgments by magistrates and judges.[164] The regulation in courts in Nigeria that cases start *de novo* following transfer of judges and magistrates from

[158] Chucks Grace and Ifeanyi (n 21) 88.
[159] Kehinde Mowoe, *Constitutional Law in Nigeria, Volume 1*(Malthouse Press 2003) 27.
[160] Darius Tolbert and Paul A Solomon, 'United Nations Reform and Supporting the Rule of Law in Post-Conflicts Society' (2006) 19 Harvard Human Right Journal 29, 45-46.
[161] Efemini M Ovo, *Modern Nigerian Constitutional Law: Practices, Principles and Precedents* (Malthouse Press 2017) 324.
[162] Onamson Friday Okafor, *Law and Creditor Protection in Nigeria* (Malthouse Press 2017) 76.
[163] Yemi Akinseye-George, *Nigerian Prisons: Justice Sector Reform and Human Rights in Nigeria – Centre for Socio Legal Studies CSLS, Abuja, Nigeria* (CSLS Publishing 2009) 196.
[164] Toriola A Oyewo, *The Trial Judge and his Guides in Nigeria* (Jacto Publisher 1999) 11; Festus Eminri and Gowon Deinduomo (eds), *Law and Petroleum in Nigeria: Current Challenges: Essay in Honour of Justice Cate Abiri* (African Books Collective 2009) 22.

one jurisdiction to another, is also a noticeable problem.[165] It has become a routine in Nigeria's judiciary today that cases may take decades to be concluded in courts.[166] When a matter is properly brought before the court for trial, it is then that the inadequacies of Nigeria's criminal justice system come into play. This entails reckoning with the attendant delays in the trial process, the manipulations of legal practitioners, and in addition, the attitude of the presiding judge or magistrate. Table 16a shows that many cases were adjourned in courts due to lapses on the part of the judiciary. Data obtained revealed that the number of cases adjourned at the instance of the court was high in all the selected States and the Federal Capital Territory, Abuja. The number continued to increase from 2002 to 2015 in all the States and FCT, Abuja. It increased from 212, 86, 285, 19,679 and 1,217 in 2002 to 428, 311, 379, 52,958 and 1,871 in Enugu, Gombe, Kaduna, Lagos and FCT, Abuja respectively. This situation has not changed because no concrete steps have been taken to tackle the problem. Adjournmament of cases is often times caused by defense counsels. This is evident in Table 16b where the figures of cases adjourned at the instance of defence in Nigeria rose from 11,118 in 2002 to 23,709 in 2015. This can be attributed to what was obtainable at the levels of the states. For instance, it can be deduced from the table that only 873 of such cases were recorded in 2002 for Lagos, but rose to 11,888 cases in 2015. Similarly, 898 werw recorded in Rivers State in 2002 and rose to 2,776 in 2015. This is an empirical evidence that adjournments contribute to the slow pace of justice delivery in Nigeria.

In Nigeria, it is not surprising for a minor offence of assault occasioning harm to last over five years. Instances where cases have lasted between ten to fifteen years are many.[167] Some lawyers seek unmerited adjournments from courts, and this usually happens where the lawyer is either not prepared to go on with the case or has not been properly settled financially by his clients.[168] Although it is a principle of law that adjournments are not granted as a matter of right,[169] the courts often oblige lawyers when they apply for

[165] Complaint against Practice of Arbitrary Transfers of Judges without Adequate Consideration to the Impact of Transfers on Litigants, and without Institutional Arrangements to Mitigate Effects of Transfers <http://accesstojustice-ng.org/a2jdownloads4.pdf.> accessed 4 August 2017.
[166] Ovo (n 126) 324.
[167] Aguda Taiwo Akinola, *The Crisis of Justice* (Eresu Hills 1986) 14-15. Where concrete examples of over-delayed decided cases are given.
[168] Even though there is provision for him to sue to recover his bills and charges from clients. See *Ojukwu Ernest, Legal Practitioner's Charges in Nigeria: Law and Practice* (Helen-Roberts 1997) 35.
[169] This is entirely within the discretion of the Court, and in exercising this power to grant or refuse application for adjournment, it must be done judiciously after considering all the circumstances of the case. See *Echaka Cattle Ranch Ltd v Nigerian Agricultural and Cooperative Bank Ltd* (1993) 8 NWLR pt 310 at 233.

adjournment of cases, sometimes, on flimsy reasons.[170] Table 18 shows that many of the cases adjourned in the courts were caused by the defence counsels. Based on available data, the number of adjournments at the instance of defence was consistently high between 2002 and 2007. For instance, the number in Rivers State increased from 780 in 2006 to 1,146 in 2007. This situation was worse in Lagos State where 43,595 cases were adjourned as a result of the activities of defence counsels. This is a reflection of the parlous state of prosecution in Nigeria.

Table 16a: Cases adjourned at the instance of court in Nigeria by state, 2002-2015

State/Year	2002	2003	2004	2005	2006	2007	2013	2014	2015
Enugu	212	389	368	241	358	288	332	409	428
Gombe	86	53	142	188	396	180	233	349	311
Kaduna	285	230	266	226	226	182	376	368	379
Lagos	19,679	20,875	35,211	43,595	53,419	1,089	53,70	54,119	52,958
Rivers	-	1,017	614	994	1,217	1,002	4,204	4,767	3,993
FCT (Abuja)	1,217	416	476	-	75	-	879	1,202	1,871
Nigeria	42,813	37,836	51,868	59,046	70,757	16,793	73,400	73,887	74,070

- represents data not available
Source: National Judicial Council, Abuja

Table 16b: Cases adjourned at the instance of defense in Nigeria by state, 2002-2015

State/Year	2002	2003	2004	2005	2006	2007	2013	2014	2015
Enugu	346	102	162	121	241	218	342	289	356
Gombe	46	-	76	120	188	-	214	209	211
Kaduna	215	270	142	197	226	194	301	288	258
Lagos	873	3,072	564	10,584	43,595	194	12,154	13,602	11,888
Rivers	898	-	780	892	994	1,146	2,176	2,802	2,776
FCT (Abuja)	350	60	320	-	-	71	271	199	205
Nigeria	11,118	15,378	8,565	20,476	59,046	11,101	21,736	23,115	23,709

- represents data not available
Source: National Judicial Council, Abuja

It is not uncommon, therefore, for such judicial officers to arrive at court either very late or even fail to go to court without any compelling reasons. The cumulative effect of this is that litigants continue to groan under this debilitating burden of undue delays in the dispensation

[170] See the Observations of Olatawura JSC in *Okon Akpan v State* (1991) 3 NWLR pt 182 at 646-661 on the over indulgence of the Trial Judge in Granting the State Counsel Several Adjournments in the Case.

of justice. According to Samson Erhaze and Daud Momodu, this slow-motion judicial process has adverse effects on the quest for quick dispensation of justice.[171]

Furthermore, the police and prisons are controlled only by the Federal Government, and the personnel of the sectors cannot embark on a strike by virtue of their job description; as they are considered essential workers.[172] In contrast, the judiciary is structured to include the States and the Federal Government as discussed earlier. As such, there are state and federal judicial workers. The workers, either at the state or federal level, belong to labour unions by virtue of their job description. As such, they can take part in industrial actions called by the Nigerian Labour Congress (NLC) or the Judicial Staff Union of Nigeria (JUSUN). Based on the data in Table 17, the number of industrial disputes recorded between 2013 and 2015 in Nigeria was high. Many such disputes usually result in strikes, which may last for a long period before resolution. For instance, in Table 17, out of the 447 disputes recorded in 2013, 83 of them resulted in strikes that lasted 70 days. Also, in 2014, there were 234 disputes in which 175 resulted in strikes that lasted 340 days. Similarly in 2015, only 167 out of 327 disputes were resolved. Unfortunately, court sittings do not usually hold during periods of strikes, thus keeping inmates in prison custody throughout the period. The judiciary has embarked on strike for several months on a number of occasions. This often disrupts trial processes, thus leading to delays in trials.

Table 17: Industrial disputes in Nigeria, 2013-2015

Disputes/Year	2013	2014	2015
Number of Disputes	447	234	327
Number of disputes resulting in strike	83	175	192
Number of disputes resolved	50	141	167
Duration of disputes (days)	70	340	433
Number of workers involved	183,678	128,911	119,302
Total man - days lost	12,857,460	43,829,740	41,354,647

Source: Federal Ministry of Employment, Labour and Productivity, Abuja

5.10.3 Misuse of discretionary powers by judges and magistrates

One area which gives ample opportunity for judicial officers, particularly judges and magistrates, to be corrupt is where the law empowers them to exercise their discretion in one way or the other. They use such discretion maliciously and arbitrarily.[173] In such a situation,

[171] Samson Erhaze and Daud Momodu, 'Constraints in efficient and speedy trial process in Nigeria: the Case of Criminal Justice Administration' (2015) 3 International Journal of Humanities & Social Studies 175, 175.
[172] Tola Johnson, *Industrial Relations System in Nigeria* (Teedek Associates 2001) 82.
[173] Bhagwan Vishnoo *et al, World Constitutions* (Sterling Publishers Ltd 1997) 28.

some judges and magistrates find it convenient not to reckon with the statement made by Lord Halsbury in the case of *Sharpe v Wakefield* that:

> Judicial discretion means that judges are to act according to the rules of reason and justice and not according to private opinion; according to law and not humour.[174]

Their discretion is not to be arbitrary, vague and fanciful, but legal and regular. Earlier, the concept of judicial discretion was stated by Lord Mansfield in *R v Wilkes's* case to imply 'a duty to be fair, candid and unprejudiced; not arbitrary, capricious or biased, much less warped by resentment or personal dislike'.[175] Also, Lord Coke, an eminent jurist of his time, in the case of *Rookes v Commissioners of Sewers* described legal discretion as:

> A science or understanding to discern between falsity and truth, equity and colourable glosses and pretenses and not to do according to their wills and private affections.[176]

Additionally, judicial officers are expected to reason on how to improve the law, resolve disputes in a better way, and improve the life of individuals and the nation at large.[177] Unfortunately, this is not the case in Nigeria as petitions are received daily against malpractices by judicial officers. Table 18 shows that accusations of inadequacies against the judiciary in the enforcement of judgment and arbitrary award are high. This ranged between 5 and 40 within the space of 2013 to 2015. All petitions as revealed by the data are question marks on the activities of judicial workers, particularly magistrates and judges. Many of such cases were linked to corruption and abuse of power under the guise of application of discretional powers. In a situation where court judgements are not enforced and there is arbitrary awards of sentencing by the judiciary, justice delivery is bound to be affected.

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[174] (1891) AC at173.

[175] (1770) ER pt 327at 334. Lord Mansfeild was of the opinion that, Descretion, when applied to a Court of Justice, means sound discretion guided by law. It must be guided by rule, not by humour it must not be arbitrary, vague and fanciful, but legal and regular; Thomas Bayly Howell, *A Complete Collection of State Trials and Proceedings for High Treason and Other Crimes and Misdemeanours from the Earliest Period to the Year 1820* (Longman 1870) 1129.

[176] (1598) 5 at 99; Edward Coke, 'Judicial discretion: Coke's Kings Bench Reports volume 5: Rooke's case' <https://dominicdesaulles.wordpress.com/2016/03/04/cokes-kings-bench-reports-volume-5-rookes-case/ accessed 4 February 2018; Thomas Jones Howell *et al*, *A Complete Collection of State Trials and Proceedings for High Treason and Other Crimes and Misdemeanours from the Earliest Period to the Year 1783, with Notes and other Illustrations, Volume 2* (Longman Rees Orme Brown and Green 1828) 176.

[177] Ese Malemi, *The Nigerian Legal Method* (1st edn, Princeton Publishing Company 2010) 353.

Table 18: Petitions received on enforcement of court judgment/arbitral award in Nigeria by state, 2013-2015

Petition/Year	Petition pending at the beginning	Petition filed during the year	Petition disposed of during the year	Petition pending at the end of the year	Other petitions (unspecified)	Total
2013	12	8	1	16	3	40
2014	3	0	0	2	0	5
2015	6	1	0	14	0	21

Source: Independent Corrupt Practices and Other Related Offences Commission, Abuja

5.10.4 Corruption among judicial workers

Corruption in the judiciary is a major problem that poses a serious challenge to Nigeria's criminal justice system.[178] It is the desire of the general public that justice must be done at all times and be seen to have been done.[179] Corruption often occurs when some administrative staff of courts in Nigeria violate formal or informal administrative procedures for their personal gains.[180] Such cases of corruption usually start when the clerk or registrar of a court charges a fee for the preparation of a court process even where the law provides that it should be free.[181] Not only that, hiding of case files, withholding of bail bond until a bribe is paid and reducing sentences imposed by the trial judge are common in the Nigerian Judiciary.[182] The court is vulnerable in Nigeria because those meant to be facilitating the justice of the system are failing in their duties.[183]

Magistrates and judges in the Nigerian courts are not left out in this web of corruption. There are allegations of bribery and corruption involving judges in Nigeria.[184] Corruption has a devastating effect on the integrity of courts. The fact remains that a corrupt judge is not only a danger to him/herself but to the entire judiciary as well. Corruption has tarnished the image of Nigeria's judicial system, and has brought the entire institution of justice into disrepute.

According to Table 13b in Chapter Four, it is revealed that corruption has affected Nigeria's criminal justice system. Data show the level of corruption in many sectors

[178] Eminri and Deinduomo (n 129) 24.
[179] Ogunode (n 5) 28.
[180] Nwabachili Chudi C, *Intellectual Property Law in Nigeria* (Malthouse Press 2016) 201.
[181] Cyprian Okechukwu Okwonkwo and Michael E Naish, *Criminal Law in Nigeria* (Sweet &Maxwell 1980) 362.
[182] Micheal Omolewa, Theodocia Fadayi and Rashid A Aderioye, *Transparency in Gorvernance: A Training Manual* (University Village Association 2001) 64.
[183] Chudi (n 145) 201.
[184] See *Ukachukwu v Uba* (2006) All FWLR pt 300 at 1736.

including the judiary (judges and magistrates). The Table reveals that 31.50% of Judges and Magistrates are said to be involed in one form of bribery or the other in the course of delivering justice. This revelation by the Independent Corrupt Practices and Other Related Offences Commission in 2016 is not good for the image of the judiary in Nigeria.

Judges and magistrates are the principal officers in the administration of justice.[185] They man the courts and their functions affect a prodigious deal in people's lives. Judges are recognised as significant public officials whose powers touch every nook and cranny of society. A corrupt judge or judiciary is a nuisance in Nigerian society. Indeed, it is a calamity to have a corrupt judge for corruption pollutes justice.[186] For example, in October 2016, some judges were arrested for corruption because they allegedly received bribes. Their homes were searched, and huge sums of monies of different denominations and currencies discovered.[187] They were Justices Adeniyi Ademola (Federal High Court); Sylvester Ngwuta and Inyang Okoro (Supreme Court Justices); Justice Ofili Ajumogobia of the Federal High Court and former Chief Judge of the Federal High Court; as well as Justice A. Umezulike (the Chief Judge of Enugu State).[188] This is not supposed to be happening among judges.

Justice is the mainstay of any nation, and short of this, there will be chaos, anarchy, commotion, and eventual collapse of the whole judicial system.[189] Policy makers, that is, the executive, can be accused of dishonesty, incompetence, favouritism, and the government is frequently faced with charges of sluggishness, pride, idleness and corruption, but the judiciary cannot afford to be blamed or accused of any of the above-mentioned shortcomings.[190] Since the judiciary is the only institution that allots blame to all organs of government, it cannot afford to be blemished itself.[191]

Justice Dahiru Musdapher, the Chief justice of Nigeria (as he then was), stated as follows:

> A poor judge (in terms of integrity) is perhaps the most wasteful indulgence of the community. You can refuse to patronise a merchant who does not carry good stock, but you have no recourse if you are hurled before a judge whose

[185] Nlerum S Okogbule, 'Access to Justice and Human Rights Protection in Nigeria: Problems and Prospects' (2005) 2 International Human Rights Journal 94, 97.
[186] Chucks, Grace and Ifeanyi (n 21) 96.
[187] Justice Ademola was found with N54, 000,000 on him, Justice Ngwuta had N35, 208,000 on him and Justice Okoro was found with N4, 350, 000. There was also a list of dollar and pound denominated currencies in the names of the Judges. < http://www.nigerianmuse.com/20161010095043zg/nigeria-watch/inside-the-very-corrupt-world-of-nigerias-judiciary>accessed 25 September 2017.
[188] Jude Egbas, Judges' Arrest: Inside the Very 'Corrupt' World of Nigeria's Judiciary, Published 10/10/2016 < http://www.pulse.ng/local/Judges-arrest-inside-the-very-corrupt-world-of-nigerias-Judiciary>accessed 13 July 2017.
[189] Okogbule (n 150).
[190] Thaddeus Byimui Umaru, Christian-Muslim Dialogue in Northern Nigeria (Xlibris Corporation 2013) 73.
[191] Chucks, Grace and Ifeanyi (n 21) 89.

> mental or moral goods are inferior. An honest, able and fearless judge is the most valuable servant of democracy.[192]

Speaking further on the issue, Justice Samson Uwaifo, Justice of the Supreme Courtmaintained:

> A corrupt judge is more harmful to the society than a man who runs amok with a dagger in a crowded street. The latter can be restrained physically but a corrupt judge deliberately destroys the moral foundation of society and causes incalculable distress to individuals through abusing his office while still being referred to as honourable.[193]

To this end, judges and magistrates should possess the qualities of valour, honesty and integrity before they can effectively dispense justice. They should be guided by the principles of loyalty, honesty, efficiency and impartiality and should courteously and lawfully exercise their discretionary power.[194]

5.10.5 Defective process in the appointment of judicial officers

Obviously, the proper functioning and development of any judicial system depends on the level of the personnel allotted to man the court of law.[195] Judicial officers occupy a foremost position in the administration of justice.[196] Thus, having individuals with integrity and high moral competence as judicial officers is indispensable for a more effective and efficient administration of justice.[197] The appointment of judicial officers should require a just and equitable representation of different federating units in as much as the appointees possess the minimum requirements for the position.[198] By virtue of the position judges occupy in the administration of justice, the appointment must be inspired by merit and forward-looking principles, not by an individual's parochial and egocentric considerations.[199] The end result is that when inefficient and incompetent persons are appointed, the system degenerates and becomes defective. Unfortunately, the appointment of judges and magistrates is greatly

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[192] Justice Dahiru Musdapher, *The Nigerian Judiciary: Towards Reform of the Bastion of Constitutional Democracy* (Nigerian Institute of Advanced Legal Studies 2011) 15.
[193] Uwaifo Samson Justice Supreme Court, Valedictory Speech in Dahiru Musdapher CJN, The Nigerian Judiciary: Towards Reform of the Bastion of Constitutional Democracy (Nigerian Institute of Advanced Legal Studies 2011) 15.
[194] Chucks, Grace and Ifeanyi (n 21) 96.
[195] Bonny Ibhawoh, *Imperial Justice: Africans in Empire's Court* (Oxford University Press 2013) 174.
[196] Ernest Uwazie, *Alternative Dispute Resolution and Peace-Building in Africa* (Cambridge Scholar Publishing 2014) 54.
[197] Uche Felix Onwukike, *Democracy in Nigeria: Its Anthropological and Social Requirements* (Peter Lang Pub Incorporated 1997) 78.
[198] Benjamin Obi Nwabueze, *Constitutional Law of the Nigerian Republic* (Butterworths 1964) 290.
[199] Shimon Shetreet and Jules Deschenes (eds), *Judicial Independence: The Contemporary Debate* (Martinus Nijhoff Publishers 1985) 255.

influenced by the political class.[200] Hence, most appointments are not based on integrity, intellectual suitability and professional competence. Invariably, the administration of justice suffers from such wrong appointments. Qualifications, experience and integrity are not always taken into consideration in the appointment of judicial officers in Nigeria.[201]

Apart from the requisite academic qualifications and experience, it is vital that only persons of high moral standard and integrity be appointed judges and magistrates.[202] Nothing frustrates the people and erodes their public confidence in the judicial system more than having a judiciary that cannot be trusted as a fair and unbiased arbiter.[203] An impression of bias on the part of the judge, even when he or she is actually not biased, is enough to cause consternation and worry for as it is often said, justice must not only be done, it must also be seen to be done in order to be believed.[204] As such, it is expressly stated that:

> It is the duty of a judge to present to the nation, a judiciary which the people of this country can be justly proud of. Such candidates must also have sound legal background and intellectual acumen. They must possess professional competence such as intellectual capacity; professional and personal judgment; writing and analytical ability; and knowledge of the law; and of professional experience. The work of a judge is an arduous task and requires persons of high intellectual capacity and ability to research and demonstrate scholarly writing. Without these qualities, a judge will be a mediocre and will not properly dispense justice as required.[205]

In Nigeria, the appointment of judges and magistrates is not generally based on merit but on 'who you know'. This can be deduced from the fact that better qualified candidates for the positions are not appointed. It is not surprising because such candidates are likely to be less able or willing to compromise or ingratiate themselves with political authorities, and so, they are less likely to be preferred.[206] Politicising judicial appointments does not augur well for the judiciary.[207] Criticising this manner of appointment, the President of the Nigerian Bar Association (NBA) opined as follows:

> Judicial appointments are becoming political and they should not be. The job is not for the boys, experience must count. So, the process must, therefore, be disconnected from favouritism and the Nigerian Bar Association (NBA) will continue to monitor the process closely. The idea of appointing outright

[200] ibid.
[201] Obidimma and Obidimma (n 10) 34.
[202] Uche Felix Onwukike, *Democracy in Nigeria: Its Anthropological and Social Requirements* (Peter Lang Pub Incorporated 1997) 78.
[203] Ovo Catherine Imoedemhe, *The Complementarity Regime of the International Criminal Courts: National Implementation in Africa* (Spinger 2016) 186.
204 ibid; Lowe and Das (n 118) 32.
[205] ibid 39.
[206] ibid.
[207] ibid 43.

mediocre should be jettisoned in order to have efficient and effective judiciary that can stand the test of time.[208]

5.10.6 Inadequate funding and poor infrastructure

It is unfortunate that the judiciary has always been starved of required funds, and has therefore, suffered considerable neglect from successive administrations in the Nigerian government. In most cases, courtrooms are grossly inadequate, and this has resulted in the use of non-befitting places as courts.[209] Essential items of office stationery are usually lacking, and libraries are filled with outdated books.[210] Most of the courtrooms are antiquated without fans, air conditioners and information technology gadgets. In most cases, there is no provision of electricity in courtrooms as well as the homes of judicial officers, which are integral to the effective delivery of their duties.[211] This situation has greatly affected the efficiency and proper functioning of the machinery of justice, and the blame is firmly placed at the door-steps of government.[212]

Inadequate funding is a major challenge within the judiciary.[213] This can be deduced from the inquisitive arrangements for the funding of the judiciary under the 1999 Constitution.[214] The power to pay the salaries of all judges, both at federal and state levels, is vested in the National Judicial Council (NJC).[215] The NJC also makes provisions for capital and recurrent expenditures of all Federal Courts while the State Governments hold the duty of providing for capital and recurrent expenditures of their respective State Judiciaries. Although the NJC is specifically charged with the responsibility of funding the judiciary across the country, only the recurrent expenditure of State Judiciary is covered, while capital expenditure still remains the responsibility of State Governments. Most State Governments use this power of control of the purse to have over-bearing influence over the judiciary. The Chief Judge (CJ) of the State usually goes to beg for funds from Governors. This is most unfortunate. As long as the judiciary depends on the executive for the provision of facilities and funds, the independence of the judiciary will continue to be a mirage.[216] From the foregoing, the issue of separation of powers between the three arms of government only

[208] Obidimma (n 10) 42.
[209] ibid.
[210] ibid.
[211] Oyeniran B Adediji, *Challenging Issues and Accountability in Nigeria's Public Administration* (AuthorHouse 2012) 195.
[212] Historical Society of Nigeria and Osun State University, *Economy and Society in Nigeria: The Challenges of Infrastructure Development* (Historical Society of Nigeria, Osun State University 2011) 96.
[213] United Nations, *African Governance Report 11:2009* (United Nations Publications 2009) 255.
[214] The Constitution of the Federal Republic of Nigeria (n 25) Sections 84(1)-(4).
[215] ibid Section 81(3).
[216] Adeoye A Akinsanya and John A Ayoade (eds), *An Introduction to Political Science in Nigeria* (Rowman & Littlefield 2013) 149.

exists in theory; the judiciary is always treated as an appendage of the executive.[217] According to International Standards,

> States are allowed to decide the best way to guarantee that the judiciary receives adequate funds, since funding is an essential component of the independence of the judiciary;[218] even in a situation where economic constraints make it difficult for proper allocation to the judiciary, it is imperative for government to provide facilities and resources that judges consider necessary and adequate to enable them perform their functions effectively, this helps in the maintenance of the rule of law and protection of human rights; sufficient and sustainable funding should be provided to enable the judiciary to perform its functions to the highest standards. Such funds, once voted for the judiciary by the legislature, should be protected from alienation or misuse; the allocation or withholding of funding should not be used as a means of exercising improper control over the judiciary.[219]

In addition, it is required that the needs of the judiciary and the court system be accorded a high level of priority in the allocation of national resources.[220]

5.10.7 Inadequate manpower

The number of magistrates and judges available to preside over criminal cases determines how fast such cases could be concluded. Reports currently indicate that the number of judges in both Federal and State Judiciaries is not commensurate with the number of criminal cases filed in the courts.[221] The number is grossly inadequate for quick dispensation of justice.[222] Tables 19a, 19b and 19c show that judges in the Federal and State Courts in Nigeria are so few that they are overwhelmed by cases. For example, there were only 3 and 5 judges in the Federal High Courts of Kaduna and Rivers States respectively. Despite the high crime rate in Nigeria as discussed in Chapter Four. It is pathetic to have only a few judges in the States considering the number of cases to preside over in the courts.[223] The situation is so bad that there is no Customary Court of Appeal in Gombe and Lagos States, meaning that all appeals, including those of the Customary Courts, have to go to the Appeal Court, thus increasing the

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[217] Yemi Akinseye-George, *Nigerian Prisons: Justice Sector Reform and Human Rights in Nigeria* (Centre for Socio Legal Studies Publishing 2009) 199.
[218] Basic Principles on the Independence of the Judiciary (n 108) Article 7.
[219] International Commission of Jurists, *International Principles of Independence and Accountability of Judges, Lawyers and Prosecutors, Practitioners Guide* (Geneva Switzerland 2007) 35.
[220] Nlerum S Okogbule, 'Access to Justice and Human Right Protection in Nigeria: Problems and Prospects' (2005) 2 International Human Rights Journal 94, 97.
[221] Okafor (n 108) 76.
[222] Oko Elechi and Smart E Otu, 'Eze Udu, Ebonyi Court' in David Lowe and Dilip K Das (eds), *Trends in the Judiciary: Interviews with Judges across the Globe* (CRC Press 2016) 35.
[223] Innocent Chukwuma, 'Nigeria: Social Structure, Criminal Justice and Criminology' in Cindy J Smith, Sheldon X Zhang and Rosemary Barberet (eds), *Routledge Handbook of Criminology* (Routledge 2011) 467.

workload of already overstretched staff. However, even though there is a Customary Court of Appeal in Enugu, Kaduna and Rivers States, there are very few judges to man the courts. What can be deduced from the foregoing is that none of the Federal or State Courts in Nigeria has the number of judges adequate enough to handle the cases therein. This eventually leads to delays in trial, and in some cases, miscarriage of justice.

Table 19a: Number of judges in Federal Courts in Nigeria, 2013-2016

Federal Court	Year					
	2011	2012	2013	2014	2015	2016
Supreme Court of Nigeria	14	16	17	16	17	14
Court of Appeal	65	71	69	88	87	79
Federal High Court	59	55	65	55	53	74
High Court of F.C.T	-	-	37	35	37	37
Sharia Court of Appeal of F.C.T	-	-	7	7	6	6
Customary Court of Appeal of F.C.T	-	-	7	7	7	7
National Industrial Court	8	8	20	20	19	19
Total	146	150	222	228	226	236

Source: National Judicial Council, Abuja

Table 19b: Number of judges in Federal Courts by State in Nigeria, 2013-2015

State	Year		
	2013	2014	2015
Enugu	19	18	20
Gombe	11	12	12
Lagos	17	18	20
Kaduna	6	5	5
Rivers	4	4	3
FCT (Abuja)	-	-	-
Total	79	83	78

Note that Abuja is the Federal Capital of Nigeria and does not have a State High Court but has the High Court of the Federal Capital Territory.
Source: National Judicial Council, Abuja

Table 19c: Number of judges in the State Customary Court of Appeal in Nigeria, 2013-2015

State/Year	2013	2014	2015
Enugu	4	6	5
Gombe	-	-	-
Kaduna	6	5	5
Lagos	-	-	-
Rivers	4	4	3
FCT (Abuja)	-	-	-
Total	79	83	78

-means data not available
Source: National Judicial Council, Abuja

5.10.8 Inadequate training of judicial workers

The desirability of constant learning on the job cannot be over-emphasised. judicial workers in Nigeria need constant training by way of courses, seminars, symposia and workshops to keep them abreast of the latest methods of facilitating the dispensation of justice. Such training is important not only for judicial officers, but also for court registrars, bailiffs, clerks and all others who work in the judiciary.[224] Unfortunately, all these are either unavailable, and where they exist, they are inadequate.

5.10.9 Procedural deficiencies and technicalities in the judicial system

The Nigerian judicial system is faced with many procedural deficiencies in its operations.[225] The procedural errors give room for loop holes that hinder access to justice fairly and promptly in courts. The 'Nigerian factor' also comes into play in relation to the conclusion and delivery of judgments. It is common practice for parties to appear in court on a date fixed for the judgment only to be informed that the judgment is not ready.[226] This results in judgments being delayed, sometimes, much longer than the constitutionally stipulated period.[227] This excuse of judgment not being ready is sometimes repeated for several months, thus making it difficult for the judge to even remember the exact demeanour of parties

[224] Deslie Billich, 'The International Criminal Court and the African Continent: Prosecution of International Crimes in National Courts' in Willem de Lint, Marinella Marmo and Nerida Chazal (eds), *Criminal Justice in International Society* (Routledge 2014) 198.
[225] Ajetunmobi Musa Ali, *Sharia Legal Practice in Nigeria 1956-1983* (Kwara State University Press 2018) 237.
[226] Agbonika John and Alewo Musa, 'Delay in the Administration of Criminal Justice in Nigeria: Issues from a Nigerian view point' (2014) 26 Journal of Law, Policy and Globalization 130, 130.
[227] The provision is to the effect that every court established under the constitution shall deliver its judgment in writing not later than Three months after the conclusion of evidence and final addresses. The Constitution of the Federal Republic of Nigeria (n 23) Section 294(1).

involved in the case at the time of writing the judgment.[228] This challenge of the court serves as a limitation to the right of detainees to speedy trial and access to justice in Nigeria. Procedural deficiencies such as starting cases *de novo* following transfer of judges and magistrates from one jurisdiction to another; filing motions and counter motions, preliminary objections and trials within trials up to the Supreme Court before trial of the substantive issue continues; and referring cases to the Department of Public Prosecution (DPP) for legal advice (which may never come) before commencement of trial, could also result in a miscarriage of justice.[229]

5.10.10 Poor access to justice and legal aid

Justice is fundamental to the attainment of ideal societal standards.[230] The term 'access to justice' has been said to mean that:

> People in need of help finding effective solutions available from justice systems which are accessible, affordable and comprehensible to ordinary people and which dispense justice fairly, speedily and without discrimination, fear or favour and a great role for alternative dispute resolution;[231] it also means access to a fair and equitable set of laws.[232]

An efficient and effective criminal justice system or justice administration, not only in Nigeria, but also in every modern society, is of great importance, particularly to the under-privileged.[233] The clear reason for this assertion is that indigent persons in the society are most often, disadvantaged by virtue of their social standing in life; hence, the quest for justice to them becomes horrible.[234] Access to justice can only be achieved when the road to its accomplishment is made accessible to all,[235] and when there are existing mechanisms put in place both procedural and substantive in a particular society, tailored towards ensuring that people have the confidence to seek for the enforcement of their fundamental human rights within the system of criminal justice administartion.[236] In this context, 'justice' according to

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[228] Bamgbose Olatokunbo John, *Digest of Judgements of the Supreme Court of Nigeria: Vols 1 and 2* (Safari Book Ltd 2013) 126.
[229] ibid.
[230] Okogbule (150) 100.
[231] Muhamed Toafiq Ladan, 'Women Rights, Access to and Administration of Justice under the Sharia Law in Nigeria' in Joy Ngozi Ezeilo, Muhamed Toafiq Ladan and Abiola Afolabi Akiyode (eds), *Sharia Implementation in Nigeria: Issues and Challenges on Women's Rights and Access to Justice* (Women's Aid Collective 2003) 19.
[232] Oluyemisi Bamigbose, 'Access to Justice through Clinical Legal Education: A way Forward for Good Governance and Development' (2015) 15 African Human Rights Law Journal 378, 382.
[233] Sofo C A Ali-Akpajiak and Toni Pyke, *Measuring Poverty in Nigeria* (Oxfam 2003) 63.
[234] ibid.
[235] Ojukwu N Ogba and Amos O Enabulele, 'Access to Justice and realities in Justice Administration in Nigeria' (2012) 13 University of Benin Law Journal 228, 229.
[236] Adedokun A Adeyemi, 'A Demand Side Perspective on Legal Aid: What Service do People Need? The Nigerian situation' in Northwestern University Evanston, School of Law Bluhm Legal Clinic and National

the *Black's Law Dictionary*, is described as 'proper administration of law which jurisprudentially implies the constant and perpetual disposition of legal matters on disputes to render every man his due'.[237] Hence, for one to be rendered his due, access to justice must be guaranteed through legal education assistance.

One of the most essential conduits for effective access to justice is when a person accused of a crime, has access to the services of a legal counsel to advise and defend him or her in court.[238] On that basis, it was stated as follows:

> Without the assistance of counsel, the defendant is practically powerless to challenge the prosecution. The absence of such a challenge can result in carelessness and failure to review the evidence and properly prepare the case, which makes it easier to convict the innocent.[239]

Many indigent Nigerians find it difficult and impracticable to seek redress in court simply because they cannot afford the services of a lawyer as well as the costs of litigation.[240] An agency of government whose sole responsibility it to improve access to justice in Nigeria is the Legal Aid Council.

Legal Aid Council was established primarily to render legal assistance to the category of people who have no financial means to engage legal practitioners to obtain justice.[241] The Nigerian Constitution makes provision for the right to legal assistance.[242] It is stipulated as follows:

> Equal access to law for the rich and poor alike is essential to the maintenance of the rule of law. It is, therefore, essential to provide adequate legal advice and representation to all those threatened as to their life, liberty, property or reputation, who are not able to pay for it. This may be carried out in different ways.[243]

To this effect, The Legal Aid Council (LAC) was created. Legal Aid is an institution established through the Legal Aid Act enacted by the National Assembly of the Federal Republic of Nigeria.[244] According to the United Nations Principles and Guidelines, it is stipulated as follows:

Institute for Trial Advocacy U.S, *Access to Justice in Africa and Beyond: Making the Rule of Law a Reality* (National Institute for Trial Advocacy 2007) 117.
[237] (5th edn, West Publishing Co. 1979) 776.
[238] ibid.
[239] Oputa Judicial Service Council in *Josiah v State*, 1985) 1 NWLR pt1 at 131; *Okoduwa v State* (1988) 2 NWLR at 76; *Nse Udo Ntita v State* (1993) pt 283 at 512.
[240] Ladan (n 209) 37.
[241] Legal Aid Act, 2011, Section 1(1).
[242] The Constitution of the Federal Republic of Nigeria (n 23) Sections 46(4); 35(2) and 36(6)(c).
[243] Niki Tobi, 'Right to Counsel in Nigeria' (1980) 5 International Legal Practitioner 75, 75.
[244] See the preamble to the Legal Aid Act (n 241).

> The Legal Aid Council shall have the responsibility in accordance with the Legal Aid Act, to render free legal services, advice and access to justice in respect of persons entitled thereto.[245]

Thus, the functions of Legal Aid in Nigeria include provision of legal advice, assistance and representation for victims of arrests, prosecution and detention in the criminal justice process, provided free of charge for those without means.[246] The Legal Aid Act stipulates as follows:

> The Legal Aid Council comprises the Governing Board made up of the Chairman and the members, the Director General of the Council and such supporting staff engaged for the purposes of the efficient performance of the duties and obligations of the council under the Act.[247]

Apart from the general rights to counsel for everyone charged with a criminal offence, the availability of free legal aid is guaranteed under the Nigerian Constitution.[248] Despite the constitutional provisions for legal aid, the scheme has been unable to make substantial impact over the years due to structural and operative problems.[249] Section 14 of the Legal Aid Act authorises the council to engage the services of lawyers on the National Youth Service Scheme (NYSC) in its undertakings. The rationale behind this is to save cost. The council may delegate to any member or to any officer, employee or agent of the Council, the power and authority to carry out such functions as the council may determine. In doing this, the council has been having the challenge of taking caution in assigning or committing sensitive cases such as murder or manslaughter because the fact remains that they are still inexperienced to handle such. For example, in the case of *Udofia v State*[250] where a murder case conducted by youth corps members was set aside, the Supreme Court held as follows:

> Mr Onu and Mr Igika, both of the National Youth Service Scheme (NYSC) appear for the accused, to do what? One will naturally ask, to conduct a murder case? What is the country turning into when members of the NYSC are sent to defend a man on trial for his life? At best, the role of such new wig should be restricted to legal advice and appearance at the courts of summary jurisdiction alone.[251]

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[245] Legal Aid Act (n 241) Section 8(1) and (2).
[246] ibid Sections (8)1 and 5.
[247] ibid Section 1(4).
[248] The Constitution of the Federal Republic of Nigeria (n 23) Section 36(6) (c); Comfort Chinyere Ani, 'Reforms in the Nigerian Criminal Procedure Laws' (2011) 1 Journal of Criminal Law and Justice 52, 54.
[249] This include inadequate funding, lack of sufficient manpower and the limited scope of its operations. See Ikponmwonsa O Omoruyi and Amos O Enabulele, 'The effectiveness of the Legal Aid as a means of access to Justice in Nigeria' (2004) 2 University of Benin Journal of Public Law 144, 144-146.
[250] (1988) 3 NWLR pt 84 at 541.
[251] ibid; Nigerian Society of Contemporary Law, *The Nigerian Journal of Contemporary Law, Volume 15* (Nigerian Society of Contemporary Law 1988) 101; Legal Aid in the administration of justice <http://maband associates.com/pool/Legal Aid in the administration of justice in Nigeria. pdf >accessed 30 July 2017.

Based on the above, the researcher is of the opinion that the Nigerian Legal Aid Council is short of staff to adequately achieve its aims and objectives.

Furthermore, unmet needs and access to legal aid is also a challenge with regard to access to justice in Nigeria. The provision of legal aid in Nigeria is extremely limited. Affirming this, in an interview granted in August 2013, the Director-General of the Legal Aid Council (LAC), Mrs Joy Bob-Manuel, stated as follows:

> There were not enough lawyers to meet the increasing need for free legal services in the country. There were only 280 lawyers working for the Council, a number that was clearly insufficient to cover all the 36 States of the Federation and the Federal Capital Territory.[252]

Additional factors militating against access to justice due to ineffectiveness of the Legal Aid Council include inadequate funding; lack of publicity; delays in investigating crime by the police; inadequate information on access to justice; congestion of prisons; delays in the administration of justice; lack of enablement of Legal Aid Council (LAC) to provide legal aid in respect to certain classes of persons and in respect to specific matters; and the limited scope of suitability for such aid. Funding levels are so poor that some lawyers on the Board have done legal aid work free of charge because it has not been worthwhile to claim the token fee.[253] It is, therefore, important that it should be proactive in making justice more accessible by bringing it to the doorsteps of every Nigerian, regardless of social status, sex, religion or ethnic nationality. There is need to broaden the operational scope of the scheme so that justice can be accessed by all levels and categories of potential beneficiaries. It is important to extend the operations of the scheme to cover all categories of criminal matters as against what is currently available, and public enlightenment of people's rights to access justice through legal aid has to be improved upon.

The role of legal aid in the criminal justice system cannot be over-emphasised. When there is an efficient and functional legal aid system, there will be:

a. Reduction in the length of time suspects are held in police stations and detention centres;
b. Reduction in the prison population, wrongful convictions to avert prison overcrowding;
c. Reduction of congestion in the courts;
d. Reduction in reoffending and victimisation; and

[252] Joy Bob-Manuel, Legal Aid Council, Developing Legal aid strategy for poor Nigerians <https://www.dailytrust.com.ng/daily/law/31958-developing-legal-aid-strategy-for-poor-nigerians> accessed 31 July 2017.
[253] Joy Bob-Manuel, Legal Aid Council, Developing Legal aid strategy for poor Nigerians <https://www.dailytrust.com.ng/daily/law/31958-developing-legal-aid-strategy-for-poor-nigerians> accessed 31 July 2017.

e. Protection and safeguard of the rights of victims and witnesses in the criminal justice process.[254]

In line with the United Nations Principles on Access to Legal Aid in Criminal Justice Systems, principles were formulated to make it effective and efficient. It is worth mentioning that legal aid is an essential element of a functional criminal justice system that is based on the rule of law and footing for the enjoyment of other rights apart from the right to fair hearing and access to justice. It is an important safety measure that ensures fundamental fairness and public reliance in the criminal justice process. Based on that, it was formulated thus:

> States should guarantee the right to legal aid in their national legal system at the uppermost possible level as well as in the Constitution.[255] In addition, States should reflect the provision of legal aid as their responsibility and obligation. To this effect, they should enact precise and explicit legislation and make certain that a comprehensive legal aid system is in place that is effective, accessible, sustainable and credible. Not only that, States should apportion the needed human and financial resources to the legal aid system.[256]

Regrettably, Nigeria, like many developing countries, still lacks the necessary resources and capacity to provide legal assistance for suspects, those accused of a criminal offence, prisoners, victims of crime and witnesses. It is provided that:

> States ought to guarantee that any person, who is arrested, detained or prosecuted for a crime carrying a punishment of a term of imprisonment or death penalty obtains legal assistance. The legal assistance needs to be free of charge, particularly if the person receiving the assistance does not have enough money to pay for such legal services. This must be at all stages of the criminal justice process, including post-trial proceedings. Also, free legal assistance should be rendered, irrespective of the income of the person, particularly when the interest of justice is so required, for instance, in the case of urgency, difficulty or the severity of the possible penalty.[257]

Moreover, it is the duty of the judges and prosecutors to make certain that those who appear before them, who cannot meet the expenses of a lawyer or who are helpless, are appropriately assisted. There should not be any form of discrimination in rendering free legal

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[254] United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, United Nations General Assembly Resolutions A/RES/67/187, U.N. Doc. GAOR, 67th Session, 60th meeting, U.N.Doc. A/RES/67/187 (2012) Article 3.

[255] United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, United Nations General Assembly Resolutions Article 15; Harry R Dammer and Jay S Albanese, *Comparative Criminal Justice Systems* (5th edn, Centage Learning 2013) 126.

[256] United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, United Nations General Assembly Resolutions (n 198) Article 14.

[257] ibid Article 23.

service.[258] Also, legal assistance should be rendered effectively and promptly.[259] Members of the public should be informed of the free legal assistance available to all.[260] In a situation where legal aid has been delayed or denied or if a person has not been informed of their right to legal assistance, remedies should be provided for people in such categories.[261] Justice should be done in access to legal aid, and disabled people should be given special consideration as well as people who live in rural, economically and socially disadvantaged areas.[262] Legal aid officers should be independent and protected adequately.[263] Competent hands that are equal to the task should be employed and also accountability is very important.[264] Efforts of persons rendering free legal service should be appreciated regardless of the groups they belong to.[265]

5.10.11 Non-compliance with international instruments

Nigeria is a member state of many international instruments that guarantee efficient delivery of justice by the judiciary. These instruments, as discussed below, serve as the barometre with which the Nigerian Judiciary is measured in this study.

[258] ibid States should ensure the provision of Legal Aid to all persons regardless of age; race; colour; sex; sexual orientation; language; religion or belief; political or other opinion; national or social origin; or property, birth or other status. Article 26.
[259] ibid States should ensure that effective Legal Aid is provided promptly at all stages of the criminal justice process Article 27.
[260] ibid States should ensure that information on rights during the criminal justice process and on Legal Aid services is made freely available and accessible to the public. Article 17.
[261] ibid 'States should establish effective remedies and safeguards that apply if access to Legal Aid has been delayed or denied or if persons have not been adequately informed of their right to legal assistance'. Article 31.
[262] ibid 'Special measures should be taken to ensure meaningful access to Legal Aid for women, children and groups with special needs such as the elderly, minorities, persons with disabilities or mental illnesses, persons living with HIV/AIDS, indigenous people, stateless persons, asylum-seekers, foreign citizens, refugees and internally displaced persons. Such measures should address the special needs of those groups, including by being gender-sensitive and age-appropriate'. 'States should also ensure that Legal Aid is provided to persons living in rural, remote and economically and socially disadvantaged areas and persons who are members of economically and socially disadvantaged groups'. Article 32.
[263] ibid 'States should ensure that Legal Aid providers are able to carry out their work effectively, freely and independently. In particular, States should ensure that Legal Aid providers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; are able to travel and to consult with their clients freely both within their own country and abroad; and should not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics'. Principle 12.
[264] ibid 'States should ensure that all Legal Aid providers possess education, training, skills and experience commensurate with the nature of their work, including the gravity of the offences, and the rights and needs of women, children and groups with special needs. Disciplinary complaints against Legal Aid providers should be promptly investigated and adjudicated in accordance with professional codes of ethics before an impartial body and subject to judicial review'. Article 36.
[265] Ibid 'States should recognize and encourage the contribution of lawyers' associations, universities, civil society and other groups and institutions to providing Legal Aid'. Article 38.

5.9.11.1 United Nations Basic Principles on the Independence of the Judiciary, 1985

No constitutionally established government will flourish without guaranteeing the obedience with the rule of law. Thus, one of the principal building blocks of the rule of law is the independence of the judiciary. The subject of this has received international attention. To this end, several international instruments make provisions in support of independence of the judiciary. Interestingly, Nigeria subscribes and is a signatory to many of such instruments. The United Nations Basic Principles on the Independence of the Judiciary is one of such instruments. Article 1 of the instrument states as follows:

> The independence of the judiciary shall be guaranteed by all states and shall be enshrined in the Constitution or the laws of the countries. It is the duty of all governmental and other institutions to respect and observe the independence of the judiciary.[266]
> The judiciary shall decide matters before them impartially on the basis of facts and in accordance with the law without any restrictions; improper influences; inducements; pressures; threats or interferences, direct or indirect from any quarter or for any reason.[267]

This simply means that it is the duty of all governmental and other institutions to respect and observe the independence of the judiciary.[268]

5.9.11.2 African Charter on Human and People's Rights (Banjul Charter), 1981

Just like the United Nations Basic Principles on the Independence of the Judiciary, although a regional instrument, it also guarantees the independence of the judiciary. It is provided that states parties should guarantee the independence of the judiciary.[269] It stipulates that:

> States parties to the present Charter shall have the duty to guarantee the independence of the courts and shall allow the establishment and improvement of appropriate national institutions entrusted with the promotion and protection of the rights and freedoms guaranteed by the present Charter.[270]

This Charter was not only ratified, it has been domesticated in the Nigerian laws, and therefore, has binding effect.

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[266] Basic Principles on the Independence of the Judiciary, United Nations General Assembly Resolutions 40/32, U.N. Doc. GAOR, 40th Session, 96th meeting, U.N.Doc. A/RES/40/32 (1985).
[267] ibid. 'This instrument was formulated to assist Member States in their task of securing and promoting the independence of the judiciary. It should be taken into account and respected by Governments within the framework of their national legislation and practice, and be brought to the attention of Judges, lawyers, members of the executive and the legislature and the public in general. See the preamble of the United Nations Basic Principles on the Independence of the Judiciary'. Article 2.
[268] ibid.
[269] Banjul Charter Article 26; See Frans Viljoen, *International Human Right Law in Africa* (2nd edn, Oxford University Press 2012) 353.
[270] The Banjul Charter, Organization of African Unity, OAU Doc. C AB/LEG/67/3 (1981) Article 26.

5.9.11.3 Universal Declaration on Human Rights, 1948

The instrument places obligations on the judiciary to be impartial in discharging its duties. It also guarantees right to fair hearing of an accused person. As such, it provides as follows:

> 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.[271]

5.9.11.4 International Covenant on Civil and Political Rights (ICCPR), 1966

Just like the Universal Declaration on Human Rights, this instrument is meant to guarantee equality in justice dispensation and right to fair hearing. It provides as follows:

> All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.[272]

It is worth nothing that Nigeria is a state party to the instruments in the foregoing discussion.[273] Thus, it is crutial to maintain judicial independence for the judiciary can achieve its aims and objectives and perform its functions properly.[274] The notion of independence of the judiciary is a vital aspect of the doctrine of separation of powers.[275] As such, Onyechachi Duru expressly states that:

> The basic concept of judicial independence is the principle of separation of powers, which indicates that the judiciary should function independently of the other two arms of government.[276]

Therefore, the independence of the judiciary is a foundation and lubrication for the sustainability of the rule of law and good governance. [277]

If the judiciary must function properly, its operations must always be independent and autonomous.[278] To this effect, Baron de Montesquieu, opines as follows:

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[271] Universal Declaration of Human Rights, United Nations General Assembly Resolutions 217 A, U.N. Doc. GAOR, 217th Session, 183rd meeting, U.N. Doc. A/RES/217/A (1948), Article 19.

[272] International Covenant on Civil and Political Rights, United Nations General Assembly Resolutions 2200A (XXI), U.N. Doc. GAOR, 2200th Session, 1496th meeting, U.N. Doc. A/RES/2200(XXI) (1966) Article 14.1.

[273] Paul Odeme, *Human Right and the Mission of the Church in Nigeria* (LIT Verlag Munster 2013) 11.

[274] Enaruna and Ernest (n 1) 94; African Charter on Democracy, Elections and Governance (n 44) Article 2 (5).

[275] John Bridge, 'Constitutional Guarantees of the Independence of the Judiciary' < http://www.ejcl.org > accessed 23 July 2017; International Commission of Jurists, *International Principles of Independence and Accountability of Judges, Lawyers and Prosecutors, Practitioners Guide No. 1* (Geneva Switzerland 2007) 18.

[276] Onyechachi Duru, 'An Overview of The Aspects and Attributes of Judicial Independence in Nigeria'< http://www.academia.edu/5185435/anoverviewofaspectsandattributesofjudicialindependencein Nigeria.>accessed 18 July 2017.

[277] Charlie Nwekeaku, 'The Rule of Law, Democracy and Good Governance in Nigeria' (2014) 2 Global Journal of Political Science and Administration 26, 27.

[278] Garba Umaru Kwagyang and Magaji Chiroma, 'A Comparative Analysis of the Independence of Judiciary in Nigeria and Malaysia' (2014) 2 Journal of International Academic Research for Multidisciplinary 296, 296.

> When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty. Again, there is no liberty, if the power of judging be not separated from the legislative and executive powers. Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control, for the judge would then be the legislator. Were it joined to the executive power, the judge might behave with all the violence of an oppressor. There would be an end of everything were the same man, or the same body, whether of the nobles or of the people to exercise those three powers that of enacting laws, that of executing public resolutions and that of judging the crimes or differences of individuals.[279]

It is, therefore, not in dispute that the principle of separation of powers is an essential ingredient of proper and efficient administration of justice in a country. It is a necessity to have a judiciary that is independent of the other organs of government.[280]

In a democratic society such as Nigeria, the judiciary is supposed to be flourishing. Apart from being the guardian of constitutional governance and democracy, it should be independent in every sense of the word and well-equipped to dispense justice to all and sundry without interference or partiality. The people should be rest assured that justice is done in all cases.[281] In tandem with the ongoing line of thought on the independence of the judiciary, Lord Francis Bacon, former Law Chancellor of England, said 'if we do not maintain justice, justice will maintain us'.[282] Thus, the instrument provides that:

> The judiciary shall decide matters before them impartially, on the basis of facts and in accordance with the law without any restrictions, improper influences, inducements, and interferences, direct or indirect from any quarter for any reason.[283]

Justice Saulman in the case of *Denton-West v Muoma*[284] stated as follows:

> The importance of a competent, independent and impartial judiciary in preserving and upholding the rule of law cannot be over-emphasised. There is, no doubt, that public confidence in the independence of the court, in the integrity of judges that man such courts, and in the impartiality and efficiency of the administration of justice as a whole, play a great role in sustaining the judicial system of the nation.[285]

Thus, judges must be completely neutral in order to be able to discharge their assigned

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[279] Baron de Montesquieu, *Montesquieu the Spirit of the Laws* (Cambridge University 1989) 187; Atle Midttun, 'Civil Society as a Driver of Governance Innovation: A Montesque Perspective' in Lars Tragardh and Nina Witoszek (eds), *Civil Society in the Age of Monitory Democracy* (Berghahn Books Publishers 2013) 290.
[280] Obidimma and Obidimma (n 8) 71.
[281] Okogbule (n 150) 97; Ani Chinyere, 'Access to Justice in Nigeria'< http://www.academia.edu/16870444/AccesstoJusticeinNigeria>accessed 16 July 2017.
[282] Francis Bacon, *The Works of Francis Bacon, Baron of Verulam, Viscount St. Alban, and Lord High Chancellor of England: Law tracts. Maxims of the law* (Rivington 1826) 456.
[283] Basic Principles on the Independence of the Judiciary (n 163).
[284] (2008) 6 NWLR pt 1083 at 418, 451-452.
[285] ibid.

constitutional duties.[286] According to the Report of the Committee on the Judiciary and the Legal Profession under the Rule of Law,

> an independent judiciary is an indispensable requisite of a free society under the rule of law. Such independence implies freedom from interference by the executive or legislative with the exercise of the judicial function, but does not mean that the judge is entitled to act in an arbitrary manner. His duty is to interpret the law and the fundamental principles and assumptions that underlie it.[287]

The concept of the independence of the judiciary means more than just independence from the other arms of government in Nigeria, namely, the legislature and the executive. It also means independence from political influence in which Nigeria's Judiciary is allowed to operate as an independent and separate body.[288] The judiciary must be free from power pressure or other undue influence as is currently the case in Nigeria.[289] This is the only way justice can be provided without fear or favour.

5.9.11.5 African Charter on Democracy, Elections and Governance, 2012

The instrument was inspired by member states of the African Union, to promote good governance, the rule of law and human rights. It is an African Union instrument that sets the principles and normative framework of what states should do regarding their judiciary. It was ratified in Nigeria.[290] The main objective of the Charter is to promote universal values and principles of democracy and respect for human rights in Africa.[291] It sets out guidelines for an ideal judiciary.[292] It also encourages states parties to make every effort to institutionalise good political governance through ensuring the independence of the judiciary.[293]

5.11 Summary of chapter

In the discussion above, the roles of the judiciary in the criminal justice system have been stated as the processing unit where the guilt or innocence of an accused is determined. Its

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[286] ibid 202.
[287] Observation of International Commission of Jurists on the Report of the Proceedings of the International Commission of Jurists (Conference on the Rule of Law in a Free Society, Delhi 1959) 11.
[288] Adeyemi A Adedokun, 'United Nations Human Rights Instruments and Criminal Justice Norms and Standard' in Cherif Bassiouni and Ziyad Motala (eds), *The Protection of Human Rights in African Criminal Proceedings* (Martinus Nijhoff Publishers 1995) 6.
[289] Hari Chand, *Nigerian Constitutional Law* (Santosh Publishing House 1981) 220.
[290] Victor Oluwasina Ayeni (ed), *The impact of the African Charter and the Maputo Protocol in selected African states* (Pretoria University Law Press 2016) 197.
[291] African Charter on Democracy, Elections and Governance, 2012 Article 2 (1).
[292] ibid Article,2 (5) Promote and protect the independence of the judiciary; Also Article 2(2) Promote and enhance adherence to the principle of the rule of law premised upon the respect for, and the supremacy of, the Constitution and constitutional order in the political arrangements of the States Parties.
[293] African Charter on Democracy, Elections and Governance (n 291) Article 32 (3).

challenges and shortcomings have been identified and discussed. In addition, courts with criminal jurisdiction; rule of law; separation of powers; and independence of the judiciary as necessities in achieving justice, have also been examined. The Legal Aid, *vis-à-vis*, access to justice, has been addressed. Having discussed all these, the next chapter focuses on the prison as the last institution for the accused in the organisation of Nigeria's criminal justice system.

CHAPTER SIX

ROLES AND CHALLENGES OF THE PRISON SYSTEM IN NIGERIA

6.1. Introduction

In the previous chapter, the role of the judiciary was examined as one of the components of Nigeria's criminal justice system, which an accused person goes through until the charges are dismissed and acquitted or convicted and punishment decided. This chapter examines and scrutinises the roles of the prison as the final phase in Nigeria's criminal justice system and the challenges it currently faces. This chapter also provides a review of the traditional systems of dealing with offenders before colonial rule in Nigeria to the contemporary status of amenities and procedures in prisons in Nigeria. An analysis is made of the challenges faced by imprisoned offenders as well as rehabilitative measures made available to them.

The aims of imprisonment are, among other things, protection, retribution, deterrence, reformation and vindication for the possible re-integration of offenders into the society.[1] Therefore, the essence of this chapter is to determine the degree of effectiveness of Nigeria's penitentiary administration towards reformation, rehabilitation and re-integration of prisoners into the society at large. It is unfortunate that the conditions of prisons in Nigeria are not aligned with this purpose, to the extent that the moment a person is sentenced by Nigerian Courts or the justice system to serve a prison sentence, such a person is recognised by the society to have been sent to hell on earth. Not only that, the prisoner is considered as a 'being' outside the frontiers of humanity, and as a result, not given humane treatment. [2] The prison in the criminal justice administration in Nigeria today can best be considered as *nihilus terra*. As such, Johnson Olusegun states that the sector is characterised by underfunding, perhaps because it is not a revenue-yielding department, despite the fact that it is one of the pillars of government in Nigeria as a nation. In the current legislation, the prison is an inferior item in the government's priorities list.[3] For example, investigation shows that a lot of

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[1] Emeka E Obioha, 'Challenges and Reforms in the Nigerian Prisons System' (2011) 27 Journal of Social Science 95, 96.

[2] See generally Michael C Ogwezzy, 'From Reformation to Deformation: An Approach Towards Sustainable Development of the defective Prison System in Nigeria' (2011) 13 Journal of Sustainable Development in Africa 269, 296; Anne Amuche Obiora, *Restorative Justice and Crime Prevention: Antidote for Prison Congestion and Improvement of Prison Condition in Nigeria* (Cambridge Scholars Publishing 2014) 4; Chukwuma Innocent, 'The Legal Structure of the Police and Human Rights in Nigeria'(1997)14 Third World Legal Studies 41, 49.

[3] Andrew A Ovienloba, *Crimes and Criminal Justice in Nigeria since Independence: The way Forward* (JDPC 2000) 26; Temitope O Ifaturoti, 'The Challenges of Nigerian Prisoners in the light of the Human Right Campaign' in M Cherif Bassiouni and Ziyad Motala (eds), *The Protection of Human Rights in African Criminal Proceedings* (Martinus Nijhoff Publishers 1995) 167; Johnson Olusegun Ajayi, 'Nigeria Prisons and the dispensation of justice' (2012) 1 An International Journal of Arts and Humanities 208, 208.

challenges bedevil the prison system ranging from overcrowding, poor welfare of inmates, sub-standard infrastructure and inadequate funding. In order to evaluate the challenges, data collected from each of the selected states and the Federal Capital Territory, Abuja, representing the six geo-political zones of Nigeria are analysed in order to gauge the conditions of prisons in Nigeria.[4] The rights of prisoners in Nigeria are also advanced in this chapter. The extent of compliance ofNigeria's prison system with the international instruments guaranteeing the rights of prisoners is also evaluated. Some measures towards ameliorating the hardship endured by inmates in Nigeria's prisons are debated, with particular focus on strategies that could reform tNigeria's penitentiary system.

6.2 Definition of terms

It is important to define some key terms in order to identify how they are used in the rest of the study.

6.2.1 Prison

A prison is described as:

> a public building or other place for the confinement of persons, whether as a punishment imposed by the law or otherwise, in the course of the administration of justice.[5]

According to the Prisons Act in Nigeria,

> A prison is defined as a place delineated and declared as such by the law of the state and created to ensure restraint and custody of individuals accused or convicted of violating the criminal law of the state.[6]

The Act also provides as follows:

> The Minister of Internal Affairs may, by order in the federal gazette, declare any building or place in Nigeria to be a prison and by the same or subsequent order, specify the area for which the prison is established. Every prison shall include the grounds and buildings within the prison enclosure and any lock up house for the temporary detention or custody of prisoners newly apprehended or under remand which is declared by the minister by order in the federal gazette to be part of the prison.[7]

The above shows that any pronouncement made by the Minister of Interior is capable of creating a prison within Nigeria.

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[4] The States selected are: Lagos State for South West Zone; Enugu State for South East Zone; Kaduna for North West Zone; Rivers State for South-South Zone; Gombe for North East Zone and FCT Abuja for North Central Zone. These States were chosen because; they are big Industrial States with high rate of Criminality. See Hernando Gomez Buendia, *Urban Crime: Global Trends and Policies* (United Nations University 1989) 139.
[5] Henry Campbell, *Black's Law Dictionary* (6th edn, Centennial Edition 1891-1991) 1194.
[6] Prisons Act Cap P29 LFN, 2004, Section 19.
[7] ibid Section 2(1), (2) (a) & (b).

Furthermore, a prison can be described as:

> A place where offenders are kept as punishment for a crime or crimes committed.[8] It also serves as a place where persons are kept while awaiting trial.[9]

The retributivists and the deterrent philosophers posit that a prison is a place for reformation in the character of an individual whose way of life is not in tandem with accepted rules, standards or behaviours in society. A prisoner is, therefore, a person who has violated the Nigerian criminal laws by an act of commission or omission and such an act attracts jail terms.[10] The core principle of such punishment is for reformation or correction in behaviour of such individual and to adjust such an individual to what is acceptable by the law in society, and also to deter or discourage others from violating such laws or committing such crime.[11]

A prison is a place of confinement for people physically and their rights to freedom are denied them.[12] It is a place declared by the Prisons Act to be called a prison under the Prisons Act.[13] The prison is also viewed as an institution for detaining suspects or convicts against their will.[14] All through history, the prison as an institution of the criminal justice system, has been viewed as the overriding means of dealing with offenders, though its function has metamorphosed over time.[15] A prison also serves as a space for keeping suspected criminals, a home base for the wandering, an establishment for the nonsensical, a terrified place of shelter, locations for purgative restoration and an establishment of categorised custodies.[16] The trials and revolutions of history have developed and formed the institution that we recognise today as the modern prison.[17]

According to Lloyd McCorkle and Richard Korn,

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[8] Paul Bahannan, *Justice and Judgment among the Tivs* (Oxford University Press 1957) 67-68.
[9] Manuel Lopez-Rey, *Crime: An Analytical Appraisal, Volume 3* (Taylor & Francis 2003) 66.
[10] Prison in Nigeria is created pointedly to provide a rehabilitation and correctional facility for those who have violated the rules and regulations of their society. That it is also established to be a rehabilitation centre for the accused. See Obiora (n 1) 95.
[11] ibid.
[12] Laurier Roderigue, *The Pursuit of Wisdom* (Exposition Press 1984) 122.
[13] Prisons Act (n 6) Section 19 A place declared under this Act.
[14] Harry Elmer Barnes, 'Historical origin of the prison system in America' (1921) 12 Journal of Criminal Law and Criminology 35, 35.
[15] Smart E Otu, 'Criminals and Criminal Justice Administration in Nigeria: How Just, Fair and Dignifying is the System?' in GMT Emezu Inge Kosch and Maurice Kangel (eds), *Justice and Human Dignity in Africa* (Lulu.com 2014) 152.
[16] Remy Ambuhl, *Prisoners of War in the Hundred Years War: Ransom Culture in the Late Middle Ages* (Cambridge University Press 2013) 120.
[17] Tim Newburn, *Criminology* (Taylor& Francis 2017) 16-17.

> A prison is a physical structure in a geographical location where a number of people living under highly specialised conditions adjust to the alternatives presented to them by the unique kind of social environment.[18]

6.2.2 Prisoner

A prisoner is reffered to as a person convicted by the court and sent to prison for a specified period of term.[19] A prisoner can also be refered to as a person who is sent to prison by a competent court for violating the laws of a place.[20] According to the Prisons Act, a prisoner is defined as any person lawfully committed to custody.[21] As a matter of fact, the meaning of this is that when a person is committed legally to prison, he or she becomes a prisoner.[22]

6.2.3 Imprisonment

According to Criminal Procedure Act, the term imprisonment refers to:

> A punishment for criminal offences and consists of the detention of the offender in a prison, imprisonment as a form of punishment is generally coupled with hard labour, except if it is so specified by the circumstances of the case.[23]

6.3 Historical background of Nigeria's penitentiary system

Historically, the human race has made use of prisons over a long time.[24] In fact, prisons have been in existence even before the advent of Christ in the Old Testament.[25]Although not a punishment in itself, it was meant to confine criminals pending their punishment, be it corporal or capital.[26] In the Holy Bible, some sorts of prisons were used in Jerusalem during

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[18] Lloyd W McCorkle and Richard Korn, 'Resocialization within walls' (1954) 293 The Annals of the American Academy of Political and Social Science 88, 88.
[19] Bryan A Gayner, *Black's Law Dictionary* (8th edn, West Publishing Co. 2004) 1232.
[20] Prisons Act (n 6) Section 19.
[21] ibid.
[22] Ogwezzy (n 2) 269; The Court affirmed the view that a person becomes a prisoner from the date of his or her first admission into Prison custody. In effect, awaiting trial inmates (ATM) are prisoners because they are normally admitted pursuant to a court order and steps in regulation 2 of the Prisoners Act are observed before they are taken into custody which provides that no person may be admitted into a Prison unless by a warrant of arrest, a warrant or order of detention or a warrant of conviction or commitment and the superintendent shall verify that the person is the person named in the warrant book or order, that the crime, sentence and date of conviction are recorded therein and that the warrant or order bears the signature of the proper authority. See *Edmound Okoro and Ords v Minister of Internal Affairs* (2000) FHC at 102.
[23] Criminal Procedure Act Cap 41 LFN, 2004, Section 377; Lilian Akhirome-Omonfuegbe, 'Law in social context' in Chijioke C Ohuruogu and Okechukwu Timothy Umahi (eds), *Nigerian Legal Methods* (Cambridge Scholars Publishing 2013) 24.
[24] Richad J Perry, *From Time Immemorial: Indigenous Peoples and State Systems* (University of Texas Press 2010) 106.
[25] Obi N Ibbe, 'United Nations Provisions for Punishment of Offenders *vis–a-vis* Punishment for Offenders in History' in Obi N Ebbe (ed), *Comparative and International Criminal Justice Systems: Policing, Judiciary, and Corrections* (3rd edn, CRC Press 2013) 244; And whosoever will not do the law of thy God, and the law of the king, let the judgment be executed speedily upon him, whether it be unto death, or to banishment or to confiscation of goods, or to imprisonment. See Ezra Chapter 7 verses 26; Gena Barbieri, 'Prisons' in Rita James Simon (ed), *A Comparative Perspective on Major Social Problems* (Lexington Books 2001) 41-42.
[26] Barbieri (n 25) 41.

the Old Testamment time detailing Joseph's imprisonment in the land of Egypt when his brothers sold him into slavery.[27] Upon arrival in Egypt, he had a master called Potiphar. Potiphar's wife reprehensibly and falsely accused Joseph of raping her.[28] As such, Joseph's master took Joseph into the prison, a place where the King's prisoners were kept.[29]

The story of Joseph narrates the first example of prisons in the earliest times.[30] However, today, it is reality that a prison is an institution used to actualise punishment.[31] It serves as a means to keep convicted criminals or accused persons away from the society and also to rehabilitate convicted criminals.[32] At any rate, what is obtainable in prisons in Nigeria is quite different from this theory.[33] As a matter of fact, prior to the arrival of British colonial rule, imprisonment was a part of pre-colonial Nigerian societies and there were clear propositions of a functional equivalent of prisons.[34] The impression of using imprisonment to punish offenders is neither alien to Nigeria nor new.[35] Ever before the British colonial rule in Nigeria, communities had assumed the responsibility of putting away the deviant citizen and of preventing such an individual from doing further harm.[36] For example, among the pre-colonial societies such as the Yorubas, Tivs, Edos and Fulanis, there is adequate proof of the use of confinement and incarceration.[37]

The history of Nigeria's penal system confirms that some forms of imprisonment that were equivalent to prisons existed in pre-colonial Nigeria, where offenders remained locked up, and these were called by several names.[38] In the Benin kingdom, now the Edos, it is

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[27] The Holy Bible Genesis chapter 39 verse 1, King James Version.
[28] ibid verse 19.
[29] ibid verse 20.
[30] ibid verses 1-23; See generally Ojo Tajudeen Ibraheem, 'Behind the Prison Walls: Rights or No Rights?' (2013) 2 International Journal of Innovative Research & Development 779, 780.
[31] Nathan Jun, *Anarchism and Political Modernity Contemporary Anarchrist Studies* (A&C Black 2011) 163; Sotirios Frantzanas, 'Nathan Jun, Anarchism and Political Modernity' (2013) 21 Anarchist Studies 108, 163.
[32] Ovo Catherine Imoedemhe, *The Complimentary Regime of the International Criminal Court: National Implementation in Africa* (Springer 2016) 165.
[33] Ibraheem (n 30).
[34] Obiora (n 1).
[35] Imprisonment has been a form of practice even before the emergence of colonial rule in Nigeria. According to Okunola et al., They affirm the assertion that in the Northern Nigeria, a Traditional Legal System including prison was already in place before the British imperialism. Equally, in South Western Nigeria as well as other parts of the country, prison was part of political and legal system before and during colonialism. See Rashidi Akanji Okunola *et al*, *The Prison as a Social System: Current and Perspectives in Sociology* (Malthouse Press 2002) 319-334; Awe Bolanle, 'History of the Prison System in Nigeria' in Teslim Olawale Elias (ed), *The Prison System in Nigeria* (University of Lagos Press 1968) 95; Viviane Saleh-Hanna and Chukwura Ume, 'An Evolution of the Penal System: Criminal Justice in Nigeria' in Viviane Saleh-Hanna (ed), *Colonial Systems of Control: Criminal Justice in Nigeria* (University of Ottawa Press 2008) 55.
[36] See generally Adetami Oluseyi*, A Reformatory Approach to the Criminal Justice System in Nigeria* (Crest Publishers 2013) 130.
[37] Teslim Olawale Elias, 'The Prison System in Nigeria' (Prison System Conference July 1968).
[38] Moses U Ikoh, 'The Nigerian Prison System and the Failure of Rehabilitation: An Examination of Incarceration Alternatives' (2011) 20 The Nigerian Academic Forum 1, 2; Kebreab Isaac Weldesellasie, 'The Development of Criminal Law and Justice in Africa from Pre-Colonial Rule to the Present Day' in Charles

called Ewedo.[39] It is called Gidan Yari by the Hausas in the Northern part of Nigeria and in most cases, built at the back of the Emir's palace.[40] The Yorubas in the Western part of Nigeria refer to it as Ewon.[41] Additionally, a place of confinement existed in Lagos, named Faji, where offenders were incarcerated.[42] It is appropriate to mention that all these forms of prisons remained operative until the British introduced the modern prison version in Lagos territory.[43]

However, the current prison system today is a colonial creation.[44] In the history of penal institutions, prisons in Nigeria started with the British Government of Lagos Colony in 1861.[45] The penal system was based on incarceration designed primarily to protect the economic interests of local subsidiaries of British companies doing business in Nigeria.[46] The idea of an organised prison system began in 1862 when Freeman was commissioned to employ judges and other important personnel.[47] Court creation and subsequent employment of a judge to preside over the court were requirements that preceeded prison establishment in Nigeria.[48] The British colonial masters opened the first prison in Nigeria at the Broad Street in Lagos State. This prison that was intended to accommodate 300 prisoners was modeled on the British system. This marked the first time trained officers were commissioned to man penal institutions in Nigeria.[49] The indigenous system of imprisonment and confinement was disregarded and the British prison system adopted.[50] It continued until 1876 when the Supreme Court Ordinances came into force and made provision for the establishment of prisons.[51] However, with the spreading out of British rule, the Prison Ordinance also formalised the prison system. As a result of the expansion of the early colonial prison system,

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Chernor Jalloh and Ilias Bantekas (eds), *The International Criminal Court and Africa* (Oxford University Press 2017) 248.

[39] Ikoh (n 38).

[40] ibid.

[41] Joseph Omodele Adewumi, *Essentials of the Nigerian Corpus Juris* (Alabi-Eyo &Company 1998) 176.

[42] Toyin Falola, 'Brigandage and piracy in nineteenth century Yoruba land' (1996) 12 Journal of the Historical Society of Nigeria 83, 105. This study offers insight into the organization of crime in different areas in the Yoruba hinterland before colonial rule.

[43] Vivian and Ume (n 35) 57.

[44] Chukwu Chigozie Brown, *Reforming Nigeria Prisoners* (Lulu.com 2012) 6; Elias (n 37).

[45] ibid; 'Evolution of imprisonment in Nigeria'< http://martinslibrary.blogspot.com/2014/05/evolution-of-imprisonment-in-nigeria.html>accessed 28 July 2017.

[46] John A Arthur, 'Development of penal policy in British West Africa: Exploring the colonial dimension' (1991) 15 International Journal of Comparative and Applied Criminal Justice 187, 187-196.

[47] Jombo Onyekachi, 'Problems and Prospects of Administration of Nigerian Prison: Need for Proper Rehabilitation of the Inmates in the Nigeria Prisons' (2016) 5 Journal of Tourism and Hospitality 1, 1.

[48] Teslim Olawale Elias, *The Prison System in Nigeria* (University of Lagos Press 1964) 57.

[49] ibid 58; Etannibi E O Alemika, 'Criminal Victimization and Criminal Justice Administration in Nigeria' in Etannibi E O Alemika (ed), *Crime and Public Safety* (CLEEN Foundation Publisher 2014) 21.

[50] Frank Dikotter and Ian Brown, *Cultures of Confinement: A History of Prison in Africa, Asia and Latin America* (Cornell University Press 2007) 7.

[51] Onyekachi (n 47); Cindy J Smith, Sheldon X Zhang and Rosemary Barberet (eds), *Routledge Handbook of Criminology* (Routledge 2011) 466.

the number of prisons increased.[52] By 1909, prisons had been established at various places such as Onitsha, Old Calabar, Sapele, Degema and Benin City.[53] However, like the colonial administration, the colonial prison was tailored towards the specific nature of the British system.[54] Apparently, the British system also recognised the traditional system of punishment of offenders.[55]

Additionally, many of the present prisons in Nigeria were built in the first two decades of colonial rule.[56] For instance, Abinsi (now referred to as Makurdi Prison) was built in 1918, Oturkpo Prison was established in 1924 and temporarily controlled from Enugu prior to the creation of a divisional headquarter, and Gboko Prison was built as a Native Authority Prison in 1932.[57] Meanwhile, there were other prisons at the time. Biu Prison was built in 1910 and subsequently, in 1923, it was moved to its present site. Gwoza Prison was also established in 1920.[58] Nguru Prison was later built in 1928, whereas Maiduguri Prison was first built in 1920, and in 1954, it was rebuilt again.[59] As discussed earlier, the prison development and administration can be summarised as follows:

> The present day Nigeria was as a result of the amalgamation of the Northern and Southern Protectorates in 1914 by Fredrik Lord Lugard;[60] consequently, following the amalgamation, the Prison Ordinance of 1916 and the Prison Regulations of 1917 were promulgated as a step aimed at instituting uniform standards of prison administration, for example, Lugard was authorised to declare any building in any province a prison and to make regulations for prison administration;[61] he was permitted to appoint the Director of Prisons and other officials who were to be responsible for general management and superintend over the prison system in Nigeria;[62] and the Prison Directors were given the authority to make standing orders for the organisation, discipline, clothing of prisoners and staff.[63]

The Nigerian Prisons Service is centrally administered. Therefore, every prison in Nigeria is a federal institution.[64] The Nigerian Prisons Service was established through the

[52] Viviane and Ume (n 35) 58.
[53] ibid 59; Brown (n 44) 8.
[54] Elias (n 48) 58; Bolanle Awe, 'The History of the Prison System in Nigeria' in Taslim Olawale Elias (ed), *The Prison System in Nigeria* (University of Lagos Press 1968) 4.
[55] Viviane and Ume (n 35) 59.
[56] ibid.
[57] ibid.
[58] ibid.
[59] Elias (n 48) 59.
[60] Kalu Ezera, *Constitutional Developments in Nigeria: An Analytic Study of Nigeria's Constitution-making Developments and the Historical and Political Factors that Affected Constitutional Change* (CUP Archive 1964) 14. Yinka Kolawole, *Lord Lugard's Nigeria: A Century of Myopia and Acerebral Waste: A Perspective of a Post-Independence Nigerian (1914-2014)* (Strategic Book Publishing & Rights Agency 2014) 5.
[61] ibid.
[62] ibid.
[63] ibid.
[64] Prisons Act (n 6) Section 1.

Prisons Act.[65] The Nigerian Prisons Act makes a comprehensive provision for the administration of prisons in Nigeria and other matters that pertain to prisons. It makes provision for the superior head of prison to be the Controller-General of Prison who oversees the affairs of prisons in Nigeria.[66] Hence, the Prisons Act provides that:

> In the civil service of the Federation, there shall be a Comptroller-General who shall have the general charge and superintendence of the prisons system in Nigeria to be known as the Nigerian Prisons Service, and such officers subordinate to the Comptroller-General as may be necessary for the proper operation of the service.[67]

6.4 Administrative structure of prison system in Nigeria

At present, the Nigerian Prisons Service consists of six directorates created to guarantee, improve and gain expertise in the institutionalisation of the criminal justice administration in Nigeria.[68] The directorates consist of the following: administration; personnel management and training; operations; inmate training and productivity; finance and supplies; works and logistics medical; and welfare services.[69] The overall head of prisons is the Controller-General of Prisons. Next to this rank, is the Deputy Controller-General, the head who is in charge of each directorate.[70] At the top of the prison structure, the Controller-General of Prisons is also recognised as the Chief Executive of the service in charge of the creation and putting into practice of penal policies.[71] The Controller-General of Prisons is responsible to the President through the Minister of Internal Affairs.[72] For efficient management and proper surveillance, prisons in Nigeria contain eight administrative zonal commands.[73] Each zone is monitored by an Assistant Controller-General of Prisons, also referred to as coordinators for their respective zones, a rank next to that of the Deputy Controller-General of Prisons.[74] Next to the Assistant Controller-General, there is the Controller of Prisons who oversees the activities of the various prison establishments at the level of the state.[75]

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[65] ibid Section 2(1).
[66] ibid Section 1.
[67] ibid Section 1.
[68] Viviane and Ume (n 35) 62.
[69] ibid.
[70] ibid.
[71] ibid.
[72] Barbieri (n 25) 69-70.
[73] See generally Charles Mwalimu, *The Nigerian Legal System, Volume 2* (Peter Lang 2009) 942; Viviane Saleh-Hanna and Chris Affor, *Colonial Systems of Control: Criminal Justice in Nigeria* (University of Ottawa Press 2008) 62.
[74] ibid.
[75] Viviane Saleh-Hanna and Affor (n 73).

Prisons in Nigerian Prisons are administered and managed by the central government.[76] The Management of the Prisons is situated under the exclusive legislative list, and therefore, is controlled solely by the Federal Government.[77] Meanwhile, most of the criminal cases emanate from and are tried in the states. The states send the accused persons to prison or prison custody and they have the statistics of people sent to jail or prison custody. The Federal Government being absolutely in control of prisons without any input from the States and Local Governments as well as private sector participations, are an important factor militating against effective prison administration in Nigeria, which is discussed later in the study.

6.5 Categories of prisons in Nigeria

Nigerian Prisons consist of different categories. These are discussed below.

6.5.1 Convict prisons

These are prisons with all classes of prisoners, including convicts with sentences of two years and over.[78]

6.5.2 Provincial and divisional prisons

The provincial or divisional prisons house all classes of prisoners, excluding convicts with sentences of two years or over.[79]

6.5.3 Juvenile prisons

These are prisons with male or female children, as may be stated in any particular case, who in the opinion of a medical officer, are not over the age of sixteen at the date of conviction[80]. Additionally, prisons are also divided into two major categories: Maximum Security Prisons and Medium Security Prisons.[81] In Nigeria, Medium Security Prisons are designed for minor offenders of the law, that is, offences that can be categorised as misdemeanour.

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[76] ibid.

[77] There are 2 Legislative lists in the 1999 Constitution of Nigeria to wit the exclusive and concurrent legislative lists. While only the Federal Government may legislate on matters contained in the exclusive legislative lists, it shares the power to legislate on matters contained in the concurrent legislative list with the states. However, in cases of conflict the Federal Law must prevail. See generally the Constitution Federal Republic of Nigeria Item no 48, Under the Exclusive Legislative List, and Second Schedule to the Constitution of the Federal Republic of Nigerit 1999 Cap 23 LFN, 2004 Section 4.

[78] Onyekachi (n 47).

[79] ibid; Ikoh (n 38) 3.

[80] Olufunmilayo Oloruntimehin, 'Crime and Control in Nigeria' in Hans-Gunther Heiland, Louise I Shelley and Hisao Kato (eds), *Crime and Control in Comparative Perspectives* (Walter de Gruyter 1992)173.

[81] Ajayi (n 3) 215; Rita Simon and Christiaan de Waal, *Prisons the World Over* (Rowman & Littlefield 2009) 90; Prisons Act (n 6) Section 2.

Characteristically, this type of prison has single or double fencing, and the group of inmates kept in custody in this type of prison is limited.[82] In most cases, the categories of inmates kept in these prisons are those serving jail terms for various offences other than felonies or serious offences.[83] Awaiting trial inmates also belong to this category.[84] Meanwhile, inmates facing trials for capital offences are imprisoned in Medium Security Prisons pending the decision of their trials.[85] If they are convicted of the offence charged and sentenced to death at the end of the trial, they are immediately transferred to the nearby Maximum Security Prison.[86] Maximum Security Prisons are the greater level of prisons in Nigeria. They provide accommodation for all classes of inmates, particularly those on the death row. Gallows are located close to this type of prison. In addition, executions are carried out in this type of prison.[87]

6.6 Functions, aims and objectives of the prison in Nigeria

A general preview of previous legislation to the present one, shows that the Nigerian Prisons Services has the responsibility of confining a criminal prisoner and a prisoner. A criminal prisoner is defined as a person convicted of a crime and a prisoner is anyone lawfully committed to prison. The major aim of establishing the prison is to provide for reformation, rehabilitation as well as correctional facilities to those who have violated the laws of the society.

The Nigerian Prisons Act[88] is the national instrument that provides the legal and institutional framework of the Nigerian prison system. Through this Act, the prison system is placed under the supervision of the Ministry of Internal Affairs. The Prisons Act does not define or outline the functions of the Nigerian Prisons. However, the Staff Duties Manual of the Nigerian Prisons Service (NPS) stipulates the functions of a prison which include:

i. Keeping safe custody of persons that are legally confined in prison custody by courts of competent jurisdiction;
ii. Production and reproduction of inmates to courts when required;
iii. Identification of the cause(s) of their convicts and anti-social behaviour;
iv. Engagement of inmates in reformative therapies; and

[82] Obi N I Ebbe, 'The Judiciary and Criminal Procedure in Nigeria' in Obi N I Ebbe (ed), *Comparative and International Criminal Justice Systems: Policing, Judiciary, and Corrections* (3rd edn, CRC Press 2013) 214.
[83] Margaret Bald and Nicholas J Karolides, *Literature Suppressed on Political Grounds* (InfoBase Publishing 2014) 317.
[84] Viviane Saleh-Hanna and Chris Affor, *Colonial Systems of Control: Criminal Justice in Nigeria* (University of Ottawa Press 2008) 62-63.
[85] ibid 203.
[86] ibid.
[87] Max Siollun, *Oil, Politics and Violence: Nigeria's Military Coup Culture (1966-1976)* (Algora Publishing 2009) 212.
[88] Prisons Act (n 6).

v. Running prison farm and vocational industries for the purpose of training prisoners in modern farming and skills acquisition.[89]

The Nigerian Prisons Service generates revenue in the process of carrying out their functions.[90] From the above, it can be deduced that the roles and functions of the Nigerian Prisons Service can be delineated into three: custodian; rehabilitative; and reformative functions. A vivid description of the functions of a prison is captured in the following words:

> first, penitentiary; the place where one becomes penitent (remorseful); second, correctional institution; a place where one is corrected, and third, reformatory; a place where one is reformed and changed for the better.[91]

At any rate, the extent to which these can be achieved has been a subject of controversy over the years. A cursory look at the numerous prisoners who go in and out of prisons in Nigeria shows that the prison system has not lived up to its expected role in the Nigerian Criminal Justice System. The main reason for this is because the prison is the third agency involved in the administration of justice in Nigeria. The scapegoat for the problem encountered by the police and the courts is the prison system, which is the last point of call in the criminal justice system. In other words, the Nigerian Prisons Service is at the receiving end of all the problems facing the criminal justice system. This is not generally noticed due to the fact that they do not deal with the public at large but the prisoners in their custody. It equally happens that most often, as a result of loopholes in the police administration machinery, innocent people are sent to languish in prison. Therefore, the prison occupies a precarious position in Nigeria's criminal justice system to the extent that their aims and objectives are inhibited by inconsistencies experienced by the other agencies within the system.[92]

6.6.1 Punishment and theories of punishment

A prison is one of the institutions of criminal justice in Nigeria, whose central aim is premised on punishment of a convicted offender. This is because the commission of a criminal offence suggests that the laws of the community, society or state have been violated,

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[89] Viviane and Umen (n 35) 62-63; Andrew M Jefferson, 'Prison Officer Training and Practice in Nigeria Contention, Contradiction and Re-Imagining Reform Strategies' (2007) 9 Punishment & Society 253, 258; Prisoner's Rehabilitation and Welfare Action (PRAWA), 'Prisoner's Rehabilitation and Welfare Action 1999' (Nigerian Prisons Service Annual Report 2000).

[90] Prisons Act (n 6) Section 40; Alemika (n 49) 22.

[91] Brown (n 50) 5; Ogadimma Chukwubueze Arisukwu, Adejumo Yinka Philip and Festus Femi Asamu, 'Causes and Effects of Violence in Nigerian Prisons'(2015) 1 Journal of Social Sciences and Humanities 368, 369; Chikwe Agbakwuru and Emi Maria Ibe-Godfrey, 'Correlates of Coping with the Challenges of Incarceration Among Nigerian Prison Inmates' (2017) 5 British Journal of Education 69, 70.

[92] Smart E Otu, 'Criminals and Criminal Justice Administration in Nigeria: How Just, Fair and Dignifying is the System?' in GMT Emezu Inge Kosch and Maurice Kangel (eds), *Justice and Human Dignity in Africa* (Lulu com 2014) 152.

attracting some kinds of punishment. In addition, the commission of a criminal offence is seen as an abomination, a breach of human relationships and is treated as such.[93] Punishment is defined by Jeremy Bentham as an evil manifested through an individual from direct intention of another, on account of some act that appear to have been committed or omitted. It is an evil, a physical evil; either a pain or a loss of pleasure.[94] The questions that arise are as follows: Why do we punish? How does punishment relate to justice, and does punishment achieve justice? In answering these questions, the theories of punishment under the theoretical framework had successfully provides answers to the questions.

Nigeria does not have a prison system which guarantees the reform of criminals. The true position of the Nigerian Prisons today is that they are ill-equipped to either reform or rehabilitate anyone. The prisons themselves need serious and urgent reformation and restructuring. It seems the Nigerian society embraces punishment and shies away from the establishment of relevant structures to support rehabilitation and reformation. Considering the appalling situation of the prisons, one wonders what reformation and rehabilitation could take place where the prisons are highly congested, and prisoners outnumber prison guards and social workers. This view may sound pessimistic, but an examination of the current situation of Nigeria's Prisons provides a partial silhouette of this narrative.

6.7 Current situation of prisons in Nigeria

Nigeria's Prisons have failed to live up to their expectation as they are confronted with a host of challenges ranging from poor governance; inadequate funding; lack of political will to ameliorate the situation; infrastructural decay; unfair treatment of inmates; to a faulty and broken criminal justice system. All these have, undoubtedly, contributed to overcrowding of prison facilities, inhumane treatment of prisoners[95] as well as unbearable and abusive conditions under which they live.[96] Prison cruelty can be traced to the racist and colonial heritage of the late 1800s, and has remained a custom after the departure of the colonial masters such that penal oppression still persists at shocking intensities.[97]

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[93] Chuckwunweike A Ogbuabor 'Inquisitorial and Adversarial Process in Nigeria's Criminal Justice System: The Dilemma of a Colonized State' (2014) 38 University of Western Australia Law Review 175, 184;
[94] Anzaku Sylvester Alex, Ismaila Garba Adigizi and Agube Solomon Aguye, 'The Theoretical Exploration of Punishment and Incarceration in Nigeria?'(2016) 2 Research Journal of Humanities and Cultural Studies 81, 82.
[95] Adeleke Adegbami and Charles I N Uche, 'Good Governance and Prison Congestion in Nigeria: The Case of Maximum Security Prison, Ilesa' (2015) 3 Public Policy and Administration Review 27, 27; Paul Odoeme, *Human Rights and the Mission of the Church in Nigeria* (LIT Verlag Münster 2013) 53.
[96] Jeremy Sarkin, 'Prisons in Africa: An Evaluation from a Human Rights Perspective' (2009) 9 International Human Rights Journal 2, 2; Obiora (n 1) 105.
[97] Jeremy Sarkin (n 96) 4.

There is more to imprisonment than just opening and closing the gates of prisons. The current penal management procedures stress reform of inmates or convicts.[98] The current attitude in penal circles is to see an improvement from the perspective of reform and rehabilitation rather than from the angle of punishment.[99] Those who have violated the law of the land and are labeled criminals are presumed to be in need of help, and should be assisted to live a good life. This view is built upon the understanding that those who have violated the laws of the society, expressed in criminal laws, should be reformed, which explains why the term correction, is applied to reflect this thinking. Failure by the criminal justice system to perceive it in this way means the aims of prisons as correctional institutions are defeated, and reformation will become virtually impracticable.[100]

Out of the 227 prisons in Nigeria as at 2006, four out of five were built before 1950.[101] Among the institutions of the Nigerian Criminal Justice System, the prison system is one of the most under-developed in the criminal justice sector. Since 2007, the number of prisons increased by only 13 to the present 240 prisons in the country. The Prisons Act of 1945 and its accompanying regulations have not been amended since then. Most of the persons in prison custody who, are primarily the cause of the overcrowding, are not convicts but persons awaiting trial.[102] The living conditions in Nigeria's prisons are very pathetic, therefore, making it impossible to meet the expected reformation of inmates as well as meet specific international minimal standards on the conditions of incarcerated persons.[103]

6.8 Challenges faced by prison system in Nigeria

The Nigerian prison system faces numerous major challenges. These challenges can be grouped under administrative shortcomings, infrastructural inadequacies and inhumane living conditions where prisoners are kept.[104] These challenges are discussed below.

6.8.1 Overcrowding

In recent times and as seen in the Tables below, Nigerian Prisons have witnessed extraordinary growth in the admission of prison inmates. The rate at which accused persons

[98] See generally Ayuk Awunghe Achu, Emeka Josephat Owan and Omono Cletus Ekok, 'The Impact of Prison Reforms on the Welfare of the Inmates: A Case Study of Afokang Prison Calabar, Cross River State, Nigeria' (2013) 13 Global Journal of Human social science Sociology &Culture 1, 1.
[99] ibid; See Osaze Lanre Ehonwa, *Behind the Wall: A Report on Prison Conditions in Nigeria and the Nigerian Prison System* (2nd edn, Civil Liberties Organisation 1996) 32.
[100] Obiora (n 1) 95.
[101] Ayuk, Emeka and Omono (n 98)1.
[102] Anzaku, Ismaila and Agube (n 94)1; Ogwezzy (n 2) 273.
[103] Ayu, Emeka and Omono (n 98) 2.
[104] Marcus Bruner and Walter Suntinger, 'Nigeria' in Peter R Baehr, Hilde Hey and Jacqueline Smith (eds), *Human Right in Developing Countries: Yearbook 1995* (Martinus Nijhoff Publishers 1995) 261.

are impelled into the prison is alarming.[105] Table 20a reveals how offenders were admitted into prisons for different crimes. It shows the statistics of prison admission by crime in Nigeria from 2005 to 2015. Based on the data, statistics were not categorised by state but centrally collated by the Nigerian Prisons Service. Table 20a shows that people were involved in all kinds of crime as defined in the criminal laws of Nigeria. It reveals that the rate of crime has been consistently high since 2005. The total number which was 149,742 in 2005 was still as high as 124,785 in 2015 as well as 142,848 in 2016. The statistics reveal that crime is higher among adults than juveniles as shown in Table 20b. The highest crime rate was recorded among the adults aged 26 to 50 years, ranging between 65,540 and 118,140 individuals from 2005 to 2016. This was followed by those aged between 21 and 25 years ranging between 14,835 and 57,736 from 2005 to 2016. The rate of crime was lower among those who were 51 years old and above, ranging between 1,399 and 31,110. The rate of crime, though lowest among the juvenile (aged zero to fifteen years), it can be considered to be high with a range of between 45 and 2,516 from 2005 to 2016. Generally speaking, the statistics reveal that the Nigerian Criminal Justice System does not have the capacity to reduce the rate of crime in Nigeria. It is obvious that it has failed to curb crime in Nigeria.

[105] Andrew A Ovienloba, *Crimes and Criminal Justice in Nigeria since Independence: The Way Forward* (JDPC, 2000) 25.

Table 20a: Prison admission by type of offence in Nigeria, 2005-2016

Type of offence/Year	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Abduction	1,050	17	353	-	2,187	3287	2,325	-	1,689	1,349	1195	1456
Affray	3,902	4158	4,963	2,220	1,673	1162	1,704	-	1,012	864	1558	1037
Armed robbery	13,491	7860	10,774	17,517	14,682	19507	9,193	-	11,858	10,249	9713	6193
Arson	2,146	204	2,911	-	2,228	3259	1,731	-	699	808	770	659
Assault	5,700	6629	7,602	5,432	6,537	5491	6,001	-	8,982	7,657	8780	9754
Breach of peace	-	1209	3,030	718	1,738	1284	1,612	-	234	695	531	974
Contempt of court	3,619	2104	2,958	4,338	5,557	4672	3,917	-	3,911	3,692	3435	4368
Criminal lunatic	-	182	39	66	1,340	595	2,187	-	31	61	83	115
Cultism/ritual	-	206	1,378	83	1,447	2587	3,474	-	255	179	243	403
Currency offences	3,645	2947	644	516	1,593	2695	3,143	-	2,762	783	682	446
Debt	684	490	463	560	3211	5932	1,831	-	646	934	655	751
Economic sabotage	-	753	3,377	-	1,905	1238	1,586	-	692	91	132	191
Escaping from lawful custody	1,480	952	167	-	2,077	1919	3,296	-	508	456	182	204
Forgery and altering	5,161	3,913	2,616	1,400	2,479	1,920	2,199	-	1,606	997	962	1685
Human trafficking	-	305	4,939	35	1,890	3815	3,533	-	222	315	48	83
Immigration	840	270	552	658	2,935	7261	4,188	-			265	311
Indian hemp offences	9,172	7448	11,635	4,777	5,855	8578	5,664	-	4,353	7,060	4402	7407
Murder	10,250	9266	10,467	11,058	11,419	22689	9,220	-	7,172	8,560	8823	8502
Offences against native law and custom	1,300	726	2,988	1,807	2,825	3221	8,010	-	536	610	149	236
Robbery	10,888	10750	8,594	16,567	16,127	19298	8,083	-	13,216	8,505	9459	11258
Sedition	13	-	-	-	157	-	0	-	188	170	36	90
Sex offences	5,606	5270	3,542	3,562	4,162	2330	4,008	-	5,797	4,436	3786	4148
Smuggling	3,916	5621	6,359	1,344	2,164	5657	3,933	-	636	540	424	683
Stealing	50,231	43174	46,740	41,496	34,958	23868	11,504	-	50,436	46,876	38300	47702
Traffic offences	7,114	6123	6,393	2,206	2,651	2048	3,568	-	3,088	1,806	1086	1099
Treason	-	-	-	-	285	-	1,951	-	431	358	236	293
Unlawful possession of arms	2,530	3110	3,525	1,841	3,482	1915	2,946	-	2,716	2,613	2938	3736
Unlawful possession of property	4,909	3108	2,420	4,104	3,845	2178	3,876	-	1,508	1,909	1559	1680
Other offences	2,059	241	9,987	5,916	14,942	13475	16,849	-	33,074	25,725	24353	27384
Total	149,742	127,051	159,418	130,744	156,351	171,881	131,532	-	158,896	138,842	124785	142848

- means data not available

Source: Nigerian Prisons Service

Table 20b: Prison admission by age group, 2005-2016

Age group/Year	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
0 - 15 years	2,516	2,334	-	175	1,704	1642	818	-	1,031	45	446	309
16 - 20 years	40,170	19,122	16,236	25,317	23,743	21,911	10,103	-	23,651	20,516	14,204	13,659
21 - 25 years	35,600	28,705	57,736	28049	27,468	26,647	14,835	-	32,477	30,155	23,085	21,550
26 - 50 years	65,140	75,491	80,134	73,071	98,263	118,140	102,330	-	97,300	85,160	82,350	76,220
51 years and above	5,996	1,399	-	4132	5,173	3,541	3,446	-	4,437	2,966	4,700	31,110
Total	149,422	127,051	159,418	130,744	156,351	171,881	131,532	-	158,896	138,842	124,785	142,848

- represents data not available
Source: Nigerian Prisons Service

Among the myriad of problems faced by the Nigerian Prisons is that of congestion. This is shown in Table 21 below. Available records show that overcrowding in the Nigerian Prisons is a major challenge to the criminal justice system. Inmates are kept in prison custody beyond the capacity for which most prisons were built to accommodate.[106] The pain and suffering experienced by prisoners inside the Nigerian Prisons are untold and without measure. Considering the conditions of the prisons, being sentenced to a term of imprisonment in Nigeria is akin to imposing the death sentence. A critical look at Table 21 shows that prisons are highly congested in Nigeria, going by the figures in the selected states (Enugu, Gombe, Kaduna, Lagos and Rivers States) as well as in the Federal Capital Territory (FCT), Abuja. From the Table, the number of inmates exceeded the infrastructural capacity that was contemplated when they were built in all the States as well as the Federal Capital Territory, Abuja. In Enugu State, representing the South-East Zone, the number of prison inmates was far above the maximum prison capacity. The prison capacity was exceeded by over 91 to 806 inmates between 2007 and 2015. This represents seven to fifty-eight percent in excess of the population the facilities were meant to accommodate. This situation is even worse in Gombe State. Although there was no prison congestion from 2006 to 2007 in the State, extra inmate population above maximum prison capacity increased from 17 in 2007 to 1,049 in 2015. This accounted for three percent overpopulation in 2007 to as much as one hundred and sixty-four percent increase (more than twice) over the population the prison facilities were meant to accommodate in 2015. In Kaduna State, however, the statistics show that there was no prison congestion within the period under study (from 2005 to 2014) but the problem of overpopulation in the Nigerian Prisons had started to affect the country in 2015. In the State, the total capacity of prisons stood at 2,702 but there were 2,720 inmates in 2015,

[106] See generally, Awopetu Ronke Grace, 'An Assessment of Prison Overcrowding in Nigeria: Implications for Rehabilitation, Reformation and Reintegration of Inmates' (2014) 19 Journal of Humanities and Social Science 21, 21.

representing eighteen percent increase over the maximum capacity. Lagos Prison also experienced inmate congestion within the period under study (2005 to 2015) except in 2014. Prisons in Lagos State had extra inmates of 528 to 2,528, equivalent to twenty-one and ninety percent increase respectively above the maximum capacity. In Rivers State, the increase in the number of inmates above the maximum prison capacity is worrisome. Overcrowding of prison inmates cuts across all the years studied (2005 to 2015). The prison had an excess in the number of inmates, ranging from 1,182 to 31,093 above the population that the facilities were designed for, amounting to between 87 and 2,296 percent increase (over 23 times) beyond the maximum capacity. In the Federal Capital Territory (FCT), Abuja, the situation of prison congestion is similar to what obtained in the selected States. The prison accommodated extra inmates of 169 to 585, which is equivalent to thirty to one hundred and thirty percent above the maximum capacity (from 2005 to 2015). This precarious situation is getting worse annually. For example, overpopulation with regard to prison inmates above the maximum capacity rose from twenty-seven percent in 2010 to fifty-seven percent in 2015 in Enugu State. Also, it rose from thirty-two percent to one hundred and forty-two percent in Gombe State. Likewise, it increased from forty-three percent to eighty-one percent in FCT Abuja. In Kaduna State, where there was no prison congestion up to 2014, the inmate population increased above the maximum capacity by 18 inmates in 2015.

Even in recent times, prison congestion is still on the increase. For instance, there was an increase in the number of inmates in both Lagos and Rivers States between 2013 and 2015. The extra number of inmates in Lagos Prison rose from 582 (twenty-one percent increase) in 2013 to 1,008 (twenty-five percent increase) in 2015. Likewise, in Rivers State, an extra number of inmates rose from 3,944 (two hundred and ninety-one percent increase) in 2013 to 4,934 (three hundred and sixty-four percent increase) in 2015. The data reveal the precarious situation of over-crowding experienced in Nigeria's prisons. The few examples out of the 36 States in Nigeria suffice to show the level of congestion in the Nigerian Prisons. The situation is a typical example of what obtains in other prisons throughout the country (see Table 21). Congestion has for long been a consistent feature of what is in vogue in the nation's prison. Many prison inmates in Nigeria have been on remand for more than the period they normally would serve if they were convicted on time, in the first place. Besides, there are many minor offences, which do not justify prison terms.[107]

[107] ibid; For example, Cases that ordinarily would have been settled at the police station, examples, possession of computer gadgets by a university student without receipt and bullying of a neighbour's daughter (one wonders if these are offences but they are to Nigerian police) and filed at our magistrate courts, especially where the parties have failed to meet up with their monetary and other demands. Added to the latter, are delays in

Overcrowding affects the provision of certain essential needs such as beds, food (both in quality and quantity), safe and secure environment for inmates. Obviously, hygiene, pollution and sanitation become real life-threatening challenges. Congestion in prisons makes life unbearable for inmates. For the inmates under such deplorable conditions, their health is highly endangered. Furthermore, a physical examination of the infrastructure of these prisons shows that the buildings were built before 1950 (during the colonial era), about seventy years ago. Most, if not all of these buildings that are still used as prisons, have become dilapidated and totally inadequate to meet the needs of contemporary prisons. Thus, some prisoners now sleep on the bare floor while some do share single beds.[108] In a previous study, it was also reported that three prisons in Lagos (Lagos Kirikiri, Ikoyi and Badagry Prisons) were built for a capacity of 3,000 prisoners, even though today, they actually hold twice the number.[109] Inmates live in very appalling and dehumanising conditions.[110] They are packed into very small cells. This over-crowding and indiscriminate mixture of prisoners, together in a choky cell originally meant for ten inmates and now housing 30 to 50 inmates, definitely provides room for constant prison violence and quarrelsome behaviour; significantly and adversely affecting the quality of life lived by inmates. More importantly, the conditions end up hardening inmates rather than reforming them.[111] Inmates end up experiencing unfriendliness from other inmates and prison officials. They struggle for everything, including food and beddings, and they are often denied their human rights as prisoners.[112]

As a consequence of overcrowding in prisons, inmates habitually share beds or sleep on the ground. Sometimes, inmates sleep and wake up in pains because of these unbearable condition(s) where they sleep. Mattresses and beddings are scarce; they are not easily procured because of the bureaucracy in government supply-chains. In most cases, the

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trials, lack of rehabilitation and reformation of prison inmate, and improper mixture of minor, hardened and major offenders in our prison facilities. See Michael Chukwujindu Ogwezzy, Akintunde Abidemi Adebayo and Alaba Ibironke Kekere 'Restorative Justice and non-Custodial Measures: Panacea to Recidivism and Prison Congestion in Nigeria' (2016) 7 Nnamdi Azikwe University Law Journal 69, 70.

[108] Onyekachi (n 47) 4; Ogadimma Chukwubueze Arisukwu, Adejumo Yinka Philip and Festus Femi Asamu, 'Causes and Effects of Violence in Nigerian Prisons' (2015) 1 Journal of Social Sciences and Humanities 368, 369; Sam Erugo and Charels O Adekoya, *Lawyering with Integrity: Essays in Honour of Earnest Ojukwu* (Lulu.Com 2018) 130.

[109] Tinu O Ifaturoti, 'The Challenges of Nigerian Prisoners in the Light of the Human Rights Campaigns' in Cherif Bassiouni and Ziyad Motala (eds), *The Protection of Human Rights in African Criminal Proceedings* (Martinus Nijhoff Publishers 1995) 161.

[110] Ogwezzy (n 2) 275-276. Ogwezzy, Adebayo and Kekere (n 107) 75.

[111] Awopetu (n 106) 21; John Iliffe, *Obasanjo, Nigeria and the World* (Boydell & Brewer Ltd 2011) 155.

[112] Yemi Akinseye-George, *Nigerian Prisons: Justice Sector Reform and Human Rights in Nigeria-Centre for Socio Legal Studies* (CSLS Publishing 2009) 307; Abubakri Olakulehin Yekini and Mashkur Salisu, 'Probation as a Non-Custodial Measure in Nigeria: Making a Case for Adult Probation Service' (2013) 7 African Journal of Criminology and Justice Studies 101, 104.

available ones are filthy and in unusable state.[113] Others sleep on mats. Some inmates add nothing to such mats. It has been revealed that lack of beddings is because supplies come from Abuja based on the number of inmates and the official prison capacity.[114] Consequently, in overcrowded prisons, where the holding capacity has almost been doubled, half of the inmates do not have beds. For instance, in Enugu Prison, there were no beds at all for the cells for inmates awaiting trial. This means that the vast majority of inmates sleep on the floor.

In addition to the shortage of beds and beddings, there is also the issue of poor food both in terms of quantity and quality. This adds to the complexities of life lived by prisoners. This contradicts the provisions of the Nigerian Prison Regulation 22, which states that 'every prisoner shall be allowed a sufficient quantity of plain and wholesome food'[115] All these shortcomings inhibit the goals of reformation, rehabilitation and reintegration of prisoners back into the society.[116] A thorough reform of the Nigerian Criminal Justice System requires a serious attention to the problem of overcrowding, which has, in turn, affected the quality of the life of inmates. If the commission of crimes is on the rise, as indicated by the figures already mentioned, then more resources have to be dedicated to the penitentiary sector for sufficient facilities to be put in place to accommodate present and future offenders.

In Nigeria, the prison environment continues to pose serious threats to the physical and mental well-being of inmates and prison officers alike. Conditions such as lack of medical facilities, poor toilet facilities and beddings, and denial of access to justice continue to persist in clear contrast to the established standards stipulated in the UN Standards for the Treatment of Persons in Custody, which is discussed latter.[117] This state of affairs is attributable to both the deliberate and inadvertent actions and inactions of key actors of the Nigerian criminal justice sector.[118] Probably, the perception by these key players that prisoners are condemned and outcasts, maladroit and must face their unfortunate fates has meant that prisoners do not go to prison for reformation but punishment. Downgraded and dehumanised by the systems in place, they are at the front of some of the most horrendous

[113] Ogwezzy (n 2) 273; Nonso Okafo, *Reconstructing Law and Justice in a Post-colony* (Routledge 2016) 194.
[114] ibid.
[115] Biko Agozino, 'Nigerian Women in Prisons: Hostages in Law' in Julia Sudbury (ed), *Global Lockdown: Race Gender and the Prison- Industrial Complex* (Routledge 2014) 192; Prisons Act (n 6) Section 22.
[116] Uche Ijeoma B, Uche Okala A, Ezumah Nkoli N, Ebue Malachy O, Okafor Agnes E and Ezegbe Bernedeth Nkiruka, 'Effectiveness of Rehabilitation Programs in the Nigerian Prisons: A Study of Perception of Inmates in Enugu Prison'(2015) 6 Mediterranean Journal of Social Sciences 164, 165.

[117] Udukwe Chinyere and Chidi Iroko, 'Nigerian Prisons Service (NPS) and the Challenges of Social Welfare Administration: A Case Study of Abakaliki Prison' (2014) 9 Journal of Policy and Development Studies 20, 25.
[118] National Human Rights Commission Nigeria Report of Prison Audit 2009, 129.

human rights violations in their places of confinement. Some rights are denied by prison officials, and by extension, the state, by lack of motivation to provide an empowering environment and treatment of the prisoners.[119] The period of imprisonment should be used efficiently and effectively to work on the life of prisoners in a supportive environment and ensure, as much as possible, that upon the return of the prisoner to the society, he or she is not only willing but also able to live a law-abiding and self-supporting life.

Table 21: Prisons inmate population and capacity in selected States and Nigeria, 2005-2015

State/Year		2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Enugu	Number of prisons	4	4	4	4	4	4	4	-	4	4	4
	Number of inmates	1,197	1,270	1,279	1,560	1,485	1,773	2,027	-	1,927	2,119	2,200
	Prison maximum capacity	1,394	1,394	1,154	1,154	1,394	1,394	1,394	-	1,394	1,394	1,394
Gombe	Number of prisons	5	5	5	5	5	5	5	-	5	5	5
	Number of inmates	719	592	558	654	705	843	890	-	1,687	1,332	1,549
	Prison maximum capacity	638	638	637	637	638	638	638	-	638	638	638
Kaduna	Number of prisons	15	15	17	16	16	15	15	-	15	15	15
	Number of inmates	2,363	2,307	2,243	2,221	2,294	2,238	1,883	-	2,396	2,368	2,720
	Prison maximum capacity	2,802	2,802	2,560	2,560	2,702	2,702	2,702	-	2,702	2,702	2,702
Lagos	Number of prisons	5	5	5	5	5	5	5	-	5	5	5
	Number of inmates	4077	3,755	3,902	3,874	4,372	4,740	5,324	-	3,380	3,480	4,905
	Prison maximum capacity	2,796	2,796	2,795	2,795	2,796	2,796	2,796	-	2,798	3,897	3,897
Rivers	Number of prisons	4	4	4	4	4	4	4	-	4	4	4
	Number of inmates	2,536	2,731	3,195	3,380	2,930	32,447	3,362	-	5,298	5,286	6,288
	Prison maximum capacity	1,354	1,354	1,354	1,354	1,354	1,354	1,354	-	1,354	1,354	1,354
FCT (Abuja)	Number of prisons	2	2	2	2	2	3	3	-	3	3	3
	Number of inmates	739	924	762	866	924	1027	959	-	1,073	1,296	1,305
	Prison maximum capacity	570	570	330	330	570	720	720	-	720	720	720
Nigeria	Number of prisons	227	227	228	228	230	238	238	-	240	240	240
	Number of inmates	39,006	40,953	39,691	41,143	41,786	75,261	49,451	-	55,173	56058	64974
	Prison maximum capacity	46,706	46,294	586	43,698	46,294	49,496	49,496	-	47,646	49,825	50,153

- represents data not available
Source: Nigerian Prisons Service

6.8.2 Inadequate facilities

Prisons in Nigeria are in a bad shape due to the huge presence of persons awaiting trial who add to the number of sentenced offenders. This poses a lot of problems for prison authorities. The statistics in Table 22 below indicate the trends and patterns of pre-trial and convicted for the period between 2005 to 2015. It can be observed from the Table that the vast majority of prisoners were pre-trial inmates. It is clear that 70 percent of inmates, during that period, were those awaiting trial. This is the current situation of prisons in Nigeria. In corroboration to this fact, Kayode Yukubu, the longest serving pre-trial inmate in Lagos Kirikiri Prison as at 2015, was arrested in a raid in 2003 and charged with robbery. For a period of twelve years

[119] Araromi Marcus Ayodeji, 'Prisoners' Rights Under the Nigerian Law: Legal Pathways to Progressive Realization and Protection'. (2015) 6 Afe Babalola University Journal of Sustainable Development Law and Policy 169, 169.

and above that he was confined in a penal complex, no court date was fixed for him. He always sat in jail every day hopelessly, having resigned to his Sisyphean fate, as he contended in a soliloquy; 'I can do nothing'.[120] This example highlights the plight that is endured by numerous individuals who are in pre-trial detention. Given the complexity and uniqueness of this category of prisoners in the Nigerian Criminal Justice System in general and prisons in particular, it is important to consider the challenges they face under different sub-headings.

6.9 Pre-trial detention and its daunting challenges

Another major challenge faced by the Nigerian Criminal Justice System in general and the prison sector in particular, is the huge number of inmates awaiting trial, who, in themselves, face diverse daunting challenges, some of which are considered below.

6.9.1 Pre-trial (awaiting trial) inmates

The expression, 'awaiting trial inmates', is used interchangeably with 'pre-trial detainees'.[121] In many countries, prisons are used in large part not only as a punitive or correctional measure but also to hold suspects and defendants until they can be tried in court.[122] An awaiting trial detainee is a person kept in detention pending trial in court. Such a person may be held in prison, police cells or even in other law enforcement and security agencies' holding or detention facilities.[123] A person on pre-trial detention is known as a pre-trial detainee. Such a person retains the status of an awaiting trial inmate, which is quite distinct from a convicted offender.[124] He can also be said to be a person who is held in prison custody prior to his trial in court on matters of criminality since no bail is posted or he is denied a pre-trial release.[125]

It is true that there is criminal justice system in place in Nigeria with various institutions like the police, Ministry of Justice, courts, prisons and prosecutors, among others. These, however, have not been able to help effectively to protect the rights of those who are awaiting trial, which are often described as 'forgotten by the courts, unwanted by prisons'. They are referred to as the forgotten because they never go to court and no one knows how

[120] <http://www.economist.com/news/middle-east-and-africa/21660143-shocking-number-pre-trial-prisoner> accessed 29 May 2017.
[121] Ernest Ojukwu, Yemi Akinseye-George, Isa Hayatu Chiroma, Sam Erugo, Idorenyin Eyo, K Nwankwo and Amari Omaka, Handbook on Prison Pre-Trial Detainee Law Clinic (2013) 13 African Human Rights Law Journal 481, 482.
[122] Mwalimu (n 73) 904.
[123] ibid.
[124] See generally Ernest Ojukwu *et al*, Handbook on Prison Pre-Trial Detainee Law Clinic (Network of University Legal Aid Institution 2012) 5.
[125] ibid.

long their detention will last.[126] This failure has been as a result of various factors ranging from lack of adequate legal aid systems, loss of police docket, overreliance on litigations, to loopholes created by the laws of Nigeria that could be exploited by the actors in Nigeria's criminal justice administration.[127] Table 22 shows the number of inmates in Nigerian Prisons, who were awaiting trial for the period 2005 to 2015. The population was estimated to range between 66,920 and 93,849 from 2005 to 2015. This high figure of awaiting trial detainees persisted over a long period of time. For example, the population was 84,051 in 2005, and rose with figures as high as 93,849 in 2013 and 84,259 in 2014. Although up-to-date data are not available, it is the belief of the researcher that the situation has not changed till today as nothing has been done in that direction. In corroboration of this fact, in January 2017, the Minister of Interior, Abba Moro, while establishing a 12-man Presidential Committee on Prison Decongestion, put the figure at 41,524 out of which 29,372 were awaiting trial inmates: this is an indication that more than half of these inmates are awaiting trials.[128]

These statistics indicate that Nigeria, like most developing countries across the globe, is confronted with serious cases of lack of access to justice to many of its people, especially to thousands of persons awaiting trial in its prisons. Inmates are often kept for an indeterminable amount of time in non-conducive environments that pose a grave threat to their lives and well-being.[129]

Access to justice has been a major challenge faced by pre-trial detainees in Nigeria. Records show that prisons in Nigeria hold over 56,000 inmates, with over 38,734 of them being pre-trial or otherwise referred to as awaiting trial detainees.[130] In practice, awaiting trial inmates are detained in prisons due to some technicalities such as delays in the administration of justice, lack of independence of the judiciary, poor prison facilities, prolonged investigation by the police and lack of legal representation due to financial constraints, among others.

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[126] ibid.

[127] Okafo (n 113); Nigeria: Prison System Report, Africa Focus Bulletin< http://www.africafocus.org/country/nigeria.php 1 July 2017.

[128] Iliffe (n 111) 155; The pointer, decongesting Nigerian Prison< http://thepointernewsonline.com/?p=22495.>accessed 1 July 2017

[129] Emeka Josephat Owan, Ayuk A Achu, Udiba U Dien and Francis Uyang 'Awaiting Trial Among Suspected Criminal Persons and Lack of Legal Representation In Cross River State- Nigeria'(2016) 2 International Journal of Sociology and Anthropology Research1,1-2; Amnesty international press release (2008) Nigeria: Criminal Justice System Utterly Failing Nigerian People; Majority of Inmates Not Convicted of Any Crime< https://www.amnesty.org/en/press-releases/2008/02/nigeria-criminal-justice-system-utterly-failing-nigerian-people-majority >accessed 1 July 2017.

[130] Joe Barth Abba, *Philosophy of Thomas Aquinas on Justice and Human Rights: A Paradigm for the Africa-Cultural Conflicts Resolution -Nigerian Perspectives* (LIT Verlag Münster 2017) 141.

Going by the above, awaiting trial detainees continue to languish in prisons even though they have not been found guilty of the offence they are accused of committing. This runs contrary to the provisions on the affinity of access to justice with human rights protection as contained in Chapter 4 of the Nigerian Constitution. This calls for a need to protect the rights of pre-trial detainees, condemned prisoners and others on access to justice. It can be said that without effective access to justice, the fundamental human rights of the people will be jeopardised. This is the case with the Nigerian Criminal Justice System, where the majority of its prison inmates are endlessly awaiting trial. What should be borne in mind is whether the moment a person is arrested and detained, he or she is still protected by certain laws or still possesses certain rights, and if yes, whether these rights have been protected or infringed upon due to certain factors, should be addressed properly because an accused is presumed innocent until the contrary is proved by the law.[131]

6.9.2 The right to bail as stipulated by the Criminal Procedure Act

Section 118 of the Criminal Procedure Act[132] provides thus:

> A person charged with any offence punishable by death shall not be admitted to bail except by a judge of the High Court. Where a person is charged with a felony other than one that is punishable by death, the court may, if it thinks fit, admit him or her to bail. When a person is charged with any offence other than those referred to in the preceding sub-sections, the court shall admit him or her to bail, unless it sees good reason to the contrary. If the court sees good reason to the contrary, bail shall not be granted. Such good reasons involve a situation where the individuals pose a flight risk, or the investigation is too advanced and almost complete, or their release might interfere with the investigation or they are detained for their own security.[133]

However, some persons are still held back in these prisons even when they meet up with the requirements for bail. This may be due to the fact that they do not have legal representation, lack of financial capacity and other requirements to meet up with the conditions for bail. In some cases, inmates may not be taken to the court for hearing due to non-availability of an effective transportation system in prisons. Others have been held back due to incessant industrial disputes affecting the judiciary, thus making it difficult for them to handle the overwhelming number of criminal trials in Nigerian courts. As a result, awaiting trial detainees are not treated differently from convicted inmates as they are subjected to ill-treatments and poor living conditions.

[131] See the Constitution of the Federal Republic of Nigeria (n 77) Section 36(5).
[132] Criminal Procedure Act (n 23), Section 118(1).
[133] ibid Section 118(2).

6.9.3 Recognition of pre-trial detention under the law

Pre-trial detention is a judicial process of keeping an accused person in prison custody or other places prior to taking him to a court of law for criminal charges to be proffered against him. This involves remanding the accused person in prison following court order so that his availability can be ensured during trial. In most cases, the Magistrate Courts make the orders.[134]

In view of Section 35(1) of the Nigerian Constitution, which guarantees the right to liberty, thus,

> when any person other than a person accused of a capital offence is arrested, detained by a police officer or is brought before a court, he may at any time while he is in custody of such officer or before a charge is preferred against him in court, be admitted to bail.[135]

In *Bayo Johnson v Lufadeju,*[136] the Court of Appeal declared *inter alia*:

> The provision of section 236(3) of the Criminal Procedure Law of Lagos State, which gives legislative cover to the magistrate to remand suspects in prison custody to await the charge is unconstitutional.

The court made reference to the case of *Hartage v Henderick* [137] on the negative effect of pre-trial detention as follows:

> The imprisonment of an accused prior to the determination of guilt is a rather awesome thing: it costs the tax payers tremendous sums of money, it deprives the affected individual of his most precious freedom and liberty, it deprives him of his ability to support himself and his family, it quite possibly costs him his job, it restricts his ability to participate in his own defence, it subjects him to dehumanisation of prison, it separates him from his family and without trial, it casts over him, sensation of criminality and guilt.

The judgement of the Appeal Court was, however, set aside on the grounds that:

> A Magistrate Court has the power to remand a suspect in pursuant to section 236(3) of the Criminal Procedure Law, and that the provision is not in conflict with section 35(1) (c) of the Nigerian Constitution.[138]

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[134] Mwalimu (n 73) 906.
[135] The Constitution of the Federal Republic of Nigeria (n 77) Section 35(1).
[136] (2000) 8 NWLR pt 767 at 192.
[137] (1970) pt 548 at 601-268; See Ojukwu *et al*, (n 124) 62.
[138] *Lufadeju v Johnson* (2007) All FWLR pt 371 at 1532; The Nigerian Constitution clearly shows that a person may be denied his fundamental right to liberty if there is reasonable suspicion of his having committed an offence; If there is reasonable suspicion that a person has committed an offence, his liberty may be impaired temporarily. In the same vein, a person's liberty may be tampered with so as to prevent him from committing an offence. In short, it is clear that no citizen's freedom or liberty is absolute. The freedom or liberty of a citizen ends where that of the other starts See the Constitution of the Federal Republic of Nigeria (n 77) Section 35(1) (c).

Thus, detaining a criminal suspect prior to arraignment in court in order to ensure his availability during trial is not reasonable because a suspect does not have to be in detention to appear in court. Also, the reasonableness of detention for the mere fact of having been suspected of committing a crime became a controversial issue in Nigerian courts. In view of this, Justice Olokooba, in the case of *Shola Abu v Lagos State Commissioner of Police*,[139] relying on section 236(3) of the Criminal Procedure Law and Section 35 of the Nigerian Constitution held as follows:

> To demonstrate that a citizen is detained pending being brought before a court of law upon reasonable suspicion of a criminal offence, those who claimed to have reasonably suspected him of the offence and apprehended him for that reason must demonstrate the reasonableness of their suspicion by arraigning him before a court of competent jurisdiction, where the reasonableness thereof will be tested within a reasonable time.[140]

It is important to note that pre-trial detention is permitted under international instruments. As such, it is provided that:

> Pre-trial detention may be ordered only if there is reasonable ground to believe that the persons concerned have been involved in the commission of the alleged offences and there is a danger in absconding or committing further serious offences, or a danger that the course of justice will be seriously interfered with if they are set free.[141]

It is, therefore, imperative to handle pre-trial detention in such a way that an accused still enjoys the rights to be assumed innocent until the contrary is proved in a law court of competent jurisdiction as guaranteed by international human right standards. However, it is important to state here that international human right instruments do not condemn or prohibit pre-trial detention; rather, they have stipulated standards and measures to ensure that it is handled correctly and humanely.

6.9.4 The rights of condemned prisoners in Nigeria

Condemned prisoners are people who have been tried and found guilty and convicted of the crime. These categories of prisoners are also referred to as convicts. Table 22 is a pointer to the fact that there are many condemned prisoners in the Nigerian Prisons. The number has been consistently high since 2005. For example, there were 36 condemned prisoners in 2005 and this number rose to 554 even in the second quarter of 2015. It is, therefore, obvious that close to 1,000 of such prisoners are presently languishing in various Nigerian Prisons,

[139] (2006) CHR1.
[140] The Constitution of the Federal Republic of Nigeria (n 77) Section 35.
[141] United Nations, Eight United Nations Congress on the Prevention of Crime and the Treatment of Offenders Havanna, 27th August-7th September 1990.

unaware of when they are going to be executed. It is unimaginable the trauma they would be passing through during the period of the sentence till execution. While it is understood that condemned prisoners cannot be continuously put on death row, it is ironical that whenever anybody opens his or her door, he or she will feel that executors have come. The trauma they experience is really a serious one.

There are many factors responsible for the delay in the execution of death sentences in Nigeria.[142] When an accused is condemned, before the execution of such judgment, the Governor of the State must give assent to the execution. It has also been consistently argued that the decision of the government at all levels is a gross violation of their fundamental human rights and, in most cases, the Governor will not give approval to the execution for various reasons. Some would ask what if there are emerging evidences that can exonerate the accused after the conclusion of the case?

Table 22: Prison admission by terms of imprisonment, 2005-2015

Term of imprisonment/Year	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Remand	84,051	73,538	86,525	82,125	80,664	88,696	66,920	-	93,849	84,259	29,059
Remand and awaiting trial	84,051	73,538	86,525	82,125	80,664	88,696	66,920	-	93,849	84,259	29,059
Short term	26,171	26,929	38,817	20,992	37,072	36,703	22,564	-	40215	31650	9,763
Long term	27,104	22,926	29,000	25,826	24,578	44,887	35,123	-	24352	22816	6,137
Condemned	36	127	16	92	54	56	72	-	100	48	544
Detainees	6,035	517	-	-	440	471	2,181	-	361	60	289
Others	6,035	3,014	4,784	1,435	13,543	1,068	4,672	-	19	9	-
Total	149,432	127,051	159,418	130,784	156,351	171,881	131,532	-	158,896	138,842	45,792

- represents data not available
Q2 means second quarter of the year
Source: Nigerian Prisons Service

6.9.5 Human rights as applicable to prisoners (convicted and awaiting trial inmates) in Nigeria

Simply put, a human right is defined as a legal entitlement that accrues to someone just by virtue of the fact that he or she is a human being.[143] Even though there are different philosophical underpinnings on the notion of human rights, from a legal standpoint, a human right can be defined as a legal entitlement that accrues to an individual by virtue of the fact that such an individual is a human being.[144] In short, these are legal entitlements that are possessed by every human being irrespective of their social status, whether inherited or

[142] Ned Tony Emeni, *The Last Dictator* (Trafford Publishing 2012) 343.
[143] Raymond Wacks, *Understanding Jurisprudence: An Introduction to Legal Theory* (1st edn, Oxford University Press 2005) 15; Robert P George, 'Natural Law' (2008) 31 Harvard Journal of Law and Public Policy 171, 174; Russell Hittinger, 'Natural Law and Virtue: Theories at Cross Purposes' in Robert George (ed), *Natural Law Theory Contemporary Essays* (Oxford University Press 1994) 63.
[144] Ayodeji (n 119) 170.

acquired. The Supreme Court of Nigeria delineated the nature of human rights in the case of *Dominic Peter Ekanem v Assistant Inspector-General of Police*[145] where it held that:

> Every human being is entitled to fundamental right only when he is not subject to any constitutional disability.... Human rights are universal - they belong to all in every human society. As Louis Henkin said 'To call these rights 'human' implies that all human beings have them equally and in equal measure by virtue of their humanity regardless of sex, race, age and regardless of social class, national origin, ethnic or tribal affiliation, regardless of wealth or poverty, occupation, talent, merit, religion, ideology location or other commitment.

The universality, inter-relatedness and inter-dependence of human rights (whether civil, political, economic, social or cultural) has been addressed by scholars across the globe. It suffices to mention here that in addition to universal human rights instruments, there are specific treaties of global and regional application that detail the rights and additional guarantees of detained persons, given the fact that they are qualified as 'vulnerable persons' in international law. In the following discussion, the rights of prisoners (both convicted and those awaiting trial) are considered. Relevant international human rights instruments (global and regional levels) are examined as well as the current legislative framework in Nigeria.

6.10 International instruments on the protection of prisoners' rights

There is a need to assess relevant international, regional as well as national instruments with the aim of protecting and promoting prisoners' rights. Meanwhile, it is important to mention that for any international instrument to have a binding effect, such must be domesticated municipally in Nigeria's legislation. Thus, the reception of international law in Nigeria's legal system is governed by Section 12 of the Constitution, which provides that:

> No treaty between the Federation and any other country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly.[146]

Based on the above constitutional provision, the application of any international instrument in Nigeria is not automatic; the National Assembly must ratify and domesticate it. Nigeria has ratified several international instruments, both at global, regional and national levels. One thing that is prominent and noticeable to all the international human rights instruments is the fact that they describe the essential content of rights and commit some responsibilities upon member states. Although there are variations to the nature of these obligations, they are

[145] (2008) All FWLR pt 420 at 775.
[146] The Constitution of the Federal Republic of Nigeria (n 77) Section 12.

meant to protect, respect and promote the rights of prisoners. Prisoners are human beings; thus, they are entitled to all the rights that every human being is entitled to as provided for internationally.

In the realm of the United Nations (UN) human rights system, quite a number of Instruments exist; only those that precisely address the fundamental substances of prisoners' rights as well as those that are put in place to decongest prisons are examined. It is, however, important to note that, out of all the international and regional instruments discussed in this chapter, only the African Charter on Human and Peoples' Rights (Banjul Charter) has been domesticated, thus binding. Other international and regional instruments have only been ratified without domestication, therefore having no binding effect.

6.10.1 Universal Declaration of Human Rights (UDHR), 1948

This instrument was adopted by the General Assembly Resolution in 1948.[147] The Universal Declaration of Human Rights remains the first document of the whole United Nations human right instruments and greatly agreed to be the foundation of international human rights law as it sets out the ideal principles on the way states parties must treat their people. It is appropriate to mention that Nigeria is a state party to this instrument. In addition, Nigeria joined the United Nations in 1960 without reservation to UDHR.[148] To this effect, the Universal Declaration of Human Rights is expressed in very clear terms, and the rights contained therein are universal. This is evident by the use of some phrases such as 'no one', 'every one', 'every individual' and 'all persons'.[149] The use of all these words denotes that the right, as contained in the instrument, is available to everyone everywhere. This simply means that the right must be respected and protected everywhere, including prisoners. Thus, states parties have a duty to uphold and make these universal rights a living reality for everyone, everywhere. This reveals the whole essence of the Universal Declaration of Human Rights, which states as follows:

> Whereas, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.[150]

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[147] Universal Declaration of Human Rights, United Nations General Assembly Resolutions 217 A, U.N. Doc. GAOR, 217th Session, 183rd meeting, U.N. Doc. A/RES/217/A (1948).

[148] Edwin Etieyibo and Odirin Omiegbe, *Disabilities in Nigeria: Attitudes, Reactions, and Remediation* (Rowman & Littlefield 2017) 168; Cosmas Emeziem, 'The Human Right to Clean Water and Sanitation-A Perspective from Nigeria' in Julien Chaisse (ed), *Charting the Water Regulatory Future: Issues, Challenges and Directions* (Edward Elgar Publishing 2017) 204.

[149] Universal Declaration on Human Rights, United Nations General Assembly Resolutions 217 A, U.N. Doc. GAOR, 217th Session, 183rd meeting, U.N. Doc. A/RES/217/A (1948), Article 2.

[150] ibid See Para 1 of the Preamble.

From the foregoing, it is crystal clear that prisoners are entitled to all the rights set out in the instrument without discrimination.

6.10.2 International Covenant on Civil and Political Rights (ICCPR), 1966

Adoption of the instrument was done by the General Assembly Resolution in 1966.[151] The International Covenant on Civil and Political Rights is the main international instrument that enunc iates the basis for fundamental civil and political rights. It seeks, among other things, to protect every human being from any form of discrimination. It was ratified by Nigeria in 1993.[152] The covenants in the ICCPR are binding on all member states. The content of ICCPR is similar in nature to that of UDHR. The notion of universality could be seen in the way the right is being spelt out in the instrument. For instance, this can be seen in the use of some words as contained in ICCPR such as: 'No one shall be…' and 'Everyone has a right to…'. These universal terms as used in ICCPR, are indication that every form of discrimination is prohibited. This is evidently the significance of Article 2(1) where it is specified as follows:

> Each state party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognised in the present Covenant, without distinction of any kind, such as race; colour; sex; language; religion; political or other opinion; national or social origin; property; birth or other status.[153]

An interpretation of Article 2(1) of International Covenant on Civil and Political Rights, as stated above, denotes that discrimination against human beings in any form is prohibited. Although the non-discriminatory clause in ICCPR does not categorise prisoners, the Article makes it illegal to subject any person to any form of discrimination centred on any of the grounds listed therein. The standard of non-discrimination and equal protection under the law as well as equality before the law devoid of distinction is vital to the effective protection of human rights.

> Therefore, every human being has the inherent right to life, and this right shall be protected by law; no one shall be arbitrarily deprived of his life;[154] in countries which death penalty has not been abolished, sentence to death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention

[151] International Covenant on Civil and Political Rights, United Nations General Assembly Resolutions 2200A (XXI), U.N. Doc. GAOR, 2200th Session, 1496th meeting, U.N. Doc. A/RES/2200(XXI) (1966).
[152] Teresa Okure, 'Nigeria Colosians' in Daniel Patte *et al*, (eds),*Global Bible Commentary* (Abingdon Press 2004) 490.
[153] International Covenant on Civil and Political Rights, United Nations General Assembly Resolutions (n 151) Article 2.
[154] ibid Article 6 (1).

> and Punishment of the Crime of Genocide; this penalty can be executed only as a follow up to a final judgment delivered by a court of competent jurisdiction.[155]

For instance, it was reported that:

> In the famous case of *Aliu Bello v Attorney- General, Oyo State*[156] where one Nosiru Bello, who had been convicted of armed robbery by the High Court of Oyo State and was sentenced to death, had filed an appeal against his conviction. Surprisingly, while he was still having a pending appeal before the Court of Appeal, the Anthony General of Oyo State recommended his execution. He was promptly executed. The execution was declared illegal by the trial court and this was upheld by the Court of Appeal and the Supreme Court. The apex court also pronounced that the premature execution constituted a blatant infringement of the deceased's fundamental right to life.[157]

Thus, a person condemned to death is still entitled to his fundamental rights to life pending his execution. This is an indication that death row inmates do have certain rights. The fact is that death sentence is against their first fundamental human right, which is right to life.[158] Therefore, it is an obligation as well as the basic duty of prison officials to protect the rights of the accused or convicted offender.[159]

6.10.3 International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966

The Covenant was adopted in 1966 by the General Assembly Resolution and, consequently, ratified by Nigeria in 1993.[160] It is a multidimensional and multilateral treaty. To this effect, this instrument listed an array of rights, which are available to everyone on social and cultural rights, economic rights of natural persons such as right to education, adequate standard of living, health and wellbeing, housing and social security. Even though it makes no specific reference to prisoners, nevertheless, just as ICCPR prohibits every form of discrimination, ICESCR imposes an obligation on member states to make sure that the rights contained in ICSECR are available and enjoyed by everyone.[161] For instance, states parties to this

[155] ibid Article 6 (2).
[156] (1986) 5 NWLR pt 45 at 828.
[157] ibid The Supreme Court per Oputa Justice of the Supreme Court.
[158] The Constitution of the Federal Republic of Nigeria (n 77) Section 33.
[159] ibid Section 33 and 34.
[160] ibid.
[161] The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. See International Covenant on Economic, Social and Cultural Rights, United Nations General Assembly Resolutions 2200A (XXI), U.N. Doc. GAOR, 2200th Session, 1496th meeting, U.N. Doc. A/RES/2200(XXI) (1966), Article (2) 2; The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of

Covenant are to recognise the right of everyone to an adequate standard of living. The word 'everyone' includes prisoners. Equally, such rights include the right to adequate food, clothing and housing as well as to continuous improvement of living conditions. [162] Additionally, Article 12 recognises the essence of giving everyone the highest attainable standard of physical and mental health, which includes environmental hygiene. [163]

6.10.4 Declaration on the Protection of All Persons from being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1975

This Declaration was adopted in 1975 by the General Assembly Resolution. It seeks to protect all persons from all actions that constitute inhuman treatment within the jurisdiction of member states. What constitutes torture is indicated in the Declaration as follows:

> Torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted by or at the instigation of a public official on a person for such purposes as obtaining from him or a third person, information or confession. Punishing him for an act he has committed or is suspected of having committed or intimidating him or other persons. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions to the extent consistent with the Standard Minimum Rules for the Treatment of Prisoners.[164]

Torture constitutes an aggravated and deliberate form of cruel, inhuman or degrading treatment or punishment.[165] Article 2 of this Declaration makes it an offence to subject anyone to an act of torture and other forms of ill-treatment.[166] In addition, the Declaration places an obligation on member states not to permit or tolerate such forms of treatment or punishment.[167] According to Article 4 of the Declaration, member states are required to take necessary measures to prevent any action that constitutes inhuman treatment within their jurisdictions.[168]

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physical and mental health See International Covenant on Economic, Social and Cultural Rights, United Nations General Assembly Resolutions 2200A (XXI), U.N. Doc. GAOR, 2200th Session, 1496th meeting, U.N. Doc. A/RES/2200(XXI) (1966), Article 12 (1).

[162] International Covenant on Civil and Political Rights (n 151) Article 11.

[163] ibid Article 12.

[164] Article 1 (1) Declaration on the Protection of All Persons from being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, United Nation General Assembly Resolution 3452 (XXX) U.N. Doc. GAOR, 3452nd Session, 2433rd meeting, U.N. Doc. A/RES/3452 (XXX) (1975), Article 12 (1).

[165] ibid Article 1 (2); Nigel Rodley and Matt Pollard, *The Treatment of Prisoners under International Law* (Oxford University Press 2009) 8.

[166] ibid Article 2.

[167] ibid Article 3.

[168] ibid Article 4.

It is worthy of note that the protection of all persons from such is not limited to the above-mentioned instrument alone. Article 7 of ICCPR also prohibits such act.[169] Recognising the importance of adhering to internationally recognised standards of human right, legislation was made at the national level. This can be seen in the Constitution of the Federal Republic of Nigeria, which provides that:

> No person shall be subject to torture or to inhuman or degrading treatment.[170] Meaning that torture or other cruel, inhuman or degrading treatment cannot be justified in any circumstances, it is completely prohibited.[171]

6.10.5 Principle of Medical Ethics Relevant to the Role of Health Personnel, Particularly, Physicians, in the Protection of Prisoners and Detainees against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, 1982

The adoption of this instrument was done by the General Assembly Resolution in 1982 and subsequently ratified in Nigeria on 23rd July 2001.[172] The purpose of this Charter is stated in Principle 1 of the instrument. It clearly defines the duty of health personnel, principally physicians, charged with the medical care of prisoners and detainees to provide them with adequate protection of their physical and mental health and treatment of diseases of the same standard and quality as afforded those who are not imprisoned.[173] Additionally, Principle 3 makes it unlawful for medical personnel to engage in any professional connection with prisoners, which are not for the purpose to improve or protect their physical or mental health.[174] Besides that, it is a gross misconduct for health personnel to participate actively or passively in an act, which constitutes torture or to inhuman or degrading treatment of prisoners.[175]

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[169] See International Covenant on Civil and Political Rights (n 151) Article 7; Universal Declaration of Human Rights (n 216) Article 5.
[170] The Constitution of the Federal Republic of Nigeria (n 77) Section 34(1) (a)
[171] Universal Declaration of Human Rights (n 147) Article 5; The Banjul Charter, Organisation of African Unity, OAU Doc. C AB/LEG/67/3 (1981) Article 5 and United Nations Standard Minimum Rules for the Treatment of Prisoners, United Nations General Assembly Resolution 633 C (XXIV) U.N. Doc. GAOR, 633rd Session, meeting, U.N. Doc. A/RES/633 C (XXIV) (1957), Rule 31.
[172] See generally, Tarskian, Nigeria Political Sharia: Human Rights and Islamic Law in Northern Nigeria (Human Rights Watch 2004) 104.
[173] Principle of Medical Ethics Relevant to the Role of Health Personnel, Particularly, Physicians, in the Protection of Prisoners and Detainees against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, United Nations General Assembly Resolution 37/194 U.N. Doc. GAOR, 37th Session, 111st meeting, U.N. Doc. A/RES/37/194 (1982), Principle 1.
[174] ibid Principle 3.
[175] ibid Principle 2; Tarskian (n 172) 107.

6.10.6 United Nations Safeguards Guaranteeing Protection of the Rights of those Facing Death Penalty, 1984

This instrument was adopted by the Economic and Social Council Resolution in 1984. The Convention allows death penalty, particularly in a country where death penalty has not been abolished, though, only allowed on grievous offences.[176] This instrument provides that:

> Even though it is allowed, capital punishment such as death penalty shall not be carried out pending any appeal.[177] Therefore, anyone sentenced to death shall have the right to appeal to a court of higher jurisdiction, and steps should be taken to ensure such appeal shall be mandatory.[178]

6.10.7 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), 1984

The Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment was adopted by the General Assembly Resolution in 1984. Considering the provision of Article 5 of the Universal Declaration of Human Rights, as well as Article 7 of ICCPR, the two Sections contain a similar provision that 'no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment'.[179] This provision is also stipulated in the Convention, which was adopted by the General Assembly in 1975. It is apposite to mention that this Convention came into existence to give credence to and complement the provisions of the Declarations on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment earlier discussed.[180] It is equally important to indicate that Nigeria is a party to this Convention and has ratified it.[181] Based on the fact that this Convention was established to support the Declaration on Torture of 1975, hence states parties are encouraged to take effective measures to prevent torture in their respective jurisdictions.[182] The Convention also places an obligation on states parties to criminalise all acts of torture.[183] In addition, Article 6 of the Body of Principles for the Protection of All Persons under any Form of Detention or

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[176] Safeguards Guaranteeing Protection of the Rights of those Facing the Death Penalty, United Nations Security Council Resolution 50 U.N. Doc. GAOR, 39th Session, meeting, U.N. Doc.50 (1984), (1984) Article 1.
[177] ibid Article 8.
[178] ibid Article 2 and 7.
[179] Article 5 of the Universal Declaration of Human Rights, as well as Article 7 of the International Covenant on Civil and Political Rights.
[180] CAT, United Nations General Assembly Resolution 39/46, U.N. Doc. GAOR, 39th Session, 93rd meeting, U.N. Doc. A/RES/39/46 (1984), See the preamble, para 4, 5 and 6.
[181] Sonya Maldar, *Rest in Pieces: 'Nigeria: Police Torture and Deaths in Custody in Nigeria* (Human Rights Watch 2005) 25; Ayesha M Imam 'Women's Reproductive and Sexual Rights and the Offence of Zina in Muslim Laws in Nigeria' in Wendy Chavkin and Ellen Chesler (eds), *Where Human Rights Begin: Health, Sexuality, and Women in the New Millennium* (Rutgers University Press 2005) 73.
[182] CAT (n 180) Article 2 (1).
[183] ibid Article 2 (1).

Imprisonment adopted by the General Assembly Resolution in 1988 also prohibits any act of torture.[184]

6.10.8 Declaration on Basic Principle of Justice for Victims of Crime and Abuse of Power, 1985

This instrument was adopted in 1985 by the General Assembly Resolution. It was formed considering the fact that people throughout the world suffered harm as a result of crime as well as victims of abuse of power. The rights of these categories of people had not been adequately catered for, and this necessitated the meeting that led to the adoption of this Convention for the purpose of protecting victims of crime and of abuse of power, who are frequently and unjustly subjected to loss, damage and injury.[185] Under this instrument, governments are encouraged to review their laws to embrace restitution as a feasible sentencing option in criminal matters. It also comprises some provisions that will encourage offenders to make restitution to victims, their relatives and dependants. For instance, return of property or payment of expenses incurred as a result of the crime.[186]

Articles 4-6 of the instrument provide for access to justice and fair hearing to victims of crime and those involved in criminal matters. This is meant to strengthen judicial and administrative mechanisms that will enable victims to obtain redress through formal procedures that are fair, expeditious, inexpensive and accessible.[187] In addition, the responsiveness of judicial and administrative processes to the needs of victims should be facilitated.[188] Under Articles 12 and 13 of the Instrument, provisions are made for compensation to victims of crime.

> States parties are encouraged to award financial compensation to victims who have sustained significant bodily injury or physical or mental health impairment as a result of serious crimes.[189]

From the points raised above, the instrument makes provision for compensation to victims of crime, access to justice and speedy trial as well as restitution as an alternative to

[184] See Body of Principles for the Protection of All Persons under any form of Detention or Imprisonment, United Nations General Assembly Resolution 43/173 U.N. Doc. GAOR, 43rd Session, 76th meeting, U.N. Doc. A/RES/43/173 (1988) Article 6.
[185] Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, United Nations General Assembly Resolution 40/34, U.N. Doc. GAOR, 40th Session, 96th meeting, U.N. Doc.A/RES/40/34 (1985). See the preamble.
[186] ibid Article 8 and 9.
[187] ibid Article 5.
[188] According to this instrument, 'victims' means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that do not yet constitute violations of national criminal laws but of internationally recognized norms relating to human rights. ibid Article 6 (a) and Article 18.
[189] ibid Article 12 (a).

imprisonment which, will eventually decongest prisons if used accordingly. It is interesting to note that Nigeria has provided for restitution and compensation as non-custodial sentences in her statute, the Administration of Criminal Justice Act, 2015.[190]

6.10.9 United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), 1985

This instrument was put in place by the United Nations General Assembly Resolution in 1985.[191] Basically, this instrument conceives juvenile as an integral part of the society and requires great attention by member states. It contains a set of rules to be applied to juvenile offenders. The age of a juvenile varies from one legal system to the other but ranges from 7 to 18 years.[192] Additionally, 'in any case that involves a juvenile, well-being of the child shall be the guiding factor and capital punishment shall not be imposed on a juvenile'.[193]

6.10.10 Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment, 1988

This instrument was adopted in 1988 by the General Assembly Resolution.[194] The purpose of this instrument is to protect all persons under any form of detention or imprisonment. Article 1 of the instrument provides as follows:

> All persons under any form of detention or imprisonment shall be treated in a humane manner and with respect for the inherent dignity of the human person.

The instrument encompasses the right to fair hearing, speedy trial, assistance of legal counsel and right to medical treatment, among other things.[195] Therefore, the sole purpose of this instrument is to ensure that prisoners are treated in a humane manner. In addition, the instrument also empowers judicial or other suitable authorities to review, depending on the facts and the circumstances of each case, the continued detention of imprisoned persons, provided the review is done thoroughly to assist in decongesting prisons.

6.10.11 Convention on the Rights of the Child, 1989

This was formed by the General Assembly Resolution in 1989. Considering the Universal Declaration on Human Rights, the United Nations declared that children are entitled to

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[190] Administration of Criminal Justice Act, 2015 Section 401(2) (g).
[191] The Beijing Rules, United Nations General Assembly Resolution 40/33, U.N.GAOR, 40th Session, 96th meetings, U.N.Doc., A/RES/40/33 (1985).
[192] ibid Rule 2.2.
[193] ibid Rule 2.2 and Rule 17.2 Rule.
[194] Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment (n 191).
[195] ibid Principle 10.

special care and assistance.[196] Any human being less than eighteen years old is a child.[197] Member states are encouraged to respect the right set forth in the Convention and also to ensure that every child, within their jurisdictions, enjoys those rights without discrimination.[198] A child must not be deprived of his or her liberty arbitrarily or unlawfully. In fact, detention and imprisonment of a child should only be used as a last resort and only for a very short period of time, and when a child is detained, he or she must not be put together with adults. According to the Convention,

> in all actions concerning children, be it court of law, administrative or legislative authorities, top priority shall be given to the best interests of the child;[199]
> no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment, neither capital punishment nor life imprisonment.[200]

Part two of this Convention contains the provisions that will make the right of the child to be known to the adult and children as well. Member states are also to set up a committee that will ensure that children are dealt with in a manner prescribed by the Convention. The Convention was ratified by Nigeria in 1990 and subsequently domesticated in the National Child Rights Act in 2003.[201]

6.10.12 United Nations Standard Minimum Rules for Non-Custodial Measures (the Tokyo Rules), 1990

This instrument was put in place by the General Assembly Resolution in 1990. The main purpose of this Instrument is to promote the use of non-custodial measure as an alternative to imprisonment.[202] The instrument intends to promote community involvement in the management of criminal justice system, particularly in the treatment of offenders, and also to

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[196] Convention on the Rights of the Child, United Nations General Assembly Resolution 44/25, U.N.GAOR, 44th Session, 61st meetings, U.N.Doc., A/RES/44/25 (1989) See the preamble, para 3.
[197] ibid Article 1; Nwogugu Edwing, *Family Law in Nigeria* (3rd edn, Heinemann Educational Books Publishers 2014) 388.
[198] Convention on the Right of the Child (n 196) Article 2 (1).
[199] ibid Article 3 (1); Stephen Nmeregini Achilihu, *Do African Children Have Rights? A Comparative and Legal Analysis of the United Nations Convention on the Rights of the Child* (Universal Publishers 2010) 32; The children are immature and should not be treated as adult offenders. See Marriam Abdulraheem Mustapha, 'Child Justice Administration in the Nigerian Child Right's Act: Lessons from' (2016) 16 African Human Right Law Journal 435, 436.
[200] Convention on the Right of the Child (n 196) Article 37 (a), (b) and (c).
[201] ibid Article 42 and 43; Oshisanya Lai Oshitokunbo, *An Almanac of Contemporary and Comparative Judicial Restatements* (Almanac Foundation 2015) 969; Emilie Secker, 'Barriers to Effective Implementation of the UN Convention on the Rights of the Child in the Niger Delta of Nigeria' in Afua Twum-Danso Imoh and Nicola Ansell (eds), *Children's Lives in an Era of Children's Rights: The Progress of the Convention on the Rights of the Child in Africa* (Routledge 2014) 173.
[202] Principle on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, United Nations General Assembly Resolution 55/89 U.N.GAOR, 55th Session, 81st meetings, U.N.Doc., A/RES/55/89 (2000) Principle 1 (1.1).

promote a sense of responsibility on the part of offenders towards the society.[203] States parties are equally encouraged to develop a non-custodial measure in their respective national laws to provide other options that will reduce the use of imprisonment, which will eventually be an effective measure to decongest prisons. It suffices to say here that Nigeria has provided for community service, compensation to victims of crimes and restitution as non-custodial sentences in her national law (Administration of Criminal Justice Act, 2015).[204]

6.10.13 Principle on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 2000

The adoption of this Instrument was carried out by the General Assembly Resolution in 2000. According to Principle 1 of the instrument:

> The purposes of the instrument are set out to include clarification of the facts and establishment and acknowledgement of individual and State responsibility for victims and their families, identification of measures needed to prevent recurrence and facilitation of prosecution and/or, as appropriate, disciplinary sanctions for those indicated by the investigation as being responsible, and demonstration of the need for full reparation and redress from the State, including fair and adequate financial compensation and provision of the means for medical care and rehabilitation. [205]

The simple interpretation of the above is that victims must be allowed to report turture. It is an instrument that supports the Convention Against Torture, which takes a step further to make sure that incidents of torture in detention are promptly investigated and given the required attention so as to uphold and promote the principles prohibiting any form of torture.

6.10.14 Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), 2002

This international instrument was put in place by the General Assembly Resolution in 2002. It was made majorly to strengthen the purpose of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment as discussed above.[206] It is also

[203] ibid.
[204] Administration of Criminal Justice Act (n 190) Section 468.
[205] Principle on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 2000 Principle 1.
[206] Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, United Nations General Assembly Resolution 57/199 U.N.GAOR, 57th Session, 77th Meeting. U.N.Doc, A/RES/57/199 (2002).

meant to strengthen the protection of persons deprived of their liberty.[207] The main objective of this instrument can be seen in Article 1 which provides as follows:

> The objective of the present Protocol is to establish a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.[208]

The interpretation of the above position is that the instrument intends to establish a preventive system of regular visits to places of detention such as prisons and other detention homes, so as to protect detainees from any action that constitutes inhuman treatment. States parties are also encouraged to set up committees at the national level, designated to serve as visiting bodies to places of detention for the prevention of torture and other forms of ill-treatment in their jurisdictions.[209] It is imperative to mention that this instrument is specifically made on the prevention of any action that constitutes inhuman treatment in places of detention. This shows how international communities care about how member states treat people in detention in their respective states.

6.10.15 United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules), 2010

The Bangkok Rules was adopted by the General Assembly Resolution in 2010, considering the fact that the Nelson Mandela Rules apply to all prisoners without discrimination, particularly sex. This instrument was adopted more than 50 years ago but did not draw specific attention to peculiar needs of women. Having considered the increasing number of women prisoners globally, the importance and urgency of the need to bring to light the real kind of consideration that should apply to women prisoners led to the adoption of the Bangkok Rules, which provides distinct considerations to women prisoners.[210] States parties were called on to respond by taking appropriate steps to promote and respect the rights of women prisoners.[211] It is important to mention that the Bangkok Rules did not replace the Nelson Mandela Rules or the Tokyo Rules but came to complement and supplement the provisions contained in those set of rules and only shed more light on the treatment of women prisoners.[212]

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[207] ibid See paragraphs 2 and 3 of the preamble.
[208] ibid Article 1.
[209] ibid Article 3.
[210] United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules) United Nations General Assembly Resolution 16 (2010) Article 1.
[211] ibid Article 2.
[212] ibid Article 3.

Personal hygiene of women in prison is very important, as such, rule 5 of this instrument provides as follows:

> The accommodation of women prisoners shall have facilities and materials required to meet women's specific hygiene needs, including sanitary towels provided free of charge and a regular supply of water to be made available for the personal care of children and women, and in particular, women involved in cooking and those who are pregnant, breastfeeding or menstruating.[213]

The instrument provides that imprisonment of women should only be considered in extreme cases, that is, as a last option, and their children should be taken into consideration.[214] If all the principles are adhered to strictly, it will help to decongest prisons. Nigeria, as a member state, is directed to consider incorporating these rules into her national laws and always consider them as reference points. It is an attempt of intensification of efforts to eliminate all forms of violence against women. The instrument makes provision for alternative measures rather than imprisonment of women.[215]

6.10.16 United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), 2015

The instrument was adopted by the United Nations General Assembly Resolution in 2015. It is referred to as:

> The Nelson Mandela Rules, to honour the heirloom of the late President of South Africa, Mr Nelson Rolihlahla Mandela, who spent 27 years in prison in the course sof his struggle for global human rights, equality, democracy and promotion of a culture of peace.[216]

The way a country treats its prisoners matters a lot as expressed by Nelson Mandela:

> No one truly knows a nation until one has been inside its jail. A nation should not be judged by how it treats its highest citizens, but its lowest ones.[217]

Even though not legally binding, the Nelson Mandela Rules 2015 provides guiding principles for national law for people held in prisons and other forms of detention.[218]

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[213] ibid Rule 5.
[214] ibid Rule 22.
[215] ibid Article 5.
[216] Nelson Mandela, *No Easy Walk to Freedom* (Heinemann 1973) 7; <http://www.europris.org/united-nations-standard-minimum-rules-for-the-treatment-of-prisoners>accessed 2 September 2017.
[217] Nelson Mandela, *Long Walk To Freedom: The Autobiography of Nelson Mandela* (Abacus 1995) 233; Liora Lazarus, *Contrasting Prisoners' Rights: A Comparative Examination of Germany* (Oxford University Press 2004)<www.amnesty.org/en/press-releases/2015/05/mandela-rules-on-prisoner-treatment-adopted-in-landmark-revision-of-un-standards-1 >accessed 2 September 2017.
[218] Andrew Coyle, *A Human Rights Approach to Prison Management Handbook for Prison Staff* (2nd edn, International Centre for Prison Studies 2009) 3; Rona Epstein, 'the Nelson Mandela Rules: International

According to the Rules, the living conditions are one of the major factors that determine a prisoner's state of mind, self-esteem and dignity.[219] The conditions of how and where an individual eats, sleeps and uses the toilet have a huge effect on the mental and physical well-being of that individual. The same applies to inmates, most especially because they do have limited choices as a result of their confinement. The poor conditions of the prison do not only violate the rights to dignity, but also amount to cruel, inhuman or degrading treatment. The Standard Minimum Rules provides detail guidelines on the standards of accommodation, hygiene and nutrition as follows:

> 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.[220]

The Convention also encourages member states to accord humane treatment to their prisoners as follows:

> All prisoners shall be treated with the respect due to their inherent dignity and value as human beings. No prisoner shall be subjected to, and all prisoners shall be protected from torture and other cruel, inhuman or degrading treatment or punishment, for which no circumstances whatsoever may be invoked as a justification. The safety and security of prisoners, staff, service providers and visitors shall be ensured at all times.[221]

6.10.17 Regional instruments

Many regional instruments are available to protect the right of prisoners. Such instruments to which Nigeria subscribes to are discussed below.

Standards for the Treatment of Prisoners' < http://www.criminallawand justice.co.uk/features/Nelson-Mandela-Rules-International-Standards-Treatment-Prisoners > accessed 2 September 2017.

[219] The Nelson Mandela Rules, United Nations General Assembly Resolution 70/175 U.N.GAOR, 70th Session, 80th Meeting, U.N.Doc, A/RES/70/175 (2015), Rule 18 (1) and (2).

[220] United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) Rule 13 adopted the First Congress held in Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977, Resolution A/RES/70/175 it was adopted by the general Assembly of the United Nations on 17 December 2015. It was named in honour of the late President of South Africa, Nelson Mandela who spent 27 years in prisons in the course of his struggle for democracy and promotion of culture of peace. Although not legally binding, the Nelson Mandela Rules provides guidelines for domestic law for citizens held in prison and other forms of custody. They have been of great importance and a reference point for relevant national legislation as well as of practical guidance for prisons management, It recommends among other things, the needs for member state to try as much as possible to reduce prison congestion by resorting to alternative measures to pre-trial detention, reinforce alternatives to imprisonment, promote access to justice and allocating adequate human and financial resources to improve the prison conditions.

[221] The Nelson Mandela Rules (n 217) Rule 1.

6.10.17.1 The African Charter on Human and Peoples' Rights (Banjul Charter), 1981

The Banjul Charter was made in Banjul in January 1981 and adopted by the Organisation of African Unity (OAU) Assembly of Heads of State and Government.[222] All 53 OAU Member States are party to the African Charter.[223] It was subsequently ratified in Nigeria in 1983.[224] As a result of this ratification, Nigeria enacted the Banjul Charter (Ratification and Enforcement) Act to support and uphold the substantial element of the Banjul Charter. It is an Act that enables effect to be given in the Federal Republic of Nigeria to the Banjul Charter.[225] This Charter has binding effect by virtue of its domestication in the Nigerian laws.

The Banjul Charter is a regional instrument aimed at promoting and developing a framework for the protection of people's rights both at regional and national levels. The purpose of ratification and enforcement of the Act can be seen by the way it is couched in the preamble as follows:

> Whereas a Charter entitled the African Charter on Human and People's Rights has been duly adopted by diverse States in Africa and Nigeria is desirous of adhering to the said Charter; and whereas it is necessary and expedient to make legislative provision for the enforcement in Nigeria of the said Charter by way of an Act of the National Assembly; and as from the commencement of this Act, the provisions of the African Charter on Human and People's Rights, which are set out in the Schedule to this Act shall, subject as thereunder provided, have force of law in Nigeria and shall be given full recognition and effect and be applied by all authorities and persons exercising legislative, executive or judicial powers in Nigeria.[226]

Equally, the Banjul Charter, though, a regional instrument, also prohibits any form of torture.[227] Article 4 of the African Charter on Human and People's Rights provides as follows:

> 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 his life.[228]

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[222] Rachel Murray and Malcolm Evans, *Documents of the African Commission on Human and Peoples' Rights Volume 1 1987-1998* (Bloomsbury Publishing 2001) 454.

[223] Frans Viljoen, 'Africa's contribution to the development of International Human Rights and Humanitarian Law' (2001)1 African Human Rights Law Journal 18, 19-20.

[224] Irehobhude O Iyiola and Remigius N Nwabueze, *Comparative Health Law and Politics: Critical Perspective of Nigerian and Global Health Law* (Routledge 2016) 312; Frans Viljoen, *International Human Rights Law in Africa* (OUP Oxford 2012) 535; Bronwen Manby, 'Civil and Political Rights in the Banjul Charter: Articles 1-7' in Malcolm Evans and Rachel Murray (eds), *The Banjul Charter: The System in Practice 1986-2006* (2nd edn, Cambridge University Press 2008) 173; Edward Kofi Quashigah and Obiora Chinedu Okafor, *Legitimate Governance in Africa: international and Legal perspectives* (Martinus Nijhoff Publishers 1999) 353.

[225] The Banjul Charter (Ratification and Enforcement) Act Chapter 10 LFN, 2004.

[226] International treaties are not enforceable in Nigerian Courts unless they have been specifically enacted into law by the National Assembly: See the Constitution of the Federal Republic of Nigeria (n 77) Section 12(1); The African Charter has been enacted into law in Nigeria via the Banjul Charter (Ratification and Enforcement) Act Cap 10 Laws of Federation of Nigeria, 2004.

[227] The Banjul Charter (n 225) Article 5.

Similarly, this regional instrument also corroborates this, for example, Article 7(1) (d) of the African Charter further guarantees the right to liberty of a suspect.[229]

6.10.17.2 The Kampala Declaration on Prison Conditions in Africa, 1996

The Kampala Declaration on Prison Conditions in Africa is a regional instrument on the condition of prisons in Africa. It was put in place after the meeting of delegates from 40 African States in Kampala, Uganda in 1996 and consequently ratified in Nigeria.[230] It was established to find a lasting solution to the horrible prison conditions in Africa. The propelling locomotive of this declaration can be captured by the preamble which states as follows:

> The level of overcrowding in prisons is inhuman; there is lack of hygiene; insufficient or poor food; difficult access to medical care; lack of physical activities or education; as well as an inability to maintain family ties.[231]

The delegates came up with some guidelines to be followed by African countries to improve the conditions of prisons. They recommended as follows:

> The human rights of prisoners should be safeguarded at all times;[232] prisoners should retain all rights that are not expressly taken away by the fact of their detention; [233] prisoners should have living conditions which are compatible with human dignity;[234] and that prisoners should be given access to education and skills training in order to make it easier for them to reintegrate into the society after their release.[235]

6.10.17.3 The Arusha Declaration on Good Prison Practice, 1999

The instrument was established by prison services in Central, Eastern and Southern African (CESCA) in Arusha, Tanzania. It was tailored specifically to promote and implement good prison practice in Africa and to ensure conformity with international standards.[236] It thereby agreed on the following principles:

> To improve management practices in individual prisons, and in the penitentiary system as a whole; to increase transparency and efficiency within

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[228] The Banjul Charter, also known as (Banjul Charter) as adopted on 27th June 1981 in Nairobi. Came into force on 21st October 1986; See International Covenant on Civil and Political Rights, to which Nigeria is also a signatory, it also contains similar provisions (n 151) Article 6(1).
[229] The Banjul Charter (n 225) Article 7(1) (d).
[230] Eric L Jensen and Jorgen Jepsen (eds), *Juvenile Law Violators, Human Rights, and the Development of New Juvenile Justice Systems* (Bloomsbury Publishing 2006) 54.
[231] The preamble of the Kampala Declaration on Prison Conditions in Africa, it appears that the condition of prisons in Africa has reached endemic proportion.
[232] The Kampala Declaration on Prison Conditions in Africa 1996, Article 1.
[233] ibid Article 2.
[234] ibid Article 3.
[235] ibid Article 7.
[236] Arusha Declaration on Good Prison Practice, 1999 Article 1.

> the prison service;[237] to provide training programmes to prison staff which will incorporate human rights standards in a way that is meaningful and relevant; improve the skills base of prison officers' standards;[238] and to increase transparency and efficiency within the prison service.[239]

Unfortunately, the dictates of the instrument are not complied with, that is why the Nigerian Prison System is still at the state of inefficiency.

6.10.17.4 The Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters, 2000

It is a United Nations instrument formulated in the field of mediation and restorative justice. The drafters of the instrument recognise that the use of restorative justice measures does not prejudice the right of states to prosecute alleged offenders; rather, restorative justice is a way of responding to criminal behaviour by balancing the needs of the community, victims and offenders.[240] It also recommends the following to member states:

> There should be regular consultation between criminal justice authorities and administrators of restorative justice programmes to develop a common understanding of restorative processes and outcomes; to increase the extent to which restorative programmes are used; and to explore ways in which restorative approaches might be incorporated into criminal justice practices.[241]

6.10.18 National instruments

The Constitution is the major national instrument that spells out the fundamental rights of individuals, including prisoners. The following fundamental human rights have been identified by the Constitution as inalienable to everyone, regardless of having been imprisoned:

> Right to life;[242] right to dignity of persons;[243] right to freedom of thought, conscience and religion;[244] right of freedom of expression;[245] right to remain silent;[246] right to be presumed innocent until proved guilty; right to adequate time and facilities to prepare for his defence;[247] right to defend himself or be represented by counsel during trial;[248] right to be brought before a court within a reasonable time;[249] and compensation clause.[250]

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[237] ibid Article 2.
[238] ibid Article4.
[239] ibid Article5.
[240] United Nations Office on Drugs and Crime, *Handbook on Restorative Justice Programmes criminal justice handbook series* (United Nations publications 2006) 6.
[241] Basic Principles on the use of Restorative Justice Programmes in Criminal Matters, ECOSOC Res. 2000/14, U.N. Doc. E/2000/INF/2/ (2000). Article 21.
[242] The Constitution of the Federal Republic of Nigeria (n 77) Section 33(1).
[243] ibid Section 34(1).
[244] ibid Section 38.
[245] ibid Section 39
[246] ibid Section 35(2).
[247] ibid Section 36(6)(b).
[248] ibid Section 36(6)(c).
[249] ibid Section 35(4).

Section 33(1) of the Constitution of Nigeria provides as follows:

> Every person has a right to life, and no one shall be deprived intentionally of life, except in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria.[251]

Section 34(1) also guarantees human dignity irrespective of his/her location as it provides as follows:

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

To this end, any person who is in charge of a prisoner has no right to deprive such prisoner of life through any means; it must be saved in the execution of the order of the courts of law. Also, in *Peter Nemi & Others v Attorney-General of Lagos State,*[252] the defence counsel claimed his client still remained in prison custody with emotional torture after being sentenced to death for eight years without execution. He contended that the rights of his client to freedom from inhuman and degrading treatment had been breached. However, the submission of the prosecuting counsel was that the defendant was a condemmed criminal and, therefore, no longer in a position to enjoy any rights after being condemmed by the court. Justice Uwaifo rejected the argument of the prosecuting counsel and queried as follows:

> Does it mean that a condemned prisoner can be lawfully starved to death by 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 amount 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. Therefore, a condemned person is also a human being as well and should be treated as such. This is because all other rights rest upon this right to life; immediately the life is taken, all other rights become useless. Life is given by God and it is only the giver of life that has the right to take it. Therefore, the legality of the death penalty should not be confused with the illegality exhibited in the case. The law is clear. Some offences like armed robbery, murder, witchcraft and adultery attract the death penalty and this position of law remains unchanged.[253]

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[250] ibid Section 35(6).
[251] The Constitution of the Federal Republic of Nigeria (n 77) Section 33(1).
[252] (1996) 6 NWLR pt 452.
[253] Charlse Dundas, 'The Organisation and Laws of some Bantus Tribes in East Africa' (1915) 45 Journal of Royal Anthropology Institute of Great Britain and Ireland 234, 258-259.

In Nigeria, most of the information used in pronouncing death sentence is based on confessions obtained under duress. The use of torture by the police is still a challenge to effective criminal administration in Nigeria (see Tables 23a, 23b and 23c). The tables bring out empirical evidence of obtaining confessional statements under dures/torture between 2013 and 2015 with an indication that it has continued to increase. Such human rights abuses like by the police by applying torture, under the guise of extract confessional statements from criminal suspects is unconstitutional. Often times, such statements are relied upon by the court in pronouncing judgement, including death senetence. It is the view of the researcher that every statement brought by the police should be properly scrutinised in court. Any confessional statement made under pressure, threat or torture should not be admitted for evidence.

It is important to ascertain that confessional statements are made voluntarily before their admissibility. Section 28 of the Evidence Act explicitly prohibits the use of information extracted from suspects through threats, promises or force as indicated below:

> A confession made by an accused person is irrelevant in a criminal proceeding, if the making of the confession appears to the court to have been caused by any inducement, threat or promise.

Also, some International instruments make provision for the protection of the rights of prisoners against such treatments.

Table 23a: Number of petitions received by nature of petition and stage, 2013

Nature of petition	Pending at the beginning	%	Petition filed during the year	%	Petition disposed of during the year	%	Petition pending at the end of the year	%	Others (unspecified)	%	Total
Women rights & gender issues	0	0	0	0	0	0	1	50	1	50	2
Employer/employee dispute	7	30	5	22	0	0	11	48	0	0	23
Enforcement of court judgement/arbiter	3	21	7	50	1	7	0	0	3	21	14
Election petitions	0	0	0	0	0	0	1	100	0	0	1
Land/ communal dispute	1	6	4	25	0	0	10	63	1	6	16
Claims against government	2	18	4	36	1	9	0	0	4	36	11
Inheritance/probate matters	0	0	1	100	0	0	0	0	0	0	1
Prerogative of mercy	1	25	1	25	2	50	0	0	0	0	4
Breach of contract	7	78	1	11	0	0	1	11	0	0	9
Landlord/ tenant dispute	0	0	2	100	0	0	0	0	0	0	2
Matrimonial cases	0	0	1	50	0	0	0	0	1	50	2
Threat to life	11	41	6	22	2	7	7	25	1	4	27
Unlawful arrest & detention	6	38	4	25	1	6	4	26	1	6	16
Torture & inhuman treatment	5	31	5	31	1	6	3	19	2	13	16
General claims/miscellaneous	0	0	6	60	0	0	4	40	0	0	10
Others (unspecified)	3	20	0	0	2	13	0	0	10	67	15
Total	46	27	47	28	10	6	42	25	24	14	169

Source: Federal Ministry of Justice, Abuja

Table 23b: Number of petitions received by nature of petition and stage, 2014

Nature of petition	petition pending at the beginning	%	Petition filed during the year	%	Petition disposed of during the year	%	Petition pending at the end of the year	%	Others (unspecified)	%	Total
Women rights & gender issues	1	25	0	0	0	0	3	75	0	0	4
Employer/employee dispute	4	16	1	4	0	0	20	80	0	0	25
Enforcement of court judgement/arbiter	6	29	1	5	0	0	14	67	0	0	21
Election petitions	0	0	0	0	0	0	1	100	0	0	1
Land/ communal dispute	7	24	1	3	1	3	20	69	0	0	29
Claims against government	4	25	0	0	0	0	12	75	0	0	16
Inheritance/probate matters	0	0	0	0	0	0	1	100	0	0	1
Prerogative of mercy	0	0	0	0	0	0	1	100	0	0	1
Breach of contract	1	20	0	0	0	0	4	80	0	0	5
Landlord/ tenant dispute	1	25	0	0	0	0	3	75	0	0	4
Matrimonial cases	1	100	0	0	0	0	0	0	0	0	1
Threat to life	4	27	2	13	0	0	9	60	0	0	15
Unlawful arrest & detention	2	13	1	7	1	7	11	73	0	0	15
Torture & inhuman treatment	5	38	2	15	1	8	5	38	0	0	13
General claims/miscellaneous	2	14	0	0	2	14	10	71	0	0	14
Others (unspecified)	6	25	2	8	3	13	13	54	0	0	24
Total	44	381	10	5	8	4	127	67	0	0	189

Source: Federal Ministry of Justice, Abuja

23c: Number of petitions received by nature of petition and stage, 2015

Nature of petition	Pending at the beginning	%	Petition filed during the year	%	Petition disposed of during the year	%	Petition pending at the end of the year	%	Others (unspecified)	%	Total
Women rights & gender issues	1	50	0	0	0	0	1	50	0	0	2
Employer/employee dispute	6	60	0	0	0	0	4	40	0	0	10
Enforcement of court judgement/arbiter	3	60	0	0	0	0	2	40	0	0	5
Election petitions	0	0	0	0	0	0	0	0	0	0	0
Land/ communal dispute	11	79	0	0	0	0	2	14	1	7	14
Claims against government	14	82	0	0	0	0	3	18	0	0	17
Inheritance/probate matters	2	100	0	0	0	0	0	0	0	0	2
Prerogative of mercy	2	67	0	0	1	33	0	0	0	0	3
Breach of contract	3	50	0	0	0	0	3	50	0	0	6
Landlord/ tenant dispute	0	0	0	0	0	0	1	100	0	0	1
Matrimonial cases	3	75	0	0	0	0	1	25	0	0	4
Threat to life	9	69	0	0	1	8	3	23	0	0	13
Unlawful arrest & detention	9	50	1 6	0	0	8	44	0	0	18	
Torture & inhuman treatment		60	0	0	0	0	2	40	0	0	5
General claims/miscellaneous	7	88	0	0	0	0	1	13	0	0	8
Others (unspecified)	11	79	0	0	0	0	3	21	0	0	14
Total	84	69	1	1	2	2	34	28	1	1	122

Source: Federal Ministry of Justice, Abuja

There is no gainsaying the fact that ill-treatment and blatant erosion of the fundamental human rights of pre-trial detainees in the Nigerian Prisons remains unquestionably legally and morally wrong. The conditions of the prisons and the attitude of prison staff undermine the entitlement of pre-trial detainees as awaiting trials to local and internationally provided fundamental rights. There is a vast array of human rights provided by the Constitution for convicted offenders and awaiting trial inmates on access to fair treatment while in custody. It should be noted that prisoners generally are entitled to their human rights.

Apart from the Constitution of Nigeria, another national instrument that also protects the right of everyone, including prisoners, is the African Charter on Human and People's Rights (Ratification and Enforcement).[254] This instrument was put in place by the National Assembly in 1983 to make legislative provisions for the enforcement of the provisions of the Banjul Charter in Nigeria.[255] The following provision was made to further safeguard the interests of prisoners in Nigeria:

> Every individual shall be entitled to the enjoyment of the rights and freedom recognised and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status.[256] Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man, particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.[257]

6.11 Accounting for the protracted stay of pre-trial detainees in prisons in Nigeria

Different scholars have tried to outline some of the factors that cause delays in the trial of pre-trial detainees. Investigation reveals that majority of prison inmates are awaiting trial, not convicted. It is worthy of note that the prolonged length of stay by awaiting trial prison inmates are caused by a lot of factors, which are discussed below.

6.11.1 Stringent bail conditions imposed by judges and magistrates

There are several instances whereby, the bail conditions granted by the judge or the magistrate as the case may be, might be difficult for the detainee to meet. Accused persons, in most cases, are remanded straight away in prison upon arraignment based on court orders,

[254] The Banjul Charter (Ratification and Enforcement) Act (n 225).
[255] As from the commencement of this Act, the provisions of the Banjul Charter, which are set out in the Schedule to this Act shall, subject as thereunder provided, have force of law in Nigeria and shall be given full recognition and effect and be applied by all authorities and persons exercising legislative, executive or judicial powers in Nigeria. See the preamble of the Banjul Charter (Ratification and Enforcement) Act (n 225).
[256] The Banjul Charter (Ratification and Enforcement) Act (n 225) Article 2.
[257] ibid Article 5.

particularly in capital offences. In most instances, bails are granted with strigent conditions and the accused person might find it really difficult to meet bail conditions given, thus they remain in prison custody until they are able to perfect the bail conditions, thus leading to congestions in prisons.[258] Moreover, as accused persons remain in prison, they might lose their job and businesses, thus, making them unable to provide for their families, face challenges in preparing their defence and may also be downgraded by the public. It is important to say at this juncture that, the degrading prison condition that the accused goes through, is a contravention of the right to dignity of detainees.[259] It is apposite to mention that the power given to magistrates to exercise their discretion judicially and judiciously allows them to give stringent and onerous bail conditions even on minor offences and misdemeanour. All these congest prisons. Therefore, the conduct of judges and magistrates should be guided.

6.11.2 Involvement of judicial workers on industrial actions (strikes)

Intermittent and planned industrial action by judicial workers is also a major factor in the delay of trial of awaiting trial inmates. The Judicial Staff Union of Nigeria (JUSUN) is a union of the judicial workers in Nigeria registered under the Trade Union Act as an affiliate of the Nigerian Labours Congress (NLC), which is the registered umbrella body of the Nigerian Government Workers. Judicial workers have, on several occasions, been involved in industrial actions, either by joining the entire Nigerian work force organised by the Nigerian Labour Congress (NLC) or by embarking on their own strike to press home their unmet demands from government. This can happen either at the state or federal level since there are Federal and State Judiciaries in Nigeria. For example, in 2015, judicial workers, under the aegis of The Judicial Staff Union of Nigeria (JUSUN), embarked on industrial action, which lasted seven months (January to July). The industrial action was embarked upon to press for unpaid salaries and allowances, special salary scale, better funding, better working conditions, judicial autonomy and other demands. This paralysed the judicial system as there were no court sittings throughout the period. Imagine the effect on awaiting trial inmates,

[258] Akinseye-George (n 112) 310; See Also Criminal Code Act Chapter C38 LFN, 2004, Section 120 and the case of *Tochukwu v F R N* (2005) All FWLR pt 278 at 1072-1073, where it was held inter alia.... 'To ask that a surety must not be lower in rank than that of a Director in the Federal Civil Service is to give a condition which is unattainable and therefore negates the Court's decision to grant bail'.

[259] The Constitution of the Federal Republic of Nigeria (n 77) Section 34; Universal Declaration of Human Rights (n 217) Article 5.

who had to remain in prisons without trial for such period of time because of industrial action.[260]

6.11.3 Impromptu transfer of investigating police officers

It is a common thing in Nigeria to find out that an investigating police officer in a criminal case has been transferred from one station to another at the middle of trials.[261] Poor investigative skills on the part of the police in pre-trial investigations is also a problem, if they will ever investigate in the first place.[262] Moreover, it is now a common place for a policeman to take bribe or other forms of gratification to carry or desist from carrying out his assigned obligations; unless their palms are greased with one form of inducement or another, they will not do what they are employed to do. This has delayed so many trial processes. As a result, the accused person will remain in custody until the officer in charge is available before the trial can carry on.[263]

6.11.4 Inconclusive police investigation

It is common in Nigeria for investigations (by the police) into criminal cases to last so long that by the time the offender eventually appears in court, he or she has spent months or years in custody, which, at times, is equivalent to or above the terms of imprisonment the offence demands if convicted. Unfortunately, victims of such abuse of human rights oftentimes, are kept in detention without being granted bail. In *Dambaba v the State*,[264] it was held that an accused should be granted bail except where it would prejudice police investigation. Meanwhile, the Constitution provides for the right of the person arrested or detained to be charged to a court of law within a stipulated period.[265] However, the Nigerian Police claim that they cannot investigate a crime and interrogate suspects within such a short period of time.[266] Going by the provision of the Nigerian Constitution, it is stipulated that:

> A detained person has to be informed within 24 hours of the crime, and be brought before a competent court within 24 hours provided the court is within 40 kilometres from the place of detention or 48 hours if it is more than 40 kilometres.[267]

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[260] 'Judicial Workers End 7 Months Strike in Edo-7 July 2015'<www.newsnownigeria.com.ng/judicial-workers-end-7-month-strike-in-edo> and Anambra Judiciary Workers suspends Four-Month's strike – 22 April 2015, < www.punchng.com/news/anambra-judiciary-workers-suspend-four-month-strike> accessed 16 May 2017.
[261] Ogwezzy, Adebayo and Kekere (n 175) 70.
[262] Ibraheem, (n 30) 792.
[263] Akinseye-George (n 112) 303; Alemika Etinabi O 'Trends and Conditions of Imprisonment in Nigeria' (1993) 37 International Journal of Offender Therapy and Comparative Criminology 147, 147; Ololade Olateru Olagbegi 'Delay and Congestion in the Administration of Justice' (2009) 1 Akungba Law Journal 355, 357.
[264] (2000) 14 NWLR pt 687.
[265] The Constitution of the Federal Republic of Nigeria (n 77) Section 35.
[266] Adetanmi (n 36) 165-166.
[267] The Constitution of the Federal Republic of Nigeria (n 77) Section 35(5).

In addition, the accused has to be tried within two months from the date of arrest or detention, and within three months in the case of a person not entitled to bail.[268] However, in practice, the case is different, particularly when the person is suspected to have committed a capital offence.[269]Also, detention before trial, in some cases in Nigeria, is rarely less than five years, and in most cases, above ten years[270]. Under such circumstances, it is suggestedthat such pre-trial detainees should be considered innocent and acquitted accordingly.

6.11.5 Insufficient number of judges and magistrates in courts

Lack of adequate number of judicial officers, most especially judges and magistrates, to handle the overwhelming number of criminal trials in Nigerian courts, also contributes to delays in trials. The number of judges and magistrates, in most cases, are too low to handle the large number of criminal trials in the courts. Government, at the state and federal levels, do not always have the political will to appoint judges and magistrates to meet up with the influx of cases in the various courts. Judicial workers retire on a regular basis, some get their appointments terminated due to ethical misconduct, many become incapacitated or die in active service, while some others voluntarily resign. Unfortunately, the vacancies created by the officers who are no longer in the services of the judiciary are not always filled. Given the fact that recruitment of judges and magistrates is not done on a regular basis, and that people are leaving the services for the reasons given above, the work force continues to dwindle. This is worsened by the increasing number of cases trooping into the court as a result of the increasing rate of crime. This situation places more work load on the few judges and magistrates, thus, bringing about holdups to speedy trials. The performance of judges and magistrates with regard to efficient and prompt delivery of justice is, therefore, negatively affected, and consequently, affects Nigeria's criminal justice system.

6.11.6 Delay in providing legal advice

In Nigeria, there are many offences which must be referred to the office of the Director of Public Prosecution, to give legal advice before trial can commence.[271] In most cases, it takes quite a long period (which can be for months and even years) for such legal advice to be

[268] ibid Section 35(4).
[269] Marthins Schoentich, *Presumption of Guilt the Global Overuse of Pretrial Detention* (Open Society Justice Initiative 2014) 7.
[270] ibid.
[271] Ogwezzy, Adebayo and Kekere (n 107) 70.

issued.[272] There are even situations where such advice will never be provided. The court is left with no option than to wait for the advice for trial to commence while the accused remains in prison custody since that is what is required by the laws of Nigeria.

6.11.7 Numerous adjournments and delays by legal counsel

In many cases, even when a trial process has begun, the process becomes stalled by factors ranging from request for adjournments by legal counsels to parties, to court injuctions.[273] In Nigeria, most counsels get themselves involved in this unprofessional conduct straight away in order to keep the cases pending in court in a bid to keep getting appearance fees (that is, the appearance fee collected from clients everytime they appear in court).[274]

6.11.8 Arbitrary arrests and detention by police officers

In addition, Tables 23a, 23b and 23c show that unlawful arrests and detention are still issues to contend with in the Nigerian Criminal Justice System. From the Tables, 4 petitions were by the judiciary, received on unlawful arrests and detention in 2013, but increased to 16 in 2015, an indication that the unlawful act has continued to increase. The police usually arrest arbitrarily and throw such people into prison directly on trumped up charges, particularly when such people are not able to meet their monetary demands. Such usually occur when the police are 'dry', that is, in urgent need of money.

Ordinarily, the criminal justice system is invented to be chronological, that is, from primary contact of crime, investigation, arrest, arraignment, trial, sentencing and appeal but unfortunately, what we have is arrest before investigation, thereby constituting congestion in prisons.[275] For example, Tajudeen Ibraheem describes the experience of a prison warder in Enugu as follows:

> The greatest problem we have is the Special Anti-Robbery Squad (SARS) Police. They bring in accused persons directly from their night raids, flashing their warrants and demanding that they should be detained in jail here. When the SARS thus by-pass the normal procedures, they fill the prison with prisoners who have neither lawyers nor hearing dates and are thus, lost.[276]

[272] Agbonika John and Alewo Musa, 'Delay in the Administration of Criminal Justice in Nigeria: Issues from a Nigerian view point' (2014) 26 Journal of Law, Policy and Globalization 130, 134.
[273] Yemi Akinseye-George (n 112) 310; Henry O Omorere, *Lost Legacies: And Broken Promises of our Fathers* (Xlibris Corporation 2011) 115-116.
[274] Ogwezzy, Adebayo and Kekere (n 107) 69.
[275] ibid; Criminal procedure,<http://legal-dictionary.thefreedictionary.com/Criminal+Procedure> accessed 1 July 2017.
[276] Ibraheem (n 30) 788.

Furthermore, individuals who are not suspected of committing any crime are incarcerated in the Nigerian Prisons along with those suspected or convicted of crimes.[277] A check with any police station reveals that arrests are made on a regular basis. Up till now, Nigeria is yet to put in place a suitable mechanism that will ensure that these people are either granted bail or arraigned before appropriate courts within the time stipulated by the law. Thoughtful attention is, therefore, needed to be dedicated to inspection of unselective arrests and confinement in police custodies across Nigeria.

6.11.9 Abuse of power of holding charge

Holding charge, as the name implies, is a frame up charge.[278] Holding charge has been condemned by many scholars. For example, Akinseye George maintains as follows:

> It is inappropriate, unconstitutional and usually used by the police in holding an accused person in custody while they carry out investigation and gather proof to bring the accused person before the proper courts for trial;[279] the use of holding charge has constituted a main source of overcrowding in the Nigerian Prisons and a major block up of the Nigerian Criminal Justice System.[280]

6.11.10 Unavailability of legal representation

A vast number of persons awaiting trial in prisons across the country, whose trials were delayed, is as a result of their inability to access the services of legal practitioners.[281] Corroborating this assertion, Emeka Owan emphasises that these groups of detainees lack the financial standing to secure the legal services of lawyers, who could thrust for their quick trial.[282] Many of the accused are indigent and driven into criminality because of their unfortunate financial backgrounds. Going by this condition, it would be virtually impossible for them to secure the services of a lawyer. Since without a legal representation, the accused might not likely receive fair hearing during trial, hence they are left in detention until they can provide lawyers or alternatively, when government provides legal assistance through the Legal Aid Scheme, which is not always feasible.

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[277] Biko Agozino, 'Nigerian Women in Prisons: Hostages in Law' in Viviane Saleh-Hanna (ed), *Colonial Systems of Control: Criminal Justice in Nigeria* (University of Ottawa Press 2008) 249.
[278] Efemini M Ovo, *Modern Nigerian Constitutional Law: Practices, Principles and Precedents* (Malthouse Press 2017) 92; Akinseye Goege (n 112) 305.
[279] ibid; Ogwezzy, Adebayo and Kekere (n 107) 69.
[280] ibid Akinseye Goege (n 112) 305-306.
[281] Owan, Achu, Dien and Uyang (n 98) 2.
[282] ibid 1-2.

6.12 Recidivism in prisons in Nigeria

According to the Black's Law Dictionary, recidivism is described as 'repetition of criminal behaviour'.[283] Recidivism is defined as:

> The act of reengaging in criminal offence despite having been punished and released from prison, rearrested, reconvicted or returned to custody within a specific time period. Again, it is defined as the relapse into crime of a person once convicted and punished for a crime.[284]

Typically, recidivism studies show that offenders are returned to prison for one of two reasons:

1. For committing a new crime that results in a new conviction; or
2. For not adhering to the terms and conditions of their release.

Offenders are likely to repeat the same steps that brought them to jail in the first place if the prisons do not work on their behaviour. Ijeoma examined this issue and posits as follows:

> This is a problem that needs to be addressed head-on. We cannot say we are doing everything we can to keep our communities and families safe if we are not addressing the high rate at which offenders are becoming repeat criminals; the social structure of prisons and prison practices generally inhibit rehabilitation and reintegration. It encourages inmates to acquire attitudes and knowledge from other inmates that may strengthen their desire to engage in criminal behaviour and improve their criminal skills.[285] Recreational facilities and skills acquisition centres are lacking in most Nigerian prisons; this is unacceptable for a place that ought to be a rehabilitation and reformation centre.[286]

Table 24 shows the trend of recidivism in Nigeria. Investigations revealed that statistics are not available at the state level because repeat offenders tagged 'hardened criminals', are most often, among the inmates transferred from one prison to another. The Table shows that from 2005 to 2015, recidivism ranged between 3,644 and 25,582 (convicted twice), 1,553 to 20,022 (convicted three times), 1,620 to 15,764 (convicted four times), 971 to 63,063 (convicted five times) and 953 to 1,159 (convicted six times and above). The Table also shows that between 2005 and 2015, the number of inmates in the Nigerian Prisons who were repeated offenders (convicted twice and above), ranged between 8,947 and 68,984, representing seventeen to forty-four percent of the prison population. Unfortunately, this

[283] *Black's Law Dictionary* (7th edn, West Publishing Co 1999) 1276.
[284] *Blantine's Law Dictionary* (3rd edn, The Lawyers Cooperative Publishing Co 1969) 1065; Adeola Shobola and Taiwo O Ajeigbe, 'Inmates Incarceration and Family Support as Precursors of Prison Recidivism in Nigeria' (2015) 11 European Scientific Journal 492, 492.
[285] Ijeoma (n 116).
[286] ibid 217.

trend has not changed over time but is getting rather worse. For instance, in 2005 (over ten years ago), only about seventeen percent of prison inmates were second time offenders. This, ironically, increased to about twenty-three percent of the prison population in 2014 with 31,161 out of the 138,034 inmate population. The menace of recidivism is so intense in Nigeria to the extent that inmates who have been convicted six times and above in the Nigerian Prisons, ranged between 838 and 1,159 from 2005 to 2015.

The statistics clearly show that the rate of recidivism is high in Nigeria based on the number of inmates in Nigerian Prisons who have been convicted more than once. This is an indication of the poor state of prison administration in discharging its duties in terms of reformation and rehabilitation of offenders before releasing them back to the society. For example, recently, a 41-year old and seven-time convict, Emmanuel Oyewumi, was arrested by the Rapid Response Squad of the Lagos State Police, Ojodu Berger Area of Lagos. While pleading for leniency, he admitted that he had been imprisoned three different times in 2016 and in totality, he had been in and out of prison seven times.[287] Moreover, several persons who are incarcerated in the Nigerian Prisons often times do not undergo any form of reformation that can prevent future criminal behaviour. Instead, they come back from prison worse.[288] The high rate of recidivism in recent times, as earlier observed, has become annoying and disturbing. There is no gainsaying of the fact that an increase of recidivism can frustrate or measure down development in any country. This is because crime is disorderly and damaging, especially violent ones, and if this is allowed to flourish or uncontrolled, it can lead to a state of formlessness and perhaps, (eventually or unexpectedly) result in the vanishing of a society or groups. An illustration is the case of the Boko Haram war in Nigeria that has made many villages in Borno State to be empty.[289] Henceforth, there is need for another look into correctional institutions and the reformation of inmates. [290]

One of the criteria and measures for judging the effectiveness of the prison system and its reformative proficiency is the number of inmates who remain outside the prison wall after finishing their jail terms.[291] Apparently, from Table 24, two out of three prisoners released from prisons often find their way back there within a short time of their release. Statistics show that over sixty percent of inmates are recidivists, that is, inmates who have

[287] Folarin Samson., 'I don't want to go to the Prison the Eighth Time' *The Punch Newspaper* (Nigeria 10 October 2016) < http://punchng.com/dont-want-go-prison-eighth-time-suspect > accessed 3 July 2017.
[288] Ibraheem (n 30) 792.
[289] Virginia Comolli, *Boko Haram: Nigeria's Islamist Insurgency* (Oxford University Press 2015) 4.
[290] May Omogho Esiri, 'The Upsurge of Recidivism and the Penitentiary Institutions in Nigeria' (2016) 7 International Journal of Business and Social Science 184, 185.
[291] Ojo Tajudeen Ibraheem (n 30) 792.

been convicted more than once. It is clear evidence that the prison system has failed woefully in treating the anti-social behaviour of prisoners in Nigerian Prisons.[292] Most Nigeria's prisons do not have vocational and educational programmes, psychological counseling and collection of services available that can assist inmates to improve their skills, education and self-concept. Most Nigerian Prisons do not have programmes designed to reintegrate the prisoner into the community. Often times, they become hardened enemies of the society.[293] The fact remains that most offenders released become perpetual criminals because of idleness; they neither go to school nor learn any apprentice that can serve as a means of livelihood after jail term. Honestly, they are a confused set of people who do not even know what to do with their lives. There is a need to keep inmates meaningfully busy. In such situations, if the prison can do the work of reformation through vocational trainings and they are gainfully employed at the end, there will be no time to think of crime, and definitely, crime will reduce in the society.

Additionally, recidivism is also hindered by the inability of the Nigerian Prisons Service to provide tools and funds for discharged inmates to start their own trades. Besides, the prison system cannot even afford to pay the transport fare of the vast majority of discharged inmates on the day of discharge in most cases.[294] It is quite unfortunate that what obtains in Nigeria's prisons today is from reformation to deformation.

Table 24: Prison admission by number of times of imprisonment (Recidivism) in Nigeria, 2005-2015

Terms of imprisonment	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015 (as at Q2)
First offender	33,275	26,810	83,176	47,697	56,981	76,713	78,580	-	111,487	97,298	33,862
Convicted once	11,089	10,791	27,891	25,380	30,386	43,355	14,019	-	19,061	9,575	6,347
Convicted twice	3,644	5,909	22,192	21,557	25,582	20,358	10,120	-	11,903	15,061	2,951
Convicted thrice	1,553	2,530	19,665	16,896	20,022	17,541	7,200	-	7,291	8,116	1,469
Convicted four times	1,620	2,040	2,471	13,131	15,764	9,120	13,103	-	4,555	4,568	536
Convicted five times	971	1,102	3,064	5,368	6,457	4,380	7,672	-	3,063	2,386	295
Convicted six or more times	1,159	938	959	755	1,159	901	838	-	849	1,030	232
Total	53,311	50,120	159,418	130,784	156,351	172,368	131,532		158,209	138,034	45,692

- represents data not available, Q2 means second quarter of the year

Source: Nigerian Prisons Service

[292] ibid 792.
[293] Uche Ijeoma B, Uche Okala A, Ezumah Nkoli N, Ebue Malachy O, Okafor Agnes E and Ezegbe Bernedeth Nkiruka, 'Effectiveness of Rehabilitation Programs in the Nigerian Prisons: A Study of Perception of Inmates in Enugu Prison'(2015) 6 Mediterranean Journal of Social Sciences 164, 165.
294 Ibraheem (n 30) 792.

6.13 Summary of chapter

The role of prisons in Nigeria's criminal justice system as well as challenges faced were examined and discussed. It was observed that development has been very slow in the correctional institutions sector as a key player in the Nigerian Criminal Justice System because attention tends to focus on solutions to societal problems without first looking at the cause(s) of the problems.

The historical evolution of the Nigerian prison system was examined, and it was observed that there was a form of imprisonment in Nigeria during the pre-colonial era, however, the prison system in Nigeria today is a product of the British Government over the Lagos Colony in 1861.

The different categories of prisons in Nigeria were examined on the basis of the nature of offence committed, age of the offender and duration of jail term. The functions of prisons were identified as including keeping safe custody of prisoners; presenting inmates in courts; identifying the cause(s) of their convictions; and reformation; among others.

Challenges faced by the Nigerian prison system were also discussed as they affect Nigeria's criminal justice system, and possible solutions to the conundrum. It was observed that most prisons in Nigeria were built in the first two decades of colonial rule, hence they are already in a bad shape and outdated. Corruption; inadequate funding; lack of political will to ameliorate the situation; and infrastructural decay are notable challenges faced by prisons in Nigerian.

Overcrowding was examined as a major factor faced by the Nigerian prison system; and awaiting trial inmates contributing largely to this. Stringent bail conditions; incessant industrial action by judiciary workers; indiscriminate transfer of investigating police officers; inconclusive investigations by the police; holding charge; inadequate manpower; and lack of legal representation; among others; are factors responsible for delays in trial.

It was submitted in the chapter that denial of access to justice and other abuse of the rights of prisoners in Nigeria are not only sub-human right standards but also put the Government of Nigeria in breach of its international obligations. Several of such instruments were identified and examined as follows: the Universal Declaration of Human Rights; International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; the United Nations Safeguards Guaranteeing Protection of the Rights of those Facing Death Penalty; the Declaration on the Basic Principle of Justice for Victims of Crime and Abuse of Power; the Tokyo Rules; the Bangkok Rules; the Nelson Mandela Rules; and the Banjul Charter; among others. What is observed in practice in

Nigeria's prison system today is in contrast to the established standards stipulated by international, regional and national instruments. The Nigerian Government must enforce the implementation of the dictates of these instruments in order to fulfill its own part of the obligations.

The researcher believes challenges faced by prisoners, especially those in pre-trial detention, can be overcome by stipulating a time limit to remand, providing a daily schedule of criminal trials, provision of legal representation and removal of all bottlenecks against access to justice. Referring cases to the Department of Public Prosecution (DPP) for legal advice before commencement of trial is also a possible remedy. Appointment of prosecutors, preferably lawyers who are employees of government, to prosecute all criminal cases instead of using police officers who are either lay and liable to transfer at any time could also help.

Besides, there is need for a shift from punishment as the main goal of criminal justice in Nigeria to restorative justice. It is imperative to deemphasise the Retribution Theory as much as possible while mandatory utilisation of plea bargain could possibly assist. However, the researcher expressed reservation on plea bargain as it is a soft landing for criminal offenders to evade justice in Nigeria. Adequate funding, provision of recreational facilities, skills acquisition and empowerment of prisoners could reduce the rate of recidivism and bring about rehabilitation and reintegration into the society.

Furthermore, the Nigerian Prisons Service is centrally administered, thus every prison in Nigeria is a federal institution. Therefore, decentralisation of Nigeria's prison system to involve States and private organisations is suggested based on the experience from developed countries such as the United States of America and Canada that have more functional prison systems. Having considered all these, the next chapter examines the constitutional amendment in 2011 and Administration of Criminal Justice Act 2015. It identifies areas relevant to criminal cases and points out their impacts on the Nigerian criminal justice system.

CHAPTER SEVEN

CONSTITUTIONAL AMENDMENT, 2011 AND ADMINISTRATION OF CRIMINAL JUSTICE ACT, 2015

7.1 Introduction

Having done a critique of the prison as the final phase in Nigeria's criminal justice system and the challenges it currently faces in the previous chapter, this chapter focuses on the Constitutional Amendment, in 2011 and the Administration of Criminal Justice Act, 2015. It identifies areas relevant to criminal cases and points out their impacts on the Nigerian criminal justice system.

7.2 Impact of constitutional amendment on Nigeria's Criminal Justice System

Nigeria, like many other nations, has a history of its constitutional development.[1] Nigeria became a self-governing state on 1st October, 1960. The effect of this on the nation was that it attained full responsible status within the commonwealth. Thus, legal status of the country ceased from being a colony and protectorate of Nigeria and a declaration was made that, as from 1st October, 1960, 'Her majesty's Government in the United Kingdom shall have no more responsibility for the Government of Nigeria or any part thereof'.[2] Conversely, as a result of independence, the 1960 Constitution came into being to govern the do and don'ts of the country.[3]

In 1999, a new Constitution was drafted for Nigeria and handed over to Nigeria by the military.[4] This Constitution has witnessed a series of amendments to date; the most significant is that of 2011.[5] The amendment was referred to as 'Alteration'.[6] It is good to examine this amendment as it has shaped the criminal justice system in Nigeria. The crux of this discussion is to look into the amended sections that has impacted positively in the administration of the criminal justice system in Nigeria. It is good to examine the amendments because the Constitution was handed over by the military, thus it had faced tremendous criticisms until the amendments were done.[7] The amendment were carried out by

[1] Udo Udoma, *History and the Law of the Constitution of Nigeria* (Malthouse Press Ltd, 1994) 39.
[2] ibid.
[3] ibid.
[4] Robert I Rotberg, *Crafting the New Nigeria: Confronting the Challenges* (Lynne Rienner Publisher 2004) 176.
[5] Karen Hess,Christian Hess and Henry Lim, *Criminal Investigation* (Centage Learning 2016) 203,
[6] ibid.

[7] Rotberg (n 4).

elected members of both Houses of Assembly of the 36 States and members of the National Assembly (Senate and House of Representatives).[8]

The 2011 amendment on the Nigerian 1999 Constitution made a tremendous positive contribution to the criminal justice system, specifically on the rights of offenders in criminal matters. Although the amendment does not alter the position of the law, it rather makes it more explicit and clearer in the interpretation without putting the courts in a dilemma of using their discretion to interpret the law to suit any matter before them.

The amended Constitution also protects the rights of an accused person as it provides a safeguard for trial in criminal cases; for example, the constitutional safeguards in section 6 is an attempt to give Constitutional sanctity to the existing common law, fundamental prerequisite for a fair trial.[9] It is imperative to state that it is only a court in the Constitutional sense that can convict and sentence an offender for a criminal offence.[10] The significant implication of this section 6 is that only a competent Court is conferred with power to convict and sentence. The provision of the 1999 Constitution in section 36 states that any 'court or tribunal'…… has been amended to the new provision of the amended constitution in section 6 The provision of the 1999 constitution in section 36 that any 'court or tribunal'…… this provision must be read in line with the new provision of the amended Constitution in section 6, wherein tribunals cannot convict or sentence an offender however independent or impartial the tribunal may be.[11] Suffice to state that this constitutional safeguard cannot be denied in criminal trial in the interest of public safety, public health and public morality.[12]

Furthermore, Nigeria 1999 Constitution as amended in section 214(2)b provides that 'members of the Nigerian Police Force shall have such powers and duties as may be conferred on them by the law';[13] the implication of this clause is applauded as it will render every police action that is not expressly provided for in the Constitution null and void. Conversely, it will also eradicate some police practices that cannot be guaranteed under the law such as involvement in civil matters. Therefore, by implication, police responsibilities and their actions are cardinal and must be rooted in the ground norm and constitutional measures.

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[8] Henry Beinen, *Political Conflict and Economic Change in Nigeria* (Routledge 2013)143.
[9] The Constitution of the Federal Republic of Nigeria 1999 Cap 23 LFN, 2004 Section 35(1) as amended 2011.
[10] Benjamein O Nwabueze, *The Presidential Constitution in Nigeria* (Sweet &Maxwell 1982) 211.
[11] Rufus Akinyele and Ton Dietz (ed), *Crime, Law and Society in Nigeria: Essay in Honour of Stephen Ellis* (Brills 2019) 249.
[12] Chucks Okpabula, *The Right to Fair Hearing in Nigeria* (Matt Madek &co 1990) 218.
[13] See generally, Charles Mwalimu, *The Nigerian Legal System: Public Law* (Peter Lang 2005) 900; The Constitution of the Federal Republic of Nigeria (n 1) Section 214(2) (b).

The 2011 amendment also guarantees the right of offenders to personal liberty. Section 35(1) provides as follows:

> 'Every person shall be entitled to his personal liberty and no person shall be deprived of such liberty save in the following cases and in accordance with a procedure permitted by law.[14]

This section is only applicable when the matter is still with the police, that is, before the matter is charged to court. Nevertheless, there are six constitutional exceptions to this provision. The exceptions are as follows:

1) In execution of the sentence or order of a court in respect of a criminal offence of which he has been found guilty;[15]

2) By reason of his failure to comply with the order of a court or in order to secure the fulfillment of any obligation imposed upon him by law; [16]

3) For the purpose of bringing him before a court in execution of the order of a court or upon reasonable suspicion of his having committed a criminal offence, or to such extent as may be reasonably necessary to prevent his committing a criminal offence;[17]

4) In the case of a person who has not attained the age of eighteen years, for the purpose of his education or welfare;[18]

5) In the case of a person suffering from infectious or contagious disease, persons of unsound mind, persons addicted to drugs, alcohol or vagrants, for the purpose of their care or treatment or the protection of the community;[19] or

6) For the purpose of preventing the unlawful entry of any person into Nigeria or of affecting the expulsion, extradition or other lawful removal from Nigeria of any person or the taking of proceeding relating thereto.[20]

In view of the above, it is a fact that that the 2011 constitutional amendment has impacted positively on the Criminal Justice System Nigeria.

[14] The Constitution of the Federal Republic of Nigeria (n 1).
[15] ibid Section 35(1) (a).
[16] Ibid Section 35(1) (b).
[17] ibid Section 35(1) (c).
[18] Ibid Section 35(1) (d).
[19] Ibid Section 35(1) (e).
[20] Ibid Section 35(1) (f).

7.3 The New innovations and impact of Administration of Criminal Justice Act, 2015 on Nigeria's criminal justice system

The Administration of Criminal Justice Act, 2015 (ACJA), apparently, is the most recent law currently applicable in Nigeria in the realm of Criminal Justice System, and is widely applicable due to its innovative nature. This Act, which was signed into law in May 2015, contains 495 sections and divided into 49 parts. The Act was enacted principally to resolve some notable challenges of the criminal justice system; hence the Administration of Criminal Justice Act merged the provisions of the two principal criminal justice legislations in Nigeria, that is, Criminal Procedure Act (CPA), which is applicable in the South, and the Criminal Procedure Code (CPC), which is applicable in the North. Though it preserves the existing criminal legislation, it introduced new provisions to enhance the efficiency of the justice system and help to fill the lacuna observed in these laws over the years. In addition, it also spreads its tentacles on every administration of criminal justice and related matters in the courts of the Federal Capital Territory and other Federal Courts in Nigeria. Indeed, it addresses a lot about criminals, from the cradle to the grave. With the promulgation of the Administration of Criminal Justice Act, Nigeria now has a single and unified law applicable in all federal courts and with respect to offences contained in federal legislation.

The main essence of the Act is captured in Section 1 as follows:

> The purpose of this Act is to ensure that the system of administration of criminal justice in Nigeria promotes efficient management of criminal justice institutions, speedy dispensation of justice, protection of the society from crime and protection of the rights and interests of the suspect, the defendant, and the victim.[21]

The provisions of the 2015 Administration of Criminal Justice Act will certainly help the Nigerian Criminal Justice System if applied in its paradigm shift from punishment as the main goal of the criminal justice to restorative justice. The Act pays thoughtful attention to the desires of the society, the victims, defenseless persons and human dignity at large. The common tone of the Act puts human dignity in the fore front, especially the approval of the word 'defendant' instead of 'accused', to its provision for humane treatment during arrest,[22]

[21] Administration of Criminal Justice Act, 2015 Section 1.

[22] ibid Section 8(1) (a); John Otene Omale, 'Restorative Justice as an Alternative Dispute Resolution Model: Opinions of Victims of Crime and Criminal Justice Professionals in Nigeria' (PhD thesis, De Montfort University Leicester UK 2009) 7.

to its numerous provisions for speedy trial. These provisions include suspended sentencing;[23] release on parole;[24] community service;[25] compensation to victims of crime;[26] among others. Consequently, some of the innovative provisions of the Act are considered to be helpful from arrest to trial and to decongest the prisons. It is however imperative to mention that the ACJA does not apply to Court Martial, as expressly provided for in the Act.[27] The specific areas of innovation with positive impact on the ACJA to the criminal justice system in Nigeria are hereby discussed.

7.3.1 Imposition of suspended sentence(s) and community services

Suspended sentence is defined as:

> The practice of delaying an offender from serving a sentence after he must have been found guilty by the court, provided the offender complies with the conditions set by the court as requirement for the suspended sentence;[28] and the purpose of suspended sentence is to give the offender an opportunity to go through the process of probation and reformation.[29]

A community service order is defined as:

> An order of the court sanctioning an offender to embark on a certain number of hours of unpaid work for the advantage of the community;[30] the reason is that the community is regarded as the victim of the crime, thus calls for some kind of compensation and restitution.[31]

Hence, the Administration of Criminal Justice Act, 2015 in fulfilment of its reformative and restorative approach, provides that a court, having considered the need to decongest prisons, rehabilitates prisoners by making them to embark on fruitful work. Also, avoiding convicts

[23] Administration of Criminal Justice Act (n 21) Section 460(1).
[24] ibid Section 468(a) & (b). This is a situation whereby the Court may direct the release of prisoners before completion of sentence. As the controller- general of prisons, makes a report to the court recommending that a prisoner: (a) sentenced and serving his sentence in prison, is of good, behaviour and (b) has served at least one – third of his sentence in prison term, where he is sentenced to imprisonment for a term of at least 15 years or where he is sentenced to life imprisonment, the court may, after hearing the prosecution and the prisoner or his legal representative, order that the remaining term of his imprisonment be suspended. Based on that order.
[25] Administration of Criminal Justice Act (n 21) Section 460(2).
[26] ibid Section 314.
[26] ibid 318.
[27] Administration of Criminal Justice Act (n 21) Section 2(2).
[28] Criminal Procedure Act Cap 41 LFN, 2004, Section 435(1).
[29] Abubakri O Yekini and Mashkur Salisu, 'Probation as a Non-Custodial Measure in Nigeria: Making A Case for Adult Probation Service' (2013) 7 African Journal of Criminology and Justice Studies 101, 103.
[30] Administration of Criminal Justice Laws of Lagos State, 2011, Section 347; Paul Smith, *Moral and Political Philosophy: Key Issues Concept and Theories* (Palgrave Macmillan 2008) 26; Iyabode Ogunniran, 'The Lock and Key Phenomenon: Reforming the Penal Policy for Child Offenders in Nigeria' (2013) 10 Justice Journal 1, 16; Yahaya Abubakar Muhammad, 'Reflections on the Introduction of Plea-Bargain and Community Service by the Administration of Criminal Justice Law 2007 in Lagos State and the Administration of Criminal Justice Act, 2015 in Nigeria' (2017) 58 Journal of Law, Policy and Globalization 91, 97.
[31] Ogunniran (n 23) 16; Yekini and M Salisu (n 22) 101.

who commit simple offences from mixing with hardened criminals may, with or without conditions, suspend a convict's sentence as the case may be. Such convict might not be required to serve the sentence in accordance with the conditions of the suspension or the convict may be sentenced to specified service in his community or such community or place as the court may direct. As long as though, the offence for which the convict was tried does not involve the use of arms or violent weapon, or for an offence which the punishment goes beyond imprisonment for a term of three years.[32]

7.3.2 Curbing the number of unlawful arrests

Curbing unlawful arrest, particularly by the Nigerian Police is one of the provisions of the Act that should gladden the heart of every Nigerian. According to Section 10(1) of the Criminal Procedure Act (CPA), the police could arrest without a warrant, any person who has no apparent means of sustenance and who cannot give an acceptable account of himself. This particular provision has been greatly abused by the police who use it as a ground to arrest people arbitrarily. Interestingly, the provision has been expunged by the ACJA. As such, the police can no longer make such arrest or arrest persons in lieu of suspects, according to the provision of the Act.[33] Despite the law that prohibits this act, the Nigerian Police have not stopped. Majority of people in police cells in Nigeria are there largely due to unlawful arrests. For instance, if the husband who is supposed to be arrested cannot be found, the police will arrest the wife or a relative until the actual suspect is found. Since the arrested relative cannot be charged to court because he is not the real suspect, he/she will continue to languish in police cells hopelessly even when no offence has been committed.[34]

7.3.3 Accepting women as sureties

Prior to the promulgation of the ACJA, a lot of people have not been able to perfect their bail conditions because of the discrimination of women to stand as surety.[35] In the justice system in Nigeria and what is obtainable in practice, women were not allowed, in most cases, to

[32] Administration of Criminal Justice Act (n 21) Section 460.
[33] ibid Section 7 Arrest in lieu is prohibited.
[34] Folashade B Okeshola, 'Human Rights Abuse by Nigerian Police in Four Selected States and the Federal Capital Territory, Abuja' (2013) 13 British Journal of Arts and Social Sciences 242, 243; Okonkwo Cyprian O, 'The Nigerian Penal System in the Light of the African Charter for Human and People's Rights' in Kalu A and Osinbajo Yemi (eds), *Perspectives on Human Rights* (Federal Ministry of Justice 1992) 94; Comfort Chinyere Ani, 'Reforms In The Nigerian Criminal Procedure Laws' (2011) 1 Journal on Criminal Law and Justice 52, 58.
[35] Nnamdi J Aduba and Emily I Alemika, Bail and Criminal Justice Administration in Nigeria <https://issafrica.s3.amazonaws.com/site/uploads/M161C5>accessed 1 July 2017.

stand as sureties for bail before the enactment of the Act.[36] This is, of course, one of the provisions of the Administration of Criminal Justice Act, 2015 that has been applauded the most. This is because it has finally laid to rest the long-standing controversy as to whether a woman can stand as a surety for a bail applicant.[37] As such, the Administration of Criminal Justice Act provides that:

> No person shall be denied, prevented or restricted from entering into any recognition or standing as surety for any defendant or application on the ground only that the person is a woman.[38]

Section 167(3) of the Administration of Criminal Justice Act is a gender-sensitive and friendly provision. It expressly abolishes discrimination experienced up till now by women who desire to act as sureties. It gives practical effect to rights against discrimination on account of sex guaranteed by the Nigerian Constitution as stipulated below:

> 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 or she is such a person –
>
> (a) 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, religious or political opinions are not made subject; or
>
> (b) 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. [39]

[36] Patric E Iroegbu, 'The KPIM of Social Order: A Season of Inquiry Meaning, Significance in the Modern World', Goerge Uzoma, Ukagha Des O and Obi J Nwankwor (eds), *In the Studies in Philosophy, Culture of Uprising and Social Order* (Xelibris Publisher 2013) 309.

[37] Charmaine Pereira, 'Endangering Governance in Federal Politics; The Nigeria Cases'; in Aaron Tsado Gana and Samuel G Egwu (eds), Federalism in Africa: The imperative of democratic development, Volume 2 (Africa World Press 2003) 300; Comfort Chinyere Ani, Reforms in The Nigerian Criminal Procedure Laws< http://www.nials-nigeria.org/journals/Comfort%20Chinyere%20AniL.pdf> accessed 1 July 2017.

[38] Administration of Criminal Justice Act (n 21) Section 167 (3).

[39] The Constitution of the Federal Republic of Nigeria 1999 Cap 23 LFN, 2004 Section 42(1) (a) and (b).

The Administration of Criminal Justice Law equally provides that no person shall be denied or prevented or restricted from entering into any recognizance or standing as a surety or providing any security on a ground that the person is a woman. The above provision has evidently and finally laid to rest the issue of discrimination against women in the practice of bail in Nigeria.[40]

7.3.4. Mandatory stipulation of time limit to remand

Police cells and prisons in Nigeria are chock-full today not only because of the number of convicts serving real jail terms, but basically because of the vast number of suspects being remanded in police cells and prisons.[41] Suspects are remanded at will, and every now and then, indeterminately. However, the Administration of Criminal Justice Act provides as follows:

> A suspect shall not be remanded for more than 14 days at first instance and renewable for a time not exceeding fourteen days where 'good cause' is shown;[42] at the expiration of the remand order, if legal advice is still not supplied, the court shall issue hearing note to the Inspector-General of Police and Attorney-General of the Federation or the Commissioner of Police or any other authority in whose custody the suspect is remanded, to make an inquiry into the position of things and adjourn for another period not exceeding fourteen days for the above-mentioned officials to come and explain why the suspect should not be released unconditionally.[43]

The above provision is a good development in preventing keeping criminal suspects in custody for a long period of time without charging them to court.

7.3.5 Electronic capturing of confessional statements

So many criminal matters are being wriggled with denial of confessional statements.[44] Many at times, the defendant is denying ever making the statement or claiming that the statement was obtained under duress or other such vitiating factors. [45] This usually results in the court to stall the trial of the substantive matter to conduct what is referred to as trials within a trial.[46] This takes a horrible length of time and, even at times, leads to the confessional

[40] Administration of Criminal Justice Act (n 21) Section 167(3).
[41] Law Pavilion, 'The Administration of Criminal Justice Act, 2015'< http://lawpavilion.com/blog/the-administration-of-criminal-justice-act-2015-acja>accessed 1 July 2017.
[42] ibid.
[43] ibid.
[44] ibid.
[45] ibid.
[46] Trial within a trial is a mini trial within the context of the main trial. It is a procedure in criminal law wherein the confessional statement of an accused person is subjected to trial scrutiny so as to determine whether or not

statement being set aside. This is largely due to the fact that confessional statements are merely in writing.[47] The Administration of Criminal Justice Act, in toeing the line with the provision of the Evidence Act, 2011,[48] provides as follows:

> A confessional statement may be made by means of an electronic recording in a retrievable video compact disc or such other audio-visual means.[49]

Electronic capturing of confessional statements and court proceedings will minimise cases of want of evidence in courts and assists in keeping court records.

7.3.6 Daily schedule of criminal trials

Long periods of adjournments of criminal cases by courts in Nigeria is one of the factors responsible for delays in trials. In resolving this issue, the Administration of Criminal Justice Act provides that:

> Upon arraignment, the trial of the defendant shall proceed from day-to-day until the conclusion of the trial;[50] where day-to-day trial is impracticable, parties shall be entitled to only five adjournments each; the interval between each adjournment shall not exceed two weeks each; and where the trial is still not concluded, the interval for adjournments will be reduced to seven days each.[51]

These provisions are meant to facilitate speedy trial, which is one of the problems encountered by the Nigerian Criminal Justice System.

7.3.7 Availability and utilisation of plea bargain

Across the globe, criminal justice generally, is taking a new dimension due to the dynamic nature of human society. Laws are reviewed in order to reflect development in society.[52] One of the recent developments in the administration of criminal justice is the emergence of plea bargaining. That has received legal flavour in the Administration of Criminal Justice Act,

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the statement was freely and voluntarily made by the accused person to the police.< http://thenigerialawyer.com/trial-within-trial>accessed 16 March 2018.

[47] Law Pavilion (n 41).

[48] The Administration of Criminal Justice Act (n 21) Section 84(1)-(5) of the new Act contain extensive provisions on Electronic or computer-generated evidence. Section 84(1) states: in any proceedings a statement contained in a document produced by a computer shall be admissible as evidence of any fact stated in it of which direct oral evidence would be admissible, if it is shown that the conditions in sub-section (2) of this Section are satisfied in relation to the statement and computer in question.

[49] Administration of Criminal Justice Act (n 21) Section 15(4)

[50] Law Pavilion (n 41).

[51] Administration of Criminal Justice Act (n 21) Section 396.

[52] Yahaya Abubakar Muhammad, 'Reflections on the Introduction of Plea-Bargain and Community Service by the Administration of Criminal Justice Law 2007 in Lagos State and the Administration of Criminal Justice Act, 2015 in Nigeria' (2017) 58 Journal of Law, Policy and Globalization 91, 91.

2015, which finally laid to rest, the argument of legal practitioners and academic scholars on the use of plea bargaining in the Nigerian Criminal Justice System.[53] Plea bargaining can be described as:

> A negotiated agreement between the prosecutor and a criminal defendant whereby the defendant pleads guilty to a lesser offence or to one of multiple charges in exchange for some concession by the prosecutor, usually a more lenient sentence or a dismissal of the other charges.[54]

In addition, it is termed plea agreement or negotiated plea.[55] Under the Administration of Criminal Justice Act, plea bargain refers to:

> The procedure in criminal proceedings whereby the defendant and the prosecution work out some modalities and acceptable disposition of the case. This involves the plea of the defendant to a lesser offence than that charged. This must, however, be done in conformity with conditions proposed by the prosecution in return for a lighter sentence than the higher one earlier charged, subject to the court's approval.[56]

The Administration of Criminal Justice Act empowers the prosecution to enter into plea bargain with the defendant, with the consent of the victim during or after the presentation of the evidence of the prosecution.[57] This plea bargaining gains the legal backing because of the huge pile-up of cases which emanated from increased criminal activities in the society. It is meant to reduce pressure on the conventional courts and some other notable merits that flow from it. Plea bargain is expedient as it saves time and, at the same time, avoids the requirement of public trials, in so doing, protecting innocent victims of crime from the

[53] A number of influential Nigerians have benefited from plea bargain, especially when charged with corruption and financial crimes. Plea bargain was kick-started in 2005 in the trial of former Inspector-General of Police Mr Tafa Balogun. Mr Balogun conceded to plead guilty to an amended eight count charge of corruption and embezzlement of public funds to the tune of 10 billion naira. He gave up most of the funds and got just six months for the offence which attracts a maximum of five-year jail term following a touching allocutus rendered by his lead counsel. Few years ago, former Governor Alamieyeseigha of Bayelsa State was sentenced to 12 years in prison on a six-count charge that bothered on corruption and other economic offences. He was sentenced to two years on each count but all sentences ran concurrently. In accordance with the Criminal Procedure, the sentences ran from the day he was arrested and detained. Also recently, on October 8, 2010, Economic and Financial Crimes Commission charged the Former Chief Executive Officer of Oceanic Bank International Nigeria PLC, Mrs. Cecilia Ibru with a twenty-five count criminal information bordering on financial crimes. However, she entered into a plea bargain with the prosecution and pleaded guilty to a lesser three-count charge. The Court, thereafter, convicted Ibru on the three-count charge and ordered the forfeiture of her assets amounting to about N191billion. She was sentenced to six months on each of the three counts which were set to run concurrently. See Ige I <http://www.vanguardngr.com/articles/2002/features/law/law123122005.html> accessed 1 July 2017. The cases of Emmanuel Nwude and Amaka Anejemba were cases where plea bargain also played a major part.

[54] Bryan A Garner, *Black's Law Dictionary* (8th edn, Thompson Web Publishers 2004) 1189.

[55] Administration of Criminal Justice Act (n 21) Section (270) (a) and (b).

[56] Francis Famoroti, 'Plea bargaining: A Blessing or Curse to Nigeria's criminal justice system'< http://www.nigerianlawguru.com/articles/criminal%20law%20and%20procedure/PLEA%>accessed 1 July 2017

[57] Famoroti (n 49).

trouble of giving evidence during trial. It also helps to de-clog the court system for more serious cases.[58] Plea bargain also reduces public expenditure, which would have been incurred during prolonged trials. In a nut shell, plea bargain saves time and cost.[59]

In the context of Nigeria, plea bargaining may help in the decongestion of prisons.[60] The researcher, however, believes the adoption of plea bargain by the Act is just to provide a soft landing for criminals. Congestion of prisons in Nigeria is a bullet proof evidence of the inefficiency of the Nigerian Criminal Justice System, considering the growing population of inmates who have not had the opportunity of being heard in court. Thus, this problem appears insurmountable despite efforts made so far to decongest prisons. There is, therefore, a need to study the way prisons are run in the developed world, where there is a functional and efficient prison system rather than emphasising on plea bargain. This is premised on the fact that plea bargain will only encourage Nigerians to deliberately commit crime with the intention of escaping justice through plea bargain.

7.3.8 Prohibition of arrest in civil cases and contractual cases

The ACJA makes a very laudable provisions to the effect that 'a suspect shall not be arrested merely on a civil wrong or breach of contract'[61] as it was stated in the case of A.C (O.A O) Nigeria Limited v Umanah[62] that 'the statutory duties of the police under the police Act is to maintain peace, law and order in the society.

7.3.9 Visit to police stations and other detention centres

The Chief Judge is to designate the Chief Magistrate or any other Magistrate to carry out, on a monthly basis, a visit to police stations and other detention centers. The purpose of the visit is to call for and inspect the record of arrests, direct the arraignment of suspects, or where bail has been refused, grant bail to any suspect where appropriate. The visiting magistrate is empowered to treat any default by an officer in charge of a police station or any agency as misconduct and deal with such with the relevant laws.[63]

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[58] 15 Advantages and Disadvantages of Plea Bargaining< https://thenextgalaxy.com/15-advantages-and-disadvantages-of-plea-bargaing>accessed 1 July 2017.
[59] Oguche Samuel, 'Development of Plea Bargaining in the Administration of Criminal Justice in Nigeria: a Revolution, Vaccination against Punishment or mere Expediency?' in Epiphany Azinge and Laura Ani Azinge (eds), *Plea bargain in Nigeria: Law and practice* (Nigerian Institute of Advanced Legal Studies' Press 2012) 71
[60] ibid.
[61] The Administration of Criminal Justice Act (n 21) Section 8(2).
[62] (2013) 4 NWLR (Pt.1344) 323.
[63] The Administration of Criminal Justice Act (n 21) Section 34.

7.3.10 Returns by the Controller General of Prisons

The ACJA provides further that the Controller-General of Prisons is to make returns every 90 days to the Chief Judges, President of National Industrial Court and the Attorney- General of the Federation, of all persons awaiting trial held in custody for a period beyond 180 days from the date of arraignment. ACJA makes it mandatory that upon receipt of such return, the recipient shall take such steps as necessary to address the issues raised in return in furtherance of the objectives of the Act.[64]

7.3.11 No to application of stay of proceedings in respect of criminal matter

Section 306 meant to curtail the rate at which interlocutory applications lead to the suspension of a substantive matters still pending in court. The section provides that, 'an application for stay of proceedings in respect of criminal matter before the court shall not be entertained'; the court may also order the defendant to pay a sum of money to defray expenses incurred in the prosecution, 'as the compensation to any person injured by the offence'[65] Objections raised regarding the validity of a charge by defendant shall be considered along with the substantive matter and a ruling delivered on such objections at the time when judgement is delivered in the substantive suit. [66]

7.3.12 Speedy trial

ACJA also provides for the day-to-day trial of defendants 'upon their arraignment, the trial of the defendant shall proceed from day-to-day until the conclusion of the trial'.[67] This is to discourage frivolous adjournments.

7.3.13 Promotion of a judge not be considered a reason for restating a case

The promotion of a judge shall not be considered a reason for restarting a case, the section provides that 'a Judge of the Federal High Court who has been elevated to the Court of Appeal shall have dispensation to continue to sit as a High Court Judge, only for the purpose of concluding any part-head criminal matter, pending before him at the time of his elevation and shall conclude within a reasonable time. The main essence of this provision is to avoid *denovo* (restart).[68]

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[64] ibid Section 111.

[65] ibid Section 314 (1).
[66] ibid Section 396 (2).
[67] ibid Section 396 (3).
[68] ibid Section 396(7).

7.3.14 Establishment of the Administration of Criminal Justice Monitoring Committee

Section 469 (1) provides for establishment of the Administration of Criminal Justice Monitoring Committee as a body charged with the responsibility of ensuring effective application of the Act. Apart from ensuring effective and efficient implementation of the Act by different relevant agencies, committee shall also, among other things, ensure that criminal matters are speedily dealt with; congestion of criminal cases in courts is drastically reduced; congestion in prison is drastically reduced to the barest minimum; and persons awaiting trial are as far as possible not detained in prison custody. Section 468 of the ACJA 2015 really focused on parole and post prison rehabilitation of inmates.[69]

7.3.15 Repeal of the provisions of the Criminal Procedure Code and Criminal Procedure Act

One of major achievements of the ACJA is the repeal of the provision of section 493 Criminal Procedure Code and the Criminal Procedure Act which hitherto governed criminal prosecutions in the Southern and Northern States respectively. It provides that any proceeding now commenced under these laws from the date of commencement of ACJA, irrespective of the date of gazette will be void. For example, in *Akingbola v FRN*, the court held that any proceeding in Lagos State under criminal procedure Law, repealed by the Administration of Criminal Justice was void.[70]

7.3.16 Protection of the constitutional rights of an arrested person

The ACJA also makes an elaborate provision for the protection of the constitutional rights of an arrested person. For instance, Section 6 of the Act provides that a suspect shall be informed of the reason for the arrest.[71] The Act places a duty on the police officer to notify the suspect of his right to remain silent or avoid answering any question or making, endorsing or writing any statement until after consultation with a legal practitioner or any other person of his own choice; and his rights to free legal representation by the Legal Aid Council of Nigeria where applicable.[72]

7.3.17 Time limit for issuance of legal advice

By virtue of the provision of ACJA, the usual delay in the issuance of legal advice will come to an end as the Act makes provision for the time limit for the issuance of the Department of

[69] ibid.
[70] (2012)9 NWLR (Pt.1306)511, C.A.
[71] The Administration of Criminal Justice Act (n 21) section 6.
[72] ibid

Public Prosecution's (DPP) legal advice; the advice must be issued within 14 days of receipt of police case file.[73]

7.3.18 Witness protection

The ACJA also ensures that the rights of witnesses in criminal cases are adequately protected. This will encourage people with relevant information about a criminal matter to come up easily particularly on cases like sexual related offences, armed robbery, terrorism and offences related to economic and financial crimes.[74]

7.3.19 Non-custodial sentence

This addresses excessive use of imprisonment as a disposal method by introducing some alternatives to imprisonments such as community service, suspected sentence parole and probation[75]

7.3.20 Establishment of a Police Central Criminal Registry

The Act makes provision for the establishment, within Nigeria Police, a Central Criminal Record Registry of all arrests made by the police. The registry is to be located at the Police Headquarters and at every State Police Command. The Act further states that every state including the Federal Capital Territory is to ensure that the decisions of the court in all criminal trials are transmitted to the Central Criminal Records Registry within thirty-days after delivery of judgment.[76] When this is done, it will be easy to have proper record of arrests.

7.3.21 Mandatory inventory of property

This is done to encourage accountability and transparency among the law enforcement officers. Law enforcement officers are mandated by the law to take inventory of all items or properties recovered from a suspect. The inventory must be signed by the police officer and the suspect.[77]

7.3.22 Quarterly returns of arrests to the Attorney-General of the Federation

The heads of every agency authorized by law to make arrest including the Inspector-General of Police are mandated to remit, on quarterly basis, to the Attorney- General of the federation.[78]

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[73] ibid Section 376.
[74] ibid Section 232.
[75] ibid Section 453,460 and 468.
[76] ibid Section 16.
[77] ibid Section 10.
[78] ibid Section 15.

7.3.23 Shortcoming of the Criminal Justice Act, 2015

Apparently, with the foregoing innovations, the Administration of Criminal Justice Act 2015 has successfully dispensed with some notable challenges, as well as the inclination towards restorative justice and speedy dispensation of justice in the Nigerian Criminal Justice System.

Despite all these innovations, notable challenges can be deduced from some of the provisions. This has to do with inconsistency of some provisions with the Constitution. The major one is the provision that promotion of a judge shall not be considered as reason for restarting a case. For a Federal High Court Judge who has been elevated to the Court of Appeal to have dispensation to continue to sit as a High Court Judge, is impracticable and unconstitutional, and any law that is inconsistent with the Constitution will by the reason of the inconsistency be void.[79]

Also, some sections like the provisions of prosecution and speedy trial are impracticable. Another notable challenge that the Act is likely to face is in the area of enforcement of its provisions as there are certain categories of people as well as facilities that have to be put in place before certain provisions can be implemented.

7.4 Summary of chapter

The constitutional amendment in 2011 and Administration of Criminal Justice Act 2015 were examined with a focus on areas relevant to criminal cases in Nigeria. The 2011 constitutional review and Administration of Criminal Justice Act 2015 were discovered to have some notable innovations towards restorative justice and speedy dispensation of justice. However, notable challenges were identified in some of the provisions particularly in their implementation. The next chapter intends to make a final conclusion and spells out some recommendations that could help in improving the Nigerian Criminal Justice System.

[79] The Constitution of Federal Republic of Nigeria (n 39) Section 1 (3).

CHAPTER EIGHT

CONCLUSION AND RECOMMENDATIONS

8.1 Conclusion

Criminal justice is an essential tool in the smooth running of any society and is fundamentally valuable in maintaining law and order.[1] It is a system of law enforcement that directly involves apprehending, prosecuting, defending, sentencing and punishing suspected or convicted criminal offenders. Its role in sanitising the society cannot be overemphasised.[2] It is recognised as the major sector at the forefront in the fight against crime.

The Nigerian Criminal Justice System is fundamentally defective, and the problem is represented and demonstrated at every processing point of the entire criminal justice system line and from the failure of government institutions to design a suitable criminal justice policy that attends to the current needs of the country. An inefficient criminal justice process dents the credibility of the justice system and weakens the rule of law. It potentially affects the rights of defendants and raises issues of access to justice for victims of crime.[3] The efficiency of a system can be measured by its ability to meet the goals of crime prevention through deterrence, rehabilitation, retribution and reintegration into the society. The realisation of such goals depends on the efficiency and coordination among the diverse agencies of law enforcement in the country. In view of the above, this study has brought to the fore, several issues and challenges confronting the different sectors of Nigeria's criminal justice system, ranging from poor funding, inadequate manpower, defective law regime and poor access to justice, among others.

The major findings of the study are interrogated in this chapter and recommendations provided for policy makers and actors in Nigeria's criminal justice system that would serve as a reference guide in improving Nigeria's justice administration. It is imperative to begin with a summary of the whole study to reboot the memory of the reader.

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[1] Nlerum S Okogbule, 'Access to Justice and Human Rights Protection in Nigeria: Problems and Prospects' (2005) 2 International Human Right Journal 94, 97; Osinbajo Yemi, *Proposals for the Reform of the Criminal Procedure Laws of Lagos State of Nigeria* (Lagos State Ministry of Justice 2004) 1; Comfort Chinyere Ani, 'Reforms in the Nigerian Criminal Procedure Laws' (2011) 1 Journal of Criminal Law and Justice 52, 54.

[2] Olusola Victor Dada, *Nigeria: A Nation on the Threshold of a new Beginning* (Mustard Seed International 2004) 35.

[3] Yvon Dandurand, 'Criminal Justice Reform and the System's Efficiency' (2014) 25 Criminal Law Forum 383, 383 -384.

8.2 Summary of study

The study began with a synoptic history of Nigeria's legal system prior to colonisation by the British. The preamble established that the English system had a tremendous influence on Nigeria's criminal justice system. It examined criminal laws in Nigeria, which stipulate the offences as well as penalties for each. It focused specifically on the Criminal Code and Penal Code, which regulate crimes and prescribe punishment in Nigeria; the Penal Code is applicable in the Northern part of Nigeria while the Criminal Code is applicable in the Southern part.

At this juncture, it is worthy of note that the importance of law in the society cannot be over-emphasised and the ultimate aim of any government is to maintain law and order. In a bid to achieve this, laws are typically put in place with institutions set up for the enforcement of such laws. Of course, it is a constitutional requirement in Nigeria for an alleged offender to be tried, convicted and punished accordingly. In view of this, the Nigerian Police Force (NPF) was examined as a key component of Nigeria's criminal justice system. The police are an institution put in place by Government to detect and prevent crime, effect arrest of criminal offenders, prosecute crime, maintain peace and order, protect life and property of people and enforce all laws. The historical evolution of the Nigerian Police was traced from the pre-colonial era to date. It was observed that there were people charged with the responsibility of enforcing the traditional beliefs and customs of the people, referred to as traditional police method during the pre-colonial age,[4] while several police forces and constabularies were established in different societies and territories by the colonial masters, which subsequently evolved into the current Nigerian Police Force,[5] with the appointment of the first indigenous Inspector-General of Police, the late Louis Edet Orok, in 1964.[6] Similarly, there were forms of imprisonment equivalent to prisons in pre-colonial Nigeria, where offenders remained locked up, and different names were used to refer to these prisons. The current prison system in Nigeria is a colonial creation. In the same vein, the judiciary in Nigeria today is a product of the British colonial masters.

One unique facet in this study is that data were collected from the six geo-political zones of Nigeria. Data from the most industrial state with the highest population and rate of criminality was used to grasp the anatomy of Nigeria's criminal justice administration. To this end, the data showcased the challenges encountered by the police, prosecutors, the

[4] Emmanuel C Onyeozili, 'Obstacles to Effective Policing in Nigeria' (2001) 1 African Journal of Criminology and Justice Studies 32, 33.
[5] Benjamin Obi Nwabueze, *A Constitutional History of Nigeria* (C Hurst & Co Publishers 1982) 121.
[6] Farinde Raifu Olanrewaju, *Forensic Linguists: An Introduction to the Study of Language and Law* (Lincom Europa 2009) 55.

judiciary and correctional institutions. Issues and challenges of each of the components were extensively discussed and the synergy between the system components established. The study clearly revealed that there are multifarious challenges faced by the system at every processing unit, an indication that Nigeria's criminal justice is on the verge of collapse if corrective steps are not taken. It also accentuates the need on the part of government to know that the role of effective criminal justice system cannot be undermined if the country hopes to grow.

Several international, regional and national legislative and institutional mechanisms enacted for the effective protection of human rights in the administration of justice, that is, protection of persons subjected to arrest, trial, detention or imprisonment were assessed. This was done in order to ascertain whether the practice in the administration of justice in Nigeria is in tandem with the provisions of instruments ratified by Nigeria and to determine whether Nigeria is honouring international obligations regarding effective policing, functional judicial system and reformative imprisonment.

8.3 Major findings of the study

Until now, there have been reports that the police, judiciary and correctional institutions, including prisons, borstal and remand homes, are the essential components of Nigeria's criminal justice system. In this study, the researcher has been able to identify the other components such as community and government agencies that are frequently overlooked but are essential to the criminal justice system. This is because individuals play a critical role as complainants, victims, witnesses and volunteers, among others, while other components of the system are answerable to the various political processes that operate in Nigeria. In this study, it was established that the police, judiciary and prisons in Nigeria today, are products of the British colonial masters. Similarly, even though Nigerian laws have passed through several stages of review, they are reflections of the English laws instituted by the colonial masters. The Penal and Criminal Codes regulate crimes and prescribe punishment in Nigeria. It was revealed that there is a dual law regime in Nigeria. However, similarities were observed with regard to offences and punishments prescribed between the Penal Code applicable in Northern Nigeria and the Criminal Code applicable in the Southern part. The specific variation between the Codes is particularly with regard to adultery, where it was identified as an offence under the Penal Code but not under the Criminal Code. Stealing is the preferred nomenclature in the Criminal Code while theft is the standard reference in the Penal Code, and although they are apparently synonymous, they connote different approaches to interpretation. Besides, the classification of offences into felony, misdemeanour and simple offence exists only in the Southern part of Nigeria where the Criminal Code applies while

such classification does not exist in the Northern part, which makes use of the Penal Code. This variation in terms of classification is an indication that the same act of commission or omission by different individuals can constitute different offences depending on the spatial location. Also, the same offence could attract different penalties depending on the part of the country where it is committed. Given the analysis above, it was established that the dual law regime in Nigeria is a major challenge to the effectiveness of the national criminal justice system effectiveness.

The synergy between the Nigerian Police Force and other components of Nigeria's criminal justice system were studied and it was revealed that the police are the first point of contact, and all the components of the system depend on one another to achieve their various goals. The structure of the Nigerian Police was also examined, and a defective constitutional structure was discovered in the Nigerian Police Force. It is defective in the sense that there is a Federal Policing System to the dentriment of State Police and community policing systems. It was discovered that the absence of a State Police contributes largely to the lack of transparency, accountability and judicious use of security votes, thus amounting to millions of Naira received by the State Governors annually. This worsens security challenges with a consequential negative impact on the Nigerian criminal justice administration.

Furthermore, the Nigerian Police today, is highly inefficient and faced with numerous challenges, consequently, affecting the entire criminal justice system. Some of the challenges identified include high rate of crime due to unemployment and underemployment in Nigeria. Other challenges include inadequate police personnel; lack of co-operation by the public due to their negative perception of the police; and the problem of holding charge whereby criminal suspects are kept in custody while the police carry out investigations and gather proof to bring the accused person before the proper courts for trial. The Nigerian Police are poorly funded by government; there is lack of adequate training of police personnel on modern policing while corruption has eaten deep into the rank and file of the police in Nigeria. Inadequate or outright lack of modern equipment of policing; language barriers; homicide; poor modes of investigation; bad personality of some police personnel; political interference in police affairs; and lack of accountability by police officers were also identified as challenges. The Nigerian Police have also continued to abuse human rights through arbitrary arrests and detention by police officers, torture and other inhuman treatment, use of confessional statements obtained under duress as evidence in courts, and culminating in public parade and trial of criminal suspects. It was also discovered that major towns and cities

have inadequate police facilities while police posts are virtually absent in many villages, thus contributing to the high crime rate and poor access to justice in Nigeria.

In Chapter Six, the constitutional roles and mandates of the judiciary were discussed such as the provision of justice, interpretation of law and judicial review. The Nigerian Constitution makes provision for the rule of law as an instrument for exercising state power that, in some circumstances, also serves as a means of protecting the people against arbitrary and abusive government. It was clarified that despite the fact that judicial independence is guaranteed under the Constitution, the Nigerian Judiciary is highly dependent on other arms of government, thereby making the legislature and the executive arms of government muster an over-bearing influence over the judiciary, thus affecting the delivery of justice. Recently President Muhammadu Buhari signed the state judiciary financial autonomy to law by giving assent to the provision of the Fourth Alteration Act 2017 of the Nigerian Constitution. If implemented, it will resolve a lot of issues in the judiciary. Other challenges of the judiciary include the slow pace in trial; misuse of discretionary powers by judges and magistrates whereby judgments are delivered according to their wills and private affections; corruption among judicial workers; and defective processes in the appointment of judges and magistrates. Inadequate funding of the judiciary by government; poor infrastructure; inadequate manpower; inadequate training of judicial workers; incessant strike actions by judicial staff; and procedural deficiencies and technicalities in the judicial system are also significant challenges. It was further revealed that there is a rule in Nigerian courts that cases start *de novo* following transfer of judges and magistrates from one jurisdiction to another. This is a routine exercise in the Nigerian Judiciary, which causes massive delays in trial processes to the extent that some cases run for decades before they are concluded.

The role and challenges of the prosecutor as an important sector in Nigeria's criminal justice system were also examined. It was discovered that both the Attorney-General in the Ministry of Justice and the police, who are saddled with the responsibility of public prosecution, contribute to the challenges of criminal prosecution in Nigeria. Appointment of prosecutors in Nigeria is usually not based on merit and integrity but on political or religious affiliation and social or ethnic origin. Candidates with inadequate qualifications are usually employed as prosecutors, and in most cases, there is lack of appropriate training in the ideals and ethical duties of their office. Appointments processes of prosecutors are often marred by partiality, prejudice, discrimination on the grounds of sex, political or religious affiliation, social or ethnic origin and mared with malpractices. Government interference in the affairs of the Ministry of Justice; centralisation of the Nigerian Police Force; the use of non-lawyers as

police prosecutors; corruption among police prosecutors; and impromptu transfer of prosecuting police officers are some of the challenges confronting the sector.

In addition, access to justice with specific reference to legal assistance was examinaed, particularly with regard to those standing trial, who cannot afford the services of lawyers. It was discovered that Nigerian laws provide for legal assistance through the Legal Aid Scheme but poor funding and lack of public awareness of the scheme have negative consequences on its performance, hence there is largely poor access to justice in Nigeria. Also, lack of knowledge of human and individual rights remains a major hindrance to accessing justice, specifically among the vulnerable; poor and uneducated people in Nigeria.

The Nigerian Prisons Service is centrally administered, thus, every prison in Nigeria is a federal institution. The administrative structure of the Nigerian Prisons is such that the Controller-General of Prisons, who is the overall head, is accountable to the President of the Federal Republic of Nigeria through the Minister of Internal Affairs. There are also Assistant Controller-Generals of Prisons for their respective zones. Challenges with regard to theNigerian Prisons range from prison congestion occasioned by inadequate facilities to inadequacies from other sectors of Nigeria's criminal justice system. Prison congestion can be attributed largely to high numbers of detainees awaiting trial in Nigeria's prisons. Pre-trial detainees are often kept in custody for a long time as a result of stringent bail conditions imposed by judges and magistrates; persistent industrial actions (strikes) by judicial workers; impromptu transfer of investigating police officers; inconclusive police investigations; insufficient number of judges and magistrates in courts; delays in giving legal advice from the DPP's office; incessant adjournments; and delays by legal counsels and lack of legal representation for the vast majority of criminal suspects. It was also revealed that most Nigerian Prisons are below acceptable standards in terms of facilities. Most of them were built before 1950 during the colonial era (over seventy years old) and most are still used as prisons today despite the fact that they have become dilapidated and grossly inadequate. Prisoners are packed into very small cells under inhumane conditions. Poor feeding, both in quality and quantity; unavailability of water; poor toilet facilities; pollution; poor sanitation; and lack of medical facilities have become real life-threatening challenges in in prisons in Nigeria. In most of the prisons, inmates sleep on the bare floor because mattresses and beddings are unavailable, and the few available ones are usually filthy and in an unusable state, while some prisoners share single beds. All these provide room for constant prison violence and quarrelsome behaviour that subsequently hardens inmates rather than reforming them.

National, regional and international instruments were examined for the purpose of measuring the performance of the various sectors of the Nigerian Criminal Justice System. These instruments are meant to guarantee effective performance of each of the sectors in order to achieve international best practices in criminal justice administration in Nigeria. Surprisingly, even though Nigeria subscribes to these instruments, It was established that Nigeria has failed in its obligations to implement the same provisions. Many of the instruments apply to specific sectors of the Nigerian Criminal Justice System. For instance, the United Nations Code of Conduct for Law Enforcement Officials, Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the Global Standards to Combat Corruption in Police Forces/Services (Interpol) are instruments that ensure that the police have high standards of honesty, integrity and ethical behaviour in their policing function. International standards on prosecution of criminal proceedings are provided for by the United Nations Congress on the Prevention of Crime. Likewise, the Nelson Mandela Rules and regional instruments, including the Kampala Declaration on Prison Conditions in Africa and the Arusha Declaration on Good Prison Practice are meant to guarantee the rights of prisoners.

However, many of the instruments have general application. These include the Universal Declaration of Human Rights; International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; as well as the Declaration on the Protection of All Persons from being Subjected to Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. There is also the Principle of Medical Ethics Relevant to the Role of Health Personnel, Particularly Physicians, in the Protection of Prisoners; and Detainees against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. Nigeria is also a state party to Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; the Declaration on Basic Principle of Justice for Victims of Crime and Abuse of Power; and the Beijing Rules. Others include the Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment; Convention on the Rights of the Child; the Tokyo Rules; and Principle on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Nigeria also subscribes to the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and the Bangkok Rules. There are also regional instruments, including the Banjul Charter; the African Charter on Democracy, Elections and Governance; and Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters.

8.4 Recommendations

Although this research is not a comparative study, recommendations are made based on some specific milestones from other jurisdictions with more efficient and functional criminal justice administrative systems. This involves some specific lessons to learn from the United States of America (USA) and Canada, which could assist in improving Nigeria's criminal justice system if implemented.

The police organisation in the USA is one of the best police systems in the world. The police system is highly decentralised with five major types of police agency as follows:[7]

1) The federal system, consisting of the Department of Homeland Security and the Department of Justice, including, the Drug Enforcement Administration; the Secret Service; the Postal Inspection Service; and many others;
2) Police forces and criminal investigation agencies established by each of the 50 States of the Union;
3) Sheriffs' Departments in several thousand counties, plus a few county police forces that either duplicate the Sheriffs' police jurisdictions or displace them;
4) The police forces of about 1,000 cities and more than 20,000 townships and New England towns; and
5) The police of some 15,000 villages, boroughs and incorporated towns.[8]

Also, Canada's policing system is a decentralised system of administration with three levels of government involved in policing: federal, provincial and municipal.[9] Some types of police services serve the Canadian government, with variations depending upon where they live.

This is unlike what obtains in Nigeria where there is a centralised police system,[10] centrally administered by the Inspector-General of Police, who takes directives from the President.[11] Even when a lawful directive on security of life and property is given by the Governor of a State to the Commissioner of Police as stipulated in the Constitution, such directive is usually implemented subject to an order from the Federal Government. This also affects other police

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[7] Sanja Kutn Ivkovic and Maria R Haberfeld, 'Measuring Police Integrity A cross the World: Studies from Established Democracies and Countries in Transition' in Sanja Kutn Ivkovic and Maria R Haberfeld (eds), *A Comparative Perspective on Police Integrity* (Springer 2015) 338.

[8] Encyclopedia Britiannica, < https://www.britannica.com/topic/police/Decentralised-police-organisations> accessed 17 June 2017.

[9] George S Rigakos and Cherie Leung, 'Canada' in Trevor Jones and Tim Newburn (eds), *Plural Policing: A Comparative Perspective* (Psychology Press 2006) 127; Leonard A Steverson, *Policing in America: A Reference Handbook* (ABC-CLIO 2008) 82.

[10] Eddy Chicka Ndekwu and First Bank of Nigeria, *First Bank of Nigeria: a Century of Banking* (Spectrum Books 1994) 157.

[11] The Constitution of the Federal Republic of Nigeria 1999 Cap 23 LFN, 2004 Section 215.

activities like crime investigations, which are usually tailored towards the Federal Government's whims and caprices. Decentralisation of State Police and traditional policing method is hereby recommended for effective policing in Nigeria.

The use of holding charge, whereby criminal suspects are kept in prison while police investigations continue, should be discouraged. The best antidote to the problem of holding charge in Nigeria is for the correct procedure in the order of primary contact of crime; investigation; arrest; arraignment; trial; sentencing; and appeal (that is, investigation before arrest by the police) to be followed in the process of criminal justice administration in Nigeria. Furthermore, the Nigerian Constitution provides that:

> When an arrest of a criminal suspect is effected by the police, the suspect should be brought before a court of law within twenty-four hours, especially where there is a court of competent jurisdiction within forty kilometres from the place of detention, or within 48 hours if it is more than forty kilometres.[12]

It is unfortunate that this provision is, hitherto, without enforcement in Nigeria. Therefore, it is high time Nigeria implemented and enforced this provison without any further delay. Meanwhile, in a situation whereby investigations have not been completed by the police before charging a criminal suspect to court, it is recommended that the suspect should be released on bail pending completion of investigations. If detention becomes inevitable, particularly where the accused is not entitled to bail, such as in capital offences, there should be enforcement of a 72-day detention time limit before trial commences as provided in Section 293 of the Administration of Criminal Justice Act, 2015. Under such circumstances where an accused person has been in detention without being charged or tried, against the provisions of the law stated above, it is submitted that such a detainee should be released unconditionally or considered innocent and acquitted accordingly.

Furthermore, investigating police officers in a criminal case should not be transferred by the police authority until investigation is completed and the case disposed of. It is the opinion of the researcher that lack of jurisdiction of a court to try a criminal case should be total, that is, it should also deprive the court to order remand under any guise before the accused is charged to a court of competent jurisdiction. All the proffered solutions above would go a long way in resolving the problem of keeping criminal suspects in custody without trial, which is a major clog in the Nigerian criminal justice administrative machinery.

It is suggested that requesting for legal advice on criminal cases from the DPP's office, while the accused person is in prison, should be out-rightly cancelled. This amounts to

[12] The Constitution of the Federal Republic of Nigeria (n 10) Section 35 (5) (a) and (b).

duplication of processes. The court should have the competence to decide on accused persons who should be prosecuted and those who should not. The unfortunate aspect of it is that such legal advice is always unnecessarily delayed or sometimes may never come. Keeping a criminal suspect in detention without trial is an injustice and a gross violation of his fundamental human rights. It is a major issue in Nigeria's criminal justice system, which should not be allowed to continue. A daily schedule of criminal trials is also recommended to enhance speedy trial process. Moreover, setting a time limit to conclude a criminal trial and regulation of the number of adjournments that could be sought by lawyers, who are in the habit of delaying trial processes, could also help.

Additionally, the policy in Nigerian courts that cases start *de novo* (start afresh) following transfer of judges and magistrates from one jurisdiction to another, needs to be abolished if Nigeria's criminal justice system must work. It is advised that a judge or magistrate presiding over any criminal case, should not be transferred, and if it must happen, the case should be accorded a speedy trial and disposed of before reporting for duty at the new location. Alternatively, the new judge or magistrate should be adequately briefed by the outgoing officer so that he or she can continue with the case without starting *de novo.* This could stop a situation whereby a case may last for decades in court before it is concluded, as occasioned by transfer of the presiding judges or magistrates. This criminal justice system can only be efficient when it is just and must also be promptly delivered.

Compared to other industrialised nations, the USA has a high rate of violent crimes.[13] It is viewed as a punitive nation, having the highest incarceration rate in the world due to an effective police system. This is not unconnected to the fact that there are slightly over 700,000 sworn fulltime law enforcement officers who are employed at over 18,000 law enforcement agencies with approximately 235 police officers per 100,000 citizens (1 to 425 police: citizen ratio).[14] Likewise, across the provinces of Canada in 2013, the number of police officers per 100,000 people in Manitoba was 213, an equivalence of 1 to 470 police / citizen ratio.[15] In fact, records from the Canadian Bureau of Statistics indicate that Canada has the ideal police strength.[16] This is unlike in Nigeria with police/citizen ratio of 1 to 688 as at 2015 as discussed in Chapter Four, which must have increased to a more ridiculous number by now since there has been no police recruitment exercise since then. It is, therefore,

[13] Barbara Bardes *et al*, *American Government and Politics Today: The Essentials 2008* (Cengage Learning 2008) 480.
[14] ibid.
[15] ibid.
[16] Statistics Canada, *Canadian Centre for Justice Statistics Police Resources* (Canadian authority of the Minister responsible for statistics Canada 2012).

recommended that police recruitment in Nigeria should be a routine exercise and the number should be based on the reasonable 1 to 500 police/citizen ratio in order to have an effective police system in Nigeria. Furthermore, there is need for the Federal Character to be followed in police recruitment in order to ensure equal representation of all areas in the States of the Federation and FCT, Abuja. Besides, it is believed that justice should be brought close to the people by ensuring police presence in all villages, towns and cities in Nigeria. Until the present system of the Nigerian Police Force is changed, from a situation where their affairs are handled based on tribal sentiments, with top officials of the force often from the same tribe, the police will continue to fail. When promotion and benefits are not based on merit, hardworking officers are invariably discouraged from putting in their best for effective and efficient service to the force, hence an overall negative effect on the criminal justice administration in Nigeria.

Furthermore, police/citizen ratio can be enhanced by reducing the number of police officers used as private and official bodyguards of the rich and political elites commonly referred to as very important people (VIPs) in Nigeria. By so doing, there would be more police officers available for the Nigerian populace instead of the few available ones. However, where private security becomes necessary, it would be good that it is taken into consideration in police recruitment so that the UN standard of 1 to 500 police: citizen ratio is not jeopardised. If government takes a proactive step in addressing unemployment in Nigeria, the rate of crime would fall and the administration of criminal justice enhanced.

The police training school in Canada offers quality training that enhances effective performance of police duties. The Canada Police College offers a suite of over 55 advanced and specialised courses and workshops in investigative techniques, technological crime, forensic identification, explosives disposal/investigations, police executive development and professional development for Aboriginal policing.[17] Training of police is grossly inadequate in Nigeria. There is need to establish more Police Universities in addition to the one in Kano State to serve as certificate-awarding institutions in Nigeria. Regular attendance of seminars, conferences, workshops, symposia and training locally and internationally by police personnel is needed for modern policing in Nigeria. Furthermore, regular training could enhance the knowledge of police officers in Nigeria with regard to their constitutional roles as well as duties and powers placed upon them by the law. It is important for the police, and even the general public, to know that debt collection or loan recovery, as currently practised

[17] Maurice A Mathins, *Urban Policing in Canada: Anatomy of an Agein Craf* (McGill-Queen's Press - MQUP 1995) 190; Natasha Frost, Joshua Freilich and Todd Clea, *Contemporary Issues In Criminal Justice Policy* (Cengage Learning 2009) 293.

by the police force in Nigeria, is beyond their jurisdiction and should be handled as such. Arrest of criminal suspects should be done through a court warrant where nobody should be arrested in lieu of a suspect, no matter the relationship between them. This could help in reducing the illegal activities of police officers such as unlawful arrests and detention in police cells, torture or any form of ill-treatment of suspects, media parade of criminal suspects and extra-judicial killings. The police personnel should be reoriented towards adequate care and respect for human dignity, people's fundamental rights and privileges. Thoughtful attention ought to be dedicated to inspection of non-selective arrests and confinement in police custody across Nigeria. It is suggested that appropriate machinery be put in place to identify those involved in illegal activities, and government should order the arrest and prosecution of perpetrators of such illegal acts. Any media organisation that takes part in media parade or trial of criminal suspects should be sanctioned. Victims of police brutality or their families in case of death should be adequately compensated by government or its relevant agency. In addition, lack of knowledge of rights, which remains a major hindrance to accessing justice, specifically among the vulnerable, poor and uneducated people in Nigeria, could be solved through public enlightenment. Anyone who is unlawfully treated by any law enforcement agency, should seek redress in a competent court of law for aggravated and exemplary damages. Thus, effective training remains the best route to overcoming the proficiency problems of the Nigerian Police Force; this would assist in producing competent police corps that could work towards achieving the aims and objectives of the police organisation.

In view of the role of the police in achieving efficient criminal justice administration in Nigeria, adequate funding, *vis-a-vis* the provision of patrol vehicles, operational vehicles, horses, marine boats for the Marine Police, dogs, communication gadgets, scientific tools for investigation and intelligence gathering, and other equipment of modern policing is indispensable. If more sophisticated weapons, arms and ammunitions than those possessed by criminals are provided to the Nigerian Police, this move would not only stop exposing them to danger but drastically reduce police homicide. In addition, if government could ensure that those who are injured while carrying out their duties are adequately taken care of and compensated, while the families of those who lose their lives are well catered for, police performance would improve, the rate of crime will drop, while the delivery of juctice would be enhanced. Security of lives and property should be the cardinal objective of the Nigerian government if the nation's criminal justice system is to be efficient.

In view of the fact that forensic investigation is vital in the administration of criminal justice, there is need for the creation of a forensic laboratory with trained experts in every State Police Command in Nigeria as well as the Federal Capital Territory, Abuja while the global minimum requirement of police equipment and running cost should be fully implemented by Government.

A university degree or its equivalent is the minimum requirement in terms of qualification for recruitment of police officers in the USA. In addition, men and women between 21 and 34 years are recruited into the force.[18] It is, therefore, recommended that a minimum requirement of a National Certificate of Education (NCE) or its equivalent and age between 20 and 35 be set as requirements for recruitment into the Nigerian Police Force. There should also be thorough medical examination, particularly psychological, mental and emotional stability of such individuals before recruitment. This would gradually eradicate illiterates from the Nigerian Police Force and ensure that able-bodied people with formal education and of stable mental condition are employed into the police force.

Since effective accountability is vital to the achievement of the goals of policing, the activities of the police are properly monitored and checkmated in the USA. This is effective in controlling police behaviours and misconduct. There are policies in place holding the individual police officers accountable for their conduct. They are described as accountability procedures and include the following:

a. Formal agency policies on the use of police authority;
b. Routine supervision of officers by first-line supervisors;
c. Regular performance evaluations;
d. Early intervention systems designed to identify performance problems; and
e. Procedures for investigating allegations of officer misconduct.[19]

This varies from internal, external, media to the public. In fact, the police in the USA prefer outside investigations and prosecution of officers accused of misconduct.[20] Similarly, in Canada, police accountability is handled with ultimate care. For example, they have

[18] State of New Jersey < http://www.njsp.org/recruiting/minimum-qualifications.shtml> accessed 12 February 2018.
[19] Samuel Walker, Police Accountability: Current Issues and Research Needs, Paper presented at the National Institute of Justice (NIJ) Policing Research Workshop: Planning for the Future, Washington, DC, November 28-29, 2006; USCCR, 'Revisiting Who Is Guarding the Guardians? A Report on Police Practices and Civil Rights in America,' U.S. Commission on Civil Rights, November 2000, < http://www.usccr.gov/pubs/guard/main.htm.>accessed 15 August 2017.
[20] Emily Ekins, 'Policing in America understanding public attitudes towards the police' [2016] Cato Institute of Criminal Justice Survey 58, 58.

recording equipment that monitors the conduct of the police.[21] Ultimately, a number of officers with criminal acts have been caught in the past by crime detection through advanced technology, and such have always been charged in competent courts for appropriate penalties under the Police Services Act.[22] As scandal grows on police behaviour, so do demands for more effective accountability by the police in Canada. As such, it is provided that:

> Legal measures which seek to ensure accountability are not limited to the discipline, misconduct, investigation and review mechanisms contained in the Police Services Act; deaths at the hands of police are also scrutinised not only by the Special Investigations Unit and police supervisors, but also through the mechanism of the Coroner's Inquest; the actions and decisions of an individual police officer are scrutinised daily in the justice system, starting with the review of charges done by a Crown Attorney. Courts, both civil and criminal, participate in assessing the propriety of that investigation. In all cases, police officers, police services and possibly even police services boards may be subject to a civil law suit; all of these sites of legal decision-making have the potential of generating public attention and may have significant consequences for individuals and police services involved.[23]

In the USA and Canada, police cannot just do anything willy-nilly like what is happening in Nigeria. From the foregoing, it is recommended that policies should be put in place to ensure accountability of police officers in Nigeria. Discipline of police officers should not be limited to internal mechanisms which can be compromised as it is currently practised. External disciplinary measures could guarantee transparency of the process similar to what obtains in the USA and Canada.[24]

Studies have shown that in the USA, the public generally holds positive attitudes towards the police. It also appears that age and conservative political ideology are generally positively related to confidence in, and satisfaction with the police, which have contributed immensely to the performance of the police.[25] In Nigeria, however, there is lack of co-operation between the Police and the public due to their negative perception about the force. As discussed earlier, most crimes are no longer reported to the police by the publpc and many people refrain from giving valuable information to them. It is suggested that the Police organisation should initiate processes that redeem their image and pioneer community-based policing initiatives by obtaining the people's support because effective policing is a collective responsibility.

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[21] Marc Alain *et al*, *Implementing and Working with the Youth Criminal Justice Act across Canada* (University of Toronto Press 2016) 215.
[22] Joel Samaha, *Criminal Procedure* (9th edn, Cengage Learning 2014) 64.
[23] Sanka Sen, *Enforcing Police Accountability through Civilian Oversight* (SAGE Publications India 2010) 10.
[24] Douglas Gourley, 'Police Discipline' (1950) 41 Journal of Criminal Law and Criminology 85, 90.
[25] Liqun Cao *et al*, 'Race, Community Context and Confidence in the Police' (1996) 15 American Journal of Police 3, 3.

In addition, every police officer should be mandated to learn Igbo, Yoruba and Hausa, which are the major languages spoken in Nigeria. This could break the language and cultural barriers associated with posting police officers to terrains that are linguistically different from their local region. Thus, a police officer should speak and understand the people in the language they communicate in, irrespective of their location. This could enhance synergy between the police and the people. In addition, understanding of language should form part of the criteria for posting of police corps. As such, cultural and language differences would no longer be a problem.

The US government, at the Federal level, as well as every state in the USA, have their own separate criminal laws, police, prosecutors and courts.[26] It is strongly believed that Nigeria is mature enough to manage a decentralised police force and create a State Police if it wants its criminal justice system to improve. It is suggested that only policemen, who are lawyers, should act as prosecutors in criminal matters. Lawyers can also be employed into the Prosecution Unit of the Nigerian Police Force for this purpose. Prosecutors should be officials with integrity and ability, amplified with appropriate training in the ideals and ethical duties of their office. Government should ensure that the appointment process of prosecutors is devoid of malpractices, partiality, prejudice and any kind of discrimination. It is high time the Nigerian Police Force was re-packaged for efficiency. The character of officers of the force requires total positive change while their functions need to be monitored and regulated. Officers of the force should be trained, retrained and repackaged for efficient service delivery. If government can take concrete steps in improving their conditions of service and provide mouth-watering welfare packages to the police, their effectiveness and efficiency could improve. This could also enhance their performance in prosecution of criminal matters. The researcher advocates for mandatory and regular legal education for the rank and file of the force in Nigeria, particularly prosecutors so that the practice of illegality and non-diligent prosecution by police prosecutors can be a thing of the past.

Canada operates a federal system of government, which comprises provinces and municipal governments. This is captioned as follows:

> Criminal justice responsibilities in Canada are shared among these various jurisdictions.[27] The Federal Government holds the responsibility of establishing the criminal law, while provinces are apportioned responsibility for the administration of justice within their confines, including police and court administration as well as correctional programmes. The Federal

[26] www.oas.org/juridico/mla/en/usa/en accessed 26 August 2018.
[27] James Guthrie *et al,* (eds), *International Public Financial Management Reform: Progress, Contradictions, and Challenges* (Academic Press 2005) 57.

> Government is assigned constitutional responsibility for penitentiaries; however, Provincial and Territorial Governments are responsible for the maintenance of prisons and reformatories in their domain.[28]

Similarly, the United States has a distinctive prison system comprising three categorisations: federal, state and local. Federal Prisons keep prisoners who have committed crimes in more than one state, affect more than one state or violate federal laws. State Prisons possess jurisdiction over individuals who have committed crimes within their state territories, while local jails handle misdemeanour criminals and those awaiting trial. This system of decentralisation of prisons whereby states can create and manage correctional facilities is recommended as a solution to prison congestion in Nigeria. If private participation is allowed in the management of prisons in Nigeria, the system could improve.

It is worth noting that in Canada, effort is deliberately geered towards decongesting prisons through creation of a Board by government for that purpose. This is clear in the statement that:

> There are penitentiaries and parole supervision which are controlled by the Correctional Services of Canada (CSC) under the Federal Corrections and Conditional Release Act (CCRA). The National Parole Board (NPB) is the conditional release decision-maker with principles that guide the correctional system in achieving its aim and purpose set out in the CCRA.[29]

NPB is an independent administrative tribunal of government appointees who make case-by-case release decisions. Thus, the correctional system in Canada is multi-layered and its priorities are set right with the paramount aim of protecting the society.[30] Rather than leaving the release of prisoners in the hands of magistrates and judges alone, it is recommemded that a special tribunal made up of government appointees be set up with the sole responsibility of releasing inmates through sets of criteria, particularly those that have overstayed in prison custody without trial. Prison visits should not be at the discretion of Chief Judges, Governors or President as is currently the case in Nigeria; it has to be a statutory function carried out regularly to set free deserving prisoners using specific criteria. This would not only decongest prisons but could also improve the administration of justice in Nigeria.

The US government realises the importance of obtaining employment upon release as a critical issue and how employment is significant in keeping released offenders out of

[28] The provinces include Provinces from West to East: British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland and Labrador. Northern Territories from West to East: Yukon, Northwest Territories and Nunavut. Corrections and Conditional Release Act, 1992 Section 4 (a) to (h).
[29] ibid.
[30] ibid.

prison. Since it was observed that up to 89% of those who return to prison are unemployed, vocational training is one of the most important educational and rehabilitative programmes that prisons provide in the USA.[31] According to research policy experts, prison inmates who participate in vocational training are pointedly less likely to return to prison after release because with such training, they are able to get good jobs.[32] Vocational training appears to be a magic formula for the effective re-socialisation of criminals into the society.[33] Several studies have been carried out and reports show that vocational training in prisons could make a huge impact in lessening incarceration.[34] It was established that 94% of federal prisons, 56% of state prisons, 44% of private prisons and 7% of local jails offered vocational training.[35] In addition, records from the Bureau of Justice Statistics show that there was a decrease in prison admission in the USA in2014 and 2015, ascribed to reduction in cases of recidivism due largely to successful rehabilitation of prison inmates.[36] Vocational training in the USA is highly valued and available in various prisons. For example, in 2006, North Carolina had more than 90% of prison inmates who were offered college education through the assistance of the North Carolina community college system; 80% of them completed the training and were given credit vocational certificates.[37] In Washington State, vocational and short course certificates are available for inmates such as book-keeping and building maintenance. In Wisconsin**,** prisoners in Minnesota, Alaska, Tennessee, Hawaii, Louisiana, Maine and Virginia have the opportunity of distant learning programmes in Milwaukee Area Technical College. In Alabama, the J.F. Ingram State Technical College has been recognised since 1965 for ensuring high quality post-secondary technical education to state inmates. It now has three campuses co-located with State Prisons and offers programmes at others.[38]

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[31] Christopher Zoukis, *College for Convicts: The Case for Higher Education in American Prisons* (McFarland 2014) 56.

[32] Lois M Davis *et al, Evaluating the Effectiveness of Correctional Education: A Meta-Analysis of Programs That Provide Education to Incarcerated Adults* (Rand Corporation 2013) 1.

[33] Charles W Coulter and Orvo Korp, 'Rehabilitation Programs in American Prisons and Correctional Institutions' (1954) 44 Journal of Criminal Law and Criminology 611, 615; It is an established fact that indeed education, vocational and work programs saturate the U.S Correctional Institutions. See David B Wilson, and Doris l Mackenzie,'A Meta-Analysis of Corrections-Based Education, Vocation, and Work Programs for Adult Offenders' (2000) 37 Journal of research in Crime and Deliquency 347, 347-348; Dawn k Cecil, Daniella A Drapkin, Doris Layton and Mackenzie Laura J Hickma, 'The effectiveness of Adult Basic Education and Life-Skills Programs in reducing recidivism: A Review and Assessment of the Research' (2000) 5 Journal of Correctional Education 207, 207.

[34] How Prison Vocational Could Effectively Fight Mass Incarceration Training < http://www.genfkd.org/how-prison-vocational-training-could-effectively-fight-mass-incarceration>accessed 22 June 2017.

[35] Zoukis (n 28).

[36] Ann Carson E, Prisoners in 2014, United State Department of Justice Office of Justice Programs Bureau of Justice Statistics (2015) 1-5. < http://www.safealternativestosegregation.org/resources/view/bjs-prisoners-in-2014>accessed 3 July 2017.

[37] ibid.

[38] ibid.

Vocational training is also available in Canadian Prisons and the aim is virtually the same as that of the USA.[39] The primary objective of vocational training in the Correctional Service of Canada (CSC) is to educate inmates so that they may participate properly in the society and become better citizens who abide by the law after leaving the prison. Education of prisoners in Canada is taken seriously by government as clearly stated below:

> Seen through the lens of a behaviourist, education for Canadian inmates attempts to change behaviour through skills development and vocational training; to achieve this, the Canadian government has implemented programmes which are available to all minimum, medium and maximum-security facilities; the programmes include: Adult Basic Education (Grades 1-10); Secondary Education; Vocational Education; and Post-Secondary Education.[40]

Scholars have argued that education for inmates is an effective tool for the rehabilitation of criminals. Linda Smith and Stephen Steurer, correctional educators, also assert that the role of education in rehabilitating offenders cannot be over-emphasised. They posit that education not only provides avenues for rehabilitation, but that also reduces the possibility of future crime. Rigorous research was conducted with valid and reliable empirical studies by scholars and the outcome revealed that recidivism in Canada has not only substantially reduced through correctional education, the participation of prison inmates in the labour market after regaining their freedom has also been greatly enhanced.[41] In view of the above, the Nigerian government should take the opportunity in providing education and vocational training for prison inmates. Correctional education programmes should be implemented through the provision of adequate rehabilitation services and facilities in prisons. This would go a long way in reshaping the lives of inmates, ranging from secondary school education/diploma courses and various forms of apprenticeship training that could earn them something while in prison, and serve as a source of sustenance after prison. Rehabilitation and reformation are apparently proactive criminal punishment protocols that have been left out of the Nigerian Criminal Justice System. Thus, this should be firmly

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[39] John W Ekstedt and Curt T Griffiths, *Corrections in Canada: Policy and Practice* (2nd edn, Elsevier 2013) 200.

[40] Glynn Sharpe and Tracey Curwen, 'Adult Education in Canada's Penal System' (2012) 2 International Review of Social Sciences and Humanities 185, 187.

[41] Stephen J Steurer and Linda G Smith, 'Education Reduces Crime Three-States Recidivism Study Executive summary' (2003) published through a partnership between Correctional Education Association (CEA) and Management & Training Corporation Institute (MTCI), < http://www.ceanational.org/documents/3StateFinal.pdf.>accessed 26 June 17; Scott V Anderson, [1995] Evaluation of the Impact of Correctional Education Programs on Recidivism National Criminal Justice Reference Service < https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=174087>accessed 3 July 2017. < http://www.ceanational.org/documents/3StateFinal.pdf.>accessed 26 June 17.

embraced and introduced into the Nigerian Criminal Justice System, which, in its current state, is more deterrent and retributive.

In the USA, over 445,000 employees work in the prison system, and of that number, 295,261 (more than half) act as guards.[42] This shows that the number of staff in the US prison system is proportionate to the number of prisoners. The current situation of highly congested Nigerian Prisons, with few prison guards and social workers, continues to spell doom for Nigeria's criminal justice system. Thus, the Nigerian prison system can only be functional if there is adequate manpower within the various prisons in the country. It is recommended that people of proven integrity with educational qualification not below National Certificate of Education (NCE) should be recruited into the Nigerian Prisons Service in a number that is proportionate to the prison population.

The US prison system is monitored by the Federal Bureau of Prisons within the ambit of the Department of Justice.[43] It provides more progressive and humane care for prison inmates, to professionalise the prison service, and to ensure consistent and centralised administration of the various prisons in operation at the time.[44] Nigerian Prisons would be effective if government creates a monitoring system in terms of the security and welfare of prisoners, as well as the activities of prison officials.

American Prisons believe completely in the theory of rehabilitation than retribution. Prisons in the country include rehabilitation and reintegration programmes in their agenda. The concept of a successful prison must be based on how to strike the perfect balance between adequate punishment for crimes and a punishment that is severe enough to prevent crime. Unfortunately, Nigerians have not done well in this regard. The perception by key players of the criminal justice system is that prisoners are condemned outcasts, maladroit and must face their unfortunate life in penury. This means that prisoners do not go to prison for reformation but punishment. It is, therefore, proposed that there should be an aggressive public enlightenment programme steered by the relevant government agency such as the National Orientation Agency (NOA) on generating a positive perception of prisoners in Nigeria. Government is encouraged to set up committees at the national and state levels

[42] United State Congress House Committee on Rules, *Legislative Veto after Chadha: Hearings before the Committee on Rules, House of Representatives, Ninety-Eight Congress, Second Session,on the Impact of the Supreme Court Decision in the case of Immigration and Naturalization Services v Chadha which found the Legislative Veto Unconstitutional* (United State Government Printing Office 1984)

[43] United States Office of the Federal Register, *Code of Federal Regulations: 2000* (United State General Service Administration, National Archives and Records Services, Office of the Federal Register 2009) 561.

[44] ibid

designated to serve as visiting bodies to places of detention for the prevention of torture and other related ill-treatments.

The Nigerian government should be able to take the necessary steps to fulfill its international obligations. It is not enough to assent to a treaty; effort must be made to ensure that it is domesticated– so that it can be enforceable.

Government should also ensure that all incidents of torture in detention are promptly investigated and given the required attention so as to uphold and promote the principles prohibiting any form of torture. It is important that the period of imprisonment should be used efficiently and effectively to work on the lives of prisoners in a supportive environment and ensure, as much as possible, that upon return of the prisoners to the society, he or she is not only willing but also able to live a law-abiding and self-supporting life. If the Government of Nigeria can make provision for transport for released prisoners to their homes and provide financial support to them in the form of soft loans to start off their lives after release, the rate of recidivism could be reduced.

The allocation of funds to prison increases in the USA as the number of inmates increases, showing some level of responsibility on the part of the government.[45] Likewise, government should adequately fund Nigerian Prisons by renovating dilapidated structures and building more befitting ones that would adequately take care of the population of prisoners. Adequate funding would also address lack of essential needs such as beds, food (both in quality and quantity), water and toilet facilities. It would guarantee a safe and secure environment for inmates and prevent unhygienic conditions, pollution and poor sanitation that subject prisoners to inhuman treatment. Also, effective transportation system with adequate running costs is important in stopping the menace of not presenting an accused person in the court by prison officials due to lack of transport. It is also submitted that standard medical facilities as well as qualified and sufficient medical personnel should be provided at various prisons in Nigeria while prisoners with serious ailments should be adequately treated by government or released to their families for adequate medical care.

Records show that in the mid-1990s, Canada experienced explosive growth in its prison population both at the level of Federal and Provincial Prisons to the extent that prison capacities built for single occupancy were double-bunked.[46] In recent times, the size of

[45] Dervan E Lucian, 'American Prison Culture in an International Context: An examination of Prisons in America, the Netherlands, and Israel' (2011) 22 Stanford Law and Policy Review 426, 426.

[46] Nick Larsen, *The Canadian Criminal Justice System: An Issues Approach to the Administration of Justice* (Canadian Scholars Press 1995) 255; Beverly-Jean Daniel, *Diversity, Justice, and Community:the Canadian Context* (Canadian Scholars 2016) 71; United Nations Asia and far East Institute for The Prevention of Crime and Treatment of Offenders, *Resource Material Series,Issue* 60-62 (UNAFEI 2003) 98.

Canada's prison population is moderately low and is steady or reducing. Conversely, one significant aspect of this positive trend is the conscious efforts that have been made to utilise community-based alternatives to imprisonment in Canada.[47] In the same vein, it is recommended that greater use of suspended sentences, fines, restitution and mediation, adoption of probation and c ommunity service be considered as alternatives to incarceration. This is likely to reduce pressures on prison populations in Nigeria. Also, the use of non-custodian measures for non-violent offences and minor crimes is advocated. Additionally, in criminal cases involving women, the plight of their children should be taken into consideration. As such, alternative measures rather than imprisonment for women need to be institutionalised in Nigeria, hence their imprisonment should serve as a last option, that is, when it becomes inevitable in extreme cases. All the points raised above are antidotes to prison congestion in Nigeria, which would impact positively on the Nigerian Criminal Justice System.

Considering the enormous challenges faced by the Nigerian Judiciary, it is submitted that the points listed below could enhance its performance and help in rescuing Nigeria's criminal justice system from its present challenges.

a. Juveniles and women are kept in distinct places from adults and male offenders respectively in the USA.[48] Besides, prisoners are grouped on the nature of their offences. In Nigeria, however, all categories of prisoners are, sometimes, kept within the same facility. There is need for inmates to be grouped according to their age and sex, and the use of separate detentions for convicts with jail terms, condemned prisoners and awaiting trial inmates should be adopted.
b. The researcher believes that availability and utilisation of plea bargain in Nigerian laws do not constitute a solution to prison congestion as insinuated by the drafters of the law. The adoption of plea bargain in the Administration of Criminal Justice Act, 2015 is just to provide a soft landing for criminals. Congestion in the Nigerian Prisons is testimony of the inefficiency of the Nigerian Criminal Justice System; since its adoption, the rate of crime has continued to increase. It is, therefore, recommended that plea bargain be expunged from Nigerian laws as the country is not judicially mature for that. This is because such act will provide a soft landing for criminals and will not deter others from committing crime.

[47] Patricia Mallenby and Jeremy Mallenby, Essay in World History: An Undergraduate Perspective (Firstchoicebooks 2002) 94.
[48] Mary Bosworth, *The U.S. Federal Prison* (Sage 2002) 49.

c. For quality justice delivery, the court should not admit confessional statements written by the police as evidence against a criminal suspect in the court as such is liable to compromise and can lead to miscarriage of justice. Besides, statements written by criminal suspects should be subjected to thorough scrutiny to ensure that they were not obtained under duress.

d. Considering the position occupied by judges and magistrates in the dispensation of justice in Nigeria, their appointment should be devoid of any interference and be inspired by merit and forward-looking principles, not by an individual's parochial and egocentric considerations but rather on integrity, intellectual suitability and professional competence. It is recommended that names and details of individuals considered for employment as judges and magistrates should be published in national newspapers for a stipulated period for public scrutiny before their appointment. This could help in bringing people who possess the qualities of valour, honesty and integrity into positions of judges and magistrates. This will in no little way guarantee effective justice administration in Nigeria.

e. Vacancies created by judicial officers, who are no longer in the services of the judiciary, either due to retirement, resignation, dismissal, incapacitation or death, should be filled without delay. Appointment of judges and magistrates should be done on a regular basis to match up with the influx of cases in Nigerian courts. This would reduce the work load of officers and enhance efficient and prompt delivery of justice for Nigeria's criminal justice system to improve.

f. The judicial arm of government should be well funded, and the needs of the court system have to be accorded priority in the allocation of resources if Nigeria's criminal justice system must improve. It is imperative to implement the bill of the State Judiciary financial autonomy signed the to law recently by President Muhammed Buhari in given assent to the provision of the Fourth Alteration Act 2017 of the Nigeria Constitution, if implemented it will resolve a lot of issues in the judiciary,as total financial autonomy will help the judiciary to perform its functions without undue interference from the executive and legislative arms of government. Also, if training and retraining of the judicial staff is embarked upon to keep them abreast of dynamics in law, and modern library facilities are put in place in every judicial division in Nigeria, the judiciary will be better placed to carry out its mandates, thus enhancing the Nigerian Criminal Justice System.

g. There is need for the Nigeria government to institute a promptly paid special salary scale with rich welfare packages for the police, prosecutors, prisons and judicial workers in a

bid to boosting their morale for efficient service delivery. This is important given the fact that a sound criminal justice system in any society is a catalyst to economic growth and social development.

h. The police and prisons in Nigeria do not embark on industrial action (strike) based on the nature of their services (essential services). In the same vein, the Nigerian government is encouraged to enlist judicial workers under essential services so that court processes would not be disrupted by incessant strike actions embarked upon by workers of the judiciary in Nigeria. This will help in the prompt dispensation of justice.

i. There is generally the problem of law enforcement and compliance in Nigeria, even when such laws exist. If international instruments ratified by Nigeria are all domesticated and followed, its criminal justice will be better. According to the Nigerian Constitution, for a treaty to be enforceable, it must be enacted into law by the National Assembly. This indicates that domestication of treaties involves commitment on the part of the government. Therefore, it is advisable that government puts the necessary machinery in place for the protection of the rights as guaranteed by the treaties. In the same vein, the Nigerian Government should demonstrate political will in domesticating the various international instruments so that they can become local laws that can be used in cases involving their violators in Nigerian courts. In addition, it is rather unfortunate that there are laws that promote efficient justice administration in Nigeria; and one of such laws is the Administration of Criminal Justice Act, 2015. Unfortunately, these laws exist only on paper and have not made any noticeable impact on Nigeria's criminal justice system. There is, therefore a need for all institutions of criminal justice administration and every Nigerian to make concerted efforts in abiding by these laws to stall and eliminate practices that do not move the country's criminal justice system forward. It is submitted that all hands must be on deck for the enforcement of and compliance with the laws of the land. This is *sine qua non* to achieving a criminal justice system with global best practices in Nigeria.

j. Nigeria should demonstrate commitment to domesticate international instrument that are instrumental to the administration of criminal justice, so as to guarantee its proper enforcement in the Nigerian courts.

BIBLIOGRAPHY

PRIMARY SOURCES

Cases

A S E S A v Ekwueme (2001) FWLR pt. 51 at 450-457.

Adesina v State (2012) pt. II MJSC at 80.

Alasho Anaho and Anor v Keffi Native Authority (1966) N N L R 37 at 38.

Aliu Bello v Attorney-General, Oyo State (1986) 5 NWLR pt. 45 at 828.

Anozia v Attorney-General of Lagos State (2010) 15 NWLR pt. 207 at 237.

Aoko v Fagbemi (1961) 1 All NLR 400 pt. 231.

Arab Contractors (Nig) Ltd v *Umanah* (2012) 28 WRN at 91-92.

Arabi v The State (2001) 4 NWLR pt. 706 at 256.

Attorney-General of Bendel State v Attorney-General of the Federation (2007) 11 NWLR pt. 1046 at 565.

Attorney-General of Bendel State v. Attorney-General of the Federation (1983) 3 NCLR 1 at 40.

Attorney-General Federation v Attorney-General Abia State No 2 (2000) 6 NWLR pt. 764 at 542, 640.

Augustine Eda v The Commissioner of Police (1982) NCLR 219.

Bayo Johnson v Lufadeju (2000) 8 NWLR pt. 767 at 192.

Dambaba v the State (2000) 14 NWLR pt. 687.

Denton-West v Muoma (2008) 6 NWLR pt. 418 at 451-452.

Dominic Peter Ekanem v Assistant Inspector-General of Police (2008) All FWLR pt. 420 at 775.

Echaka Cattle Ranch Ltd v Nigerian Agricultural and Cooperative Bank Ltd (1993) 8 NWLR pt. 310 at 233.

Edet v Essien (1932)11 NLR at 47.

Fadeju v Johnson (2007) All FWLR pt. 371 at 1532.

Fawehinmi v Inspector- General of Police (2000) 1 NWLR pt. 767.

Federal Government of Nigeria v Tafa Balogun and Others (Unreported) Charge No. FHC/ AB/CR/14/ (2005), Federal High Court Abuja.

FRN v Osahon (2006) 5 NWLR pt. 973 at 18-19.

Galadima v State (2012) MJSC pt. III at190.

Gubba v Gwandu Native Authority (1948) WACA and Native Courts Ordinance, 1948.

Hartage v Henderick (1970) pt. 548 at 601.

Ibiyeye and Others v *Gold and Others* Appeal No. CA/1C/M.

Igri v State (2012) pt. III MJSC at 107.

Josiah v State (1985)1 NWLR pt. 1 at131.

Kimdey v Military Governor of Gongola State (1988) 2 NWLR pt. 77 at 445.

Lewis v Bankole (1908) 1 NLR 81.

Mbang v State (2012) pt. IV MJSC at 119.

*Military Governor of Lagos State v Ojukw*u (1986) 1 NWLR pt. 18 at 621.

Nice v AG (2007) CHR 218 at 232.

Nse Udo Ntita v State (1993) pt. 283 at512.

Nwachukwu v *The State* (2002) No 2 8NWLR 366 pt. 770 at 682-683.

Nwachukwu v *the State* (2002) NWLR pt. 751at 3.

Ogundare v State (1995) 5 NWLR pt. 395 at 266.

Okoduwa v State (1988) 2 NWLR pt. 76.

Olatawura JSC in Okon Akpan v State (1991) 3 NWLR pt. 182 at 646.

Onagoruwa v The State (1993)7 NWLR pt. 303 at 49-86.

Onyenye v State (2012) pt. II MJSC at 121.

OSIL v Balogun (2012) 38 WRN pt. 150.

Owoniyin v Ornotosho (1961) 2 SCNLR 57.

Oyakhare v State (2006) All FWLR pt. 305 at 703-709.

Oyewunmi v Ogungbesan (1990) 3 NWLR pt. 182 at 20.

Para C Okoro and Ords v *Minister of Internal Affairs* Suit No FHC/EN/CP/102/2000.

Peter Nemi and Others v Attorney-General of Lagos State (1996) 6 NWLR pt. 452.

R v Inch (1989) 91 Criminal App.R.51.

R v Nicholas Vega (1938) 4 WACA 8.

R v Silverlock (1894) 2 QB 766.

R v Wilkes (1891) A C 173.

Robinson Ojoko v Inspector- General of Police (1956) FSC 62.

Rookes v Commissioners of Sewers (*1598*) *5 Rep 99* b.

Saliso v Police (1960) WNLR 213.

Sharpe v Wakefield. (1891) A C 173.

Shola Abu v COP, Lagos State (2006) CHR1.

Tochukwu v F R N (2005) All FWLR pt. 278 1048 at 1072-1073.

Udofia v State (1988) 3 NWLR pt. 84 at 541.

Udofia v State (1988) 3 NWLR pt. 84, at 541.

Ukachukwu v Uba (2006) All FWLR pt. 300 at 1736.

Willie v Ibiok (2012) 52.

Yusuf Umar v *A A Salami and Others* (2001) 1 CHR 413.

Commissions

Economic and Financial Crime Commission (Establishment) Act, 2004.

Independent Corrupt Practices and other Related Offences Commission Act, 2000.

Judgments

Abudu v Nigerian Police Suit No: M/13/2011.

Courts Proclamation, 1900 No 5, 1900 (Northern Nigeria).

Enahoro v R (1965) NMLR pt. 265 at 283.

Isaac Edoh v Edo State Commissioner of Police Suit No: B/460m/2011.

Kano Native Authority v Fagoji (1957) NRNLR at 57.

Maizako v Superintendent General of Police (1960) WRNLR 188.

Obaseki, Justice of Supreme Court in *Oyewunmi v Ogungbesan* (1990) 3 NWLR pt. 182 at 20.

Odekunle v State (2006) All FWLR pt. 332 at 145.

Supreme Court Proclamation No 6, 1900.

Supreme Court Proclamation No 8, 1900.

The case of Thomas (1964) C L R 2.

Tsamiya v Bauchi Native Authority (1957) NRNLR at *73.*

Reports

National Human Rights Commission Nigeria Report of Prison Audit 2009, 129.

Nigeria Vision 2010 Committee *Report of the Vision 2010 Committee: main report* (The Committee 1997).

Observation of International Commission of Jurists on the Report of the proceedings of the *International Commission of Jurists Conference on the Rule of Law in a Free Society,* (Delhi India 1959).

PRAWA, *Prisoner's Rehabilitation and Welfare Action 1999* (Nigerian Prisons Service Annual Report 2000).

United Nations, *African Governance Report 11:2009* (United Nations Publications 2009).

International Instruments

African Charter on Democracy, Elections and Governance (2012).

African Charter on Human and People's Rights (Banjul Charter), Organization of African Unity, OAU Doc. C AB/LEG/67/3 (1981).

Arusha Declaration on Good Prison Practice (1999).

Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters, ECOSOC Res. 2000/14, U.N. Doc. E/2000/INF/2/ (2000)

Global Standards to Combat Corruption in Police Forces/Services Interpol Resolution No. AG-2002-RES-1 (2002).

Regional instruments

The Kampala Declaration on Prison Conditions in Africa (1996).

United Nation Code of Conduct for Law Enforcement Officials, United Nations General Assembly Resolutions34/169, U.N. Doc. GAOR, 34th Session, 169th meeting, U.N. Doc. A/RES/34/109 (1979).

United Nations Code of Conduct for Law Enforcement Officials, United Nations General Assembly Resolutions34/169, U.N. Doc. GAOR, 34th Session, 169th meeting, U.N. Doc. A/RES/34/109 (1979)

United Nations General Assembly Resolution 43/173 U.N. Doc. GAOR, 43rd Session, 76th meeting, U.N. Doc. A/RES/43/173 (1988).

United Nations Congress on the Prevention of Crime and the Treatment of Offenders (1990).

United Nations General Assembly Resolution 34/169 U.N.GAOR, 34th Session, 106th meetings, U.N.Doc., A/RES/34/169 (1979).

United Nations General Assembly Resolution 3452 (XXX) U.N. Doc. GAOR, 3452nd Session, 2433rd meeting, U.N. Doc. A/RES/3452 (XXX) (1975)

United Nations General Assembly Resolution 39/46, U.N. Doc. GAOR, 39th Session, 93rd meeting, U.N. Doc. A/RES/39/46 (1984).

United Nations General Assembly Resolution 40/33, U.N.GAOR, 40th Session, 96th meetings, U.N.Doc., A/RES/40/33 (1985).

United Nations General Assembly Resolution 40/34, U.N. Doc. GAOR, 40th Session, 96th meeting, U.N. Doc.A/RES/40/34 (1985)

United Nations General Assembly Resolution 44/25, U.N.GAOR, 44th Session, 61st meetings, U.N.Doc., A/RES/44/25 (1989).

United Nations General Assembly Resolution 55/89 U.N.GAOR, 55th Session, 81st meetings, U.N.Doc., A/RES/55/89 (2000).

United Nations General Assembly Resolution 57/199 U.N.GAOR, 57th Session, 77th meetings. U.N.Doc, A/RES/5 7/199 (2002).

United Nations General Assembly Resolution 633 C (XXIV) U.N. Doc GAOR, 633rd Session, 677th meeting, U.N. Doc. A/RES/633 C (XXIV) (1957).

United Nations General Assembly Resolution 70/175 U.N.GAOR, 70th Session, 80th meetings, U.N.Doc, A/RES/70/175 (2015).

United Nations General Assembly Resolutions 217 A, U.N. Doc. GAOR, 217th Session, 183rd meeting, U.N. Doc. A/RES/217/A (1948).

United Nations General Assembly Resolutions 2200A (XXI), U.N. Doc. GAOR, 2200th Session, 1496th meeting, U.N. Doc. A/RES/2200(XXI) (1966).

United Nations General Assembly Resolutions 40/32, U.N. Doc. GAOR, 40th Session, 96th meeting, U.N.Doc. A/RES/40/32 (1985).

United Nations General Assembly Resolutions A/RES/58/4 U.N.G.A, 58th Session, 51st meeting A/RES/58/4 (2003).

United Nations General Assembly Resolutions A/RES/67/187, U.N. Doc. GAOR, 67th Session, 60th meeting, U.N.Doc. A/RES/67/187 (2012)

United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules) United Nations General Assembly Resolution (2010).

United Nations Security Council Resolution 50 U.N. Doc. GAOR, 39th Session, 42nd meeting, U.N. Doc.50 (1984).

United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) adopted by Economic and Social Council Resolutions 663 C (XXIV) and Resolution A/RES/70/175 (1955).

Statutes

(Domestic Legislation)

Administration of Criminal Justice Act, 2015.

Administration of Criminal Justice Laws of Lagos State, 2011.

African Charter on Human and People's Rights (Ratification and Enforcement) Act Laws of Federation of Nigeria, 2004.

Annesley Police. 1889.

Code of Conduct and Professional Standards for Officers of the Nigeria Police Force, 2013.

Criminal Code Act, Laws of the Federation of Nigeria, 2004.

Criminal Procedure Act Laws of the Federal Republic of Nigeria, 1990.

Criminal Procedure Act Laws of the Federation, 2004.

Criminal Procedure Code Act, 1960.

Currency Ordinance, 1862.

Evidence Act Laws of the Federal Republic of Nigeria, 1990.

Evidence Act Laws of the Federation of Nigeria, 2011.

Federal Parliament Act, 1963.

Harbour Regulations Ordinance, 1862.

Harbour Sanitary Regulations Ordinance, 1862.

Laws of the Federation of Nigeria, 1948.

Laws of the Federation of Nigeria, 1990.

Native Courts Ordinance, 1918.

Native Courts Ordinance, 1933.

Native Courts Ordinance, 1943.

Native Courts Proclamation, 1900.

Nigeria Police Act Laws of Federation of Nigeria, 2004.

Ordinance of Settlement of Lagos, 1863.

Penal Code (Northern States) Federal Provisions Act, Laws of the Federal Republic of Nigeria, 2004.

Penal Code Act Laws of the Federal Republic of Nigeria, 1990.

Prisons Act Laws of the Federal Republic of Nigeria, 2004.

Protectorate Court Ordinance, 1933.

Sharia Penal Code Law of Zamfara State, 2000.

Supreme Court Ordinance, 1846.

Supreme Court Ordinance, 1863.

Supreme Court Ordinance, 1863.

Supreme Court Ordinance, 1876.

Supreme Court Ordinance, 1900.

Supreme Court Ordinance, 1901.

Supreme Court Ordinance, 1914.

Supreme Court Proclamation, 1900.

The Constitution of the Federal Republic of Nigeria, 1999.

The High Court Law of Bayelsa State, 2010.

Use of Official Seal Ordinance, 1862.

West African Court of Appeal Ordinance, 1933.

SECONDARY SOURCES

Articles

Abah R C, 'The Demographic Implications of the HIV Prevalence Trend in Nigeria' (2014) 15 Journal of Public Health in Africa 19-22.

Abdulsalami M D, 'Historical Background of Nigerian Politics, 1900-1960' (2013) 16 Journal of Humanities and Social Science 84-94.

Adebayo A A, 'Social Factors Affecting Effective Crime Prevention and Control in Nigeria' (2013) 3 International Journal of Applied Sociology 71-75.

Adebayo P F and Olugbade E O, 'The Challenges of Effective Policing as Measure of Controlling the Phenomenon of Police Corruption in Nigeria Today' (2009) 4 International NGO Journal 70-75.

Adefi O M and Achor A J A, 'Re-Awakening the State Police Controversy in Nigeria: Need For Rethink' (2013) 3 International Journal of Asian Social Science 2307-2314.

Adefi O M, 'The Nigerian Police and good community relationship: A Desideratum' (2012) 2 International Journal of Asian Social Science 2049-2060.

Adegbami A and Uche C I N, 'Good Governance and Prison Congestion in Nigeria: The Case of Maximum Security Prison, Ilesa' (2015) 3 Public Policy and Administration Review 27-35.

Adewoye O, 'Prelude to the Legal Profession in Lagos 1861-1880' (1970) 14 Journal of African Law 98-114.

Adewọye O, 'Self-Taught Attorneys in Lagos, 1865-1913' (1969) 5 Journal of the Historical Society of Nigeria 47-65.

Adiza O M, 'The Effects of Corruption on Good Governance in Nigeria' (2015) 4 International Journal of Development and Sustainability 292-304.

Afigbo A E, 'The Warrant Chief System in Eastern Nigeria: Direct or Indirect Rule?' (1967) 3 Journal of the Historical Society of Nigeria 683-700.

Agbakwuru C and Ibe-Godfrey E M, 'Correlates of Coping with the Challenges of Incarceration among Nigerian Prison Inmates' (2017) 5 British Journal of Education 69-77.

Agbonika J and Alewo M, 'Delay in the Administration of Criminal Justice in Nigeria: Issues from a Nigerian view point' (2014) 26 Journal of Law, Policy and Globalization 130-138.

Agbor A A, 'Prosecuting the Offence of Misappropriation of Public Funds: An Insight into Cameroon's Special Criminal Court' (2017) 20 Potchefstroom Electronic Law Journal 1-31.

Aigbe G O and Zannu A E, 'Differentials in Infant and Child Mortality Rates in Nigeria: Evidence from the Six Geopolitical Zones' (2012) 2 International Journal of Humanities and Social Sciences 206-214.

Ajayi J O, 'Public Perception of the Police and Crime Prevention in Nigeria' (2014) 7 International Journal of Criminology and Sociological Theory 1-12.

Ajayi J O, 'Nigeria Prisons and the dispensation of justice' (2012) 1 International Journal of Arts and Humanities 208-233.

Ajodo-Adebanjoko A and Okorie N, 'Corruption and the Challenges of Insecurity in Nigeria: Political Economy Implications' (2014) 14 Global Journal of human-Social Science 10-16.

Akinlabi O M, 'Do the Police really protect and serve the Public? Police deviance and Public Cynicism towards the Law in Nigeria' [2016] Journal of Criminology and Criminal Justice 158-174.

Akpakan M, Bariledum K and Nwibor B L, 'National Insecurity and Youth Unemployment in Nigeria: The Case of Niger-Delta Region' (2015) 13 British Journal of Humanities and Social Science 104-15.

Akpakan M, Bariledum K, Nwibor B L, 'National Insecurity and Youth Unemployment in Nigeria: The Case of Niger-Delta Region' (2015) 13 British Journal of Humanities and Social Science 104-155.

Alemika E E O, 'Colonialism, State and Policing in Nigeria' (1993) 20 Crime Law and Social Change 187-219.

Alemika E E O, 'Police practice and Police Research in Africa' (2009) 10 Police Practice and Research 483-502.

Alemika E E O, 'Policing and Perceptions of Police in Nigeria' (1988) 11 Police Studies International Police Review 161-176.

Alemika E O, 'Trends and Conditions of Imprisonment in Nigeria' (1993) 37 International Journal of Offender Therapy and Comparative Criminology 147-162.

Alex A S, Adigizi, I G and Aguye, A S, 'The Theoretical Exploration of Punishment and Incarceration in Nigeria (2016) 2 Research Journal of Humanities and Cultural Studies 81-86.

Aleyomi B M, 'Is State Police a Panacea to Security Threat in Nigeria' (2013) 4 Afro-Asian Journal of Social Sciences 1-21.

Alkali U, Jimeta A, Magashi A I and Buba T M, 'Nature and Sources of Nigerian Legal System: An Exorcism of a Wrong Notion' (2014) 5 International Journal of Business, Economics and Law 1-10.

Ani C C, 'Reforms In The Nigerian Criminal Procedure Laws' (2011) 1 Journal on Criminal Law and Justice 52-90.

Anyawu O, 'Crime and Justice in Postcolonial Nigeria: The Justification and Challenges of Islamic Law of Shari'ah' (2005) 21 Journal of Law and Religion 315-347.

Anzaku S A, Ismaila G A and Agube S A, 'The Theoretical Exploration of Punishment and Incarceration in Nigeria?'(2016) 2 Research Journal of Humanities and Cultural Studies 81-86.

Araromi M A, 'Prisoners' Rights under the Nigerian Law: Legal Pathways to Progressive Realization and Protection'. (2015) 6 Afe Babalola University Journal of Sustainable Development Law and Policy 169-198.

Arisukwu O C, 'Policing Trend in Nigeria (1960-2012)' (2012) 85 The Police Journal 151-159.

Arisukwu O C, Adejumo Y P and Asamu F F, 'Causes and Effects of Violence in Nigerian Prisons'(2015) 1 Journal of Social Sciences and Humanities 368-373.

Arthur J A, 'Development of penal policy in British West Africa: Exploring the colonial dimension' (1991) 15 International Journal of Comparative and Applied Criminal Justice 187-206.

Asiedu-Akrofi D, 'Judicial Recognition and Adoption of Customary Law in Nigeria' (1989) 37 American Journal of Comparative Law 571-593.

Audu J, 'Pre-Colonial Political Administration in the North Central Nigeria: A Study of the Igala Political Kingdom' (2014) 10 European Scientific Journal 392-402.

Awopetu R G, 'An Assessment of Prison Overcrowding in Nigeria: Implications for Rehabilitation, Reformation and Reintegration of Inmates'. (2014) 19 Journal of Humanities and Social Science 21-26.

Ayinde H M and Opeyemi O T, 'Evaluation of Components of Adult Education on the Inmates' Welfare in Agodi Prison Yard, Ibadan, Oyo State, Nigeria' (2011) 1 Developing Countries Studies 9-25.

Ayobami J S, 'The Provisions of 1999 Constitution of Nigeria on Appointment, Discipline and Removal of Judicial Officers and Implications for an Effective and Independent Judiciary ' (2014) 28 Journal of Law, Policy and Globalization 170-174.

Ayuk A A, Owan E J and Ekok O C, 'The Impact of Prison Reforms on the Welfare of the Inmates: A Case Study of Afokang Prison Calabar, Cross River State, Nigeria' (2013) 13 Global Journal of Human Social Science Sociology and Culture 1-6.

Ayuk A A, Owan E J and Uyang F A, 'Traditional Methods of Crime Control and Community Security in Odukpani Local Government Area of Cross River State, Nigeria' (2013) 14 Journal of Humanities and Social Science 61-66.

Babalola A, 'Power of Police to Prosecute Criminal Cases: Nigeria and International Perspectives' (2014) 2 European Journal of Business and Social Sciences 127-138.

Babatunde E, 'Torture by the Nigeria Police Force: International Obligations, National Responses and the Way Forward' [2017] Strathmore Law Review 169 -187.

Bamgbose O, 'Access to Justice through Clinical Legal Education: A way Forward for Good Governance and Development' (2015) 15 African Human Rights Law Journal 378-396.

Bamidele O, Olaniyan A O and Ayodele B, 'Culture, Corruption, and Anticorruption Struggles in Nigeria' (2016) 32 Journal of Developing Societies 103-129.

Barnes H E, 'Historical origin of the Prison System in America' (1921) 12 Journal of Criminal Law and Criminology 35-60.

Cheri L, 'Corruption and People's Opinion on the Removal of Police Check-Points in Yobe State' (2015) 3 Global Journal of Arts, Humanities and Social Sciences 46-55.

Chinwokwu E C, 'Crime and Criminal Investigation in Nigeria: A Study of Police Criminal Investigation in Enugu State' (2013) 1 International Journal of African and Asian Studies 66-72.

Chukwudi O R and Nnnena I A, 'The Judiciary and Democracy Consolidation in Nigeria under the Buhari Administration' (2017) 2 Journal of Politics and Law 24-32.

Chukwuma I, 'The Legal Structure of the Police and Human Rights in Nigeria' (1997) 14 Third World Legal Studies 41-70.

Cocodia J, 'Identifying Causes for Congestion in Nigeria's Courts via Non-participant Observation: A Case Study of Brass High Court, Bayelsa State, Nigeria' (2010) 1 International Journal of Politics and Good Governance 1-16.

Damfebo K D and Asiafiti C, ‘A Classical and Positivist Perspective of Understanding Criminal Behaviour’ (2016) 1 International Journal of Humanities and Applied Social Science 1-17.

Dandurand Y, ‘Criminal Justice Reform and the System’s Efficiency’ (2014) 25 Criminal Law Forum 383-440.

Declan R, ‘Restorative Justice and the Regulatory State in South African Townships’ (2002) 42 British Journal of Criminology 514-533.

Dundas C, ‘The Organization and Laws of some Bantus Tribes in East Africa’ (1915) 45 Journal of Royal Anthropology Institute of Great Britain and Ireland 234-306.

Edosa E and Fenemigho E O, 'The Judiciary as an Organ of Government' (2014) 8 African Research Review, An International Multidisciplinary Journal 92-101.

Eme O I, ‘Unemployment Rate in Nigeria: Agenda for Government’ (2014) 4 Academic Journal of Interdisciplinary Studies 103-114.

Erhaze S and Momodu D, ‘Constraints in Efficient and Speedy Trial Process in Nigeria: The Case of Criminal Justice Administration’ (2015) 3 The International Journal of Humanities and Social Studies 175-182.

Esiri M O, ‘The Upsurge of Recidivism and the Penitentiary Institutions in Nigeria’ (2016) 7 International Journal of Business and Social Science 184-193.

Ewulum B E, ‘Alternative Dispute Resolution Mechanisms, Plea Bargain and Criminal Justice System in Nigeria’ (2017) 8 Nnamdi Azikwe University Law Journal 119-124.

Eze T C and Eze G A, A Critical Appraisal of the Concept of Plea Bargaining in Criminal Justice Delivery In Nigeria (2015) 3 Global Journal of Politics and Law Research 31-43.

Falola T, 'Brigandage and Piracy in Nineteenth century Yorubaland' (1996) 12 Journal of the Historical Society of Nigeria 83-105.

Field M A, ‘The differing Federalisms of Canada and the United States’ (1992) 55 Law and Contemporary Problems 107-120.

Frase R S, ‘Punishment Purposes’ (2005) 58 Stanford Law Review 67-83.

Gargi R, 'Is Capital Punishment Acceptable?' (2014) 4 International Journal of Humanities and Social Science 95-98.

Gbenemene K and Adishi E, 'Community Policing in Nigeria: Challenges and Prospects' (2017) 3 International Journal of Social Sciences and Management Research 47-53.

George R P, 'Natural Law' (2008) 31 Harvard Journal of Law and Public Policy 171-196.

Gourley D, 'Police Discipline' (1950) 41 Journal of Criminal Law and Criminology 85 -100.

Hills A, 'The dialectic of Police Reform in Nigeria' (2008) 15 Modern African Studies 215-234.

Hoggard K P, 'On Crime, Punishment, and Reform of the Criminal Justice System' (2013)1 Athene Noctua: Undergraduate Philosophy Journal 1-7.

Homer F Morris, 'Some Perspectives of East African Legal History' (1970) Scandinavian Institute of African Studies 1-12.

Ibhawoh B, 'Stronger than the Maxim Gun Law, Human Rights and British Colonial Hegemony in Nigeria' (2002) 72 Journal of the International African Institute 55-83.

Ibraheem O T, 'Behind the Prison Walls: Rights or No Rights?'(2013) 2 International Journal of Innovative Research and Development 779-799.

Ibrahim H and Lyman P N, 'Reflections on the new Shari'a Law in Nigeria' (2004) Africa Policy Studies Program 1-35.

Idowu A A, 'The Role of the Police in Elections: The Nigerian Situation' (2003) 2 University of Ado-Ekiti Law Journal 97-98.

Idowu J, 'Policing in Contemporary Nigeria: Issues and Challenges' (2013) 16 African Journal for the Psychological Studies of Social Issues 71-77.

Igbinovia P E, 'Police in Trouble - Administrative and Organizational Problems in the Nigeria Police Force' (1982) 28 Indian Journal of Public Administration 334-372.

Igbo E U, 'The Use and Abuse of Police Powers and Extrajudicial Killing in Nigeria' (2017) 10 African Journal of Criminology and Justice 83-99.

Ikoh M U, 'The Nigerian Prison System and the Failure of Rehabilitation: An Examination of Incarceration Alternatives' (2011) 20 The Nigerian Academic Forum 1-8.

Ikuteyijo L and Rotimi K, 'The image of Nigerian Police: Lessons from History' (2014) 9 Journal of Applied Security Research 221-235.

Imam H, 'Educational Policy in Nigeria from the Colonial Era to the Post-Independence Period' (2012) 1 Italian Journal of Sociology of Education 181-204.

Innocent C, 'The Legal Structure of the Police and Human Rights in Nigeria' (1997) 14 Third World Legal Studies 41-70

Innocent E O and Chukwuma O, 'The Police and Criminal Justice System in Africa: Agenda for Reform' (2009) 4 International Journal of Development and Management Review 166-180.
Innocent E O and Chukwuma O, 'The Police and Criminal Justice System in Africa: Agenda for Reform' (2009) 4 International Journal of Development and Management Review 166-180.

Inyang A A and Bassey M E, 'Imperial Treaties and the Origins of British Colonial Rule in Southern Nigeria, 1860-1890' (2014) 5 Mediterranean Journal of Social Sciences 1946-1953.

Inyang J D and Awakessien M S, 'An Investigation on the Application of Criminal Justice Procedure and its Impact on Crime Factors in Akwa Ibom State, Nigeria' (2014) 4 International Journal of Humanities and Social Science 214-224.

Inyang J D and Ubong E A 'Policing Nigeria: A case for partnership between formal and informal Police Institutions' (2013) 1 Merit Research Journal of Art, Social Science and Humanities 53-58.

Jauhari A, 'Colonial and Post-Colonial Human Rights Violations in Nigeria' (2011)1 International Journal of Humanities and Social Science 53-57.

Jefferson A M, 'Prison Officer Training and Practice in Nigeria Contention, Contradiction And Re-Imagining Reform Strategies' (2007) 9 Punishment and Society 253-269.

John A and Musa A, 'Delay in the Administration of Criminal Justice in Nigeria: Issues from a Nigerian view point' (2014) 26 Journal of Law, Policy and Globalization 130-137.

Kant I, 'The Right of Punishing' (1887) Philosophy of Law 1-14.

Karimu O and Osunyikanmi A F, 'A Comparative Analysis of Police Accountability in Nigeria and United States' (2012) 2 International Journal of Humanities and Social Science 250-257.

Karimu O O, 'Effect of the Nigeria Police Force Personnel Welfare Condition on Performance' (2015) 3 European Journal of Research and Reflection in Arts and Humanities 26-38.

Karimu O, Nigeria Police Force performance in Crime Prevention and Control: An Assessment' (2014) 6 International Journal of Academic Research and Reflection 81-88.

Kasunmu A B and Omabegho S A, 'Provocation as a Defence under the Nigerian Criminal Code' (1965) 14 *British Institute of International and Comparative Law Quarterly* 1399-1410.

Keller P, 'Justice and Ethnicity' (1996) 59 The Modern Law Review 903-918.

Kpae G and Adishi E, 'Community Policing in Nigeria: Challenges and Prospects' (2017) 3 International Journal of Social Sciences and Management Research 47-53.

Kwagyang G U and Chiroma M, 'A Comparative Analysis of the Independence of Judiciary in Nigeria and Malaysia' (2014) 2 Journal of International Academic Research for Multidisciplinary 296-309.

Ladan M T, 'Enhancing Access to Justice in Criminal Matters-Possible Areas for Reform in Nigeria' (2010) a paper presented at a two-day National Workshop on Law Development organized Law Reform Commission 11-17.

Ladapo A O, 'Effective Investigations, a pivot to Efficient Criminal Justice Administration: Challenges in Nigeria' (2012) 5 African Journal of Criminology and Justice Studies 79-94.

Lateef O A, 'Assessing the State of Capital Punishment as a Means of Curbing Violent Crimes In Nigeria' (2013) 9 Journal of Humanities and Social Sciences 6-12.

Lawan M, 'Abuse of Powers of Impeachement in Nigeria' (2010) 48 The Journal of Modern African Studies 311-338.

Lynn S, ‘Locke and Beccaria: Faculty Psychology and Capital Punishment’ (1988) 5 University of South Carolina Journal 1-12.

Madaki M and Kurfi M H, ‘Toward Enhancing Police-Community Relations in Nigeria: Problems and Prospects’ (2013) 4 Journal of Sociological Research 125-134.

Maduekwe V C, Ojukwu U G and Agbata F I, 'Judiciary and the Theory of Separation of Powers in Achieving Sustainable Democracy in Nigeria (the Fourth Republic)' (2016) 4 British Journal of Education 84-104.

Marenin O, ‘Policing Nigeria: Control and Autonomy in the Exercise of Coercion’ (1985) 28 African Studies Review 73-93.

Marenin O, ‘The futures of policing African States’ (2009) 10 Police Practice and Research 349 -363.

Materni M C, ‘Criminal Punishment and the Pursuit of Justice' (2013) 2 British Journal of American Legal Studies 263-304.

Mathias Z S, ‘Police-Public Relations as a Potent Tool for Combating Crime, Insecurity, and Social Disorder in Nigeria’ (2016) 5 International Journal of Business and Management Invention 12-22.

McCorkle L W and Korn R, 'Resocialization within walls' (1954) 293 The Annals of the American Academy of Political and Social Science 88-98.

Meyer J, ‘Reflections on Some Theories of Punishment (1969) 59 Journal of Criminal Law and Criminology 595-599.

Morsink J, ‘World War Two and the Universal Declaration’ (1993) 15 Human Rights Quarterly 357-405.

Muhammad Y A, ‘Reflections on the Introduction of Plea-Bargain and Community Service by the Administration of Criminal Justice Law 2007 in Lagos State and the Administration of Criminal Justice Act, 2015 in Nigeria’ (2017) 58 Journal of Law, Policy and Globalization 91- 100.

Musa A and Hassan N A, ‘An Evaluation of the Origins, Structure and Features of Nigerian Federalism’ (2014) 1 Valley International Journals 314-325.

Mustapha M A, 'Child Justice Administration in the Nigerian Child Right's Act: Lessons from' (2016) 16 African Human Right Law Journal 435-457.

Ndukwe C N and Iroko C, 'Nigerian Prisons Service (NPS) and the Challenges of Social Welfare Administration: A Case Study of Abakaliki Prison' (2014) 9 Journal of Policy and Development Studies 20-28.

Ngboawji D N, 'An Evaluation of the Challenges of Forensic Investigation and Unresolved Murders in Nigeria' (2012) 6 African Journal of Criminology and Justice Studies 143-162.

Ngwu L U and Ahuruonye C C 'The Efficacy of Community Policing in Nigeria' (2017) 7 International Journal of Social Sciences and Humanities Reviews 168-180.

Nte D N, 'An Evaluation of the Challenges of Forensic Investigation and Unresolved Murders in Nigeria' (2012*)* 6 African Journal of Criminology and Justice Studies 143-162.

Nwabueze N R, 'The Dynamics and Genius of Nigeria's Indigenous Legal Order' (2002) 1 Indigenous Law Journal 155-200.

Nwabueze R N, 'The Dynamics and Genius of Nigeria's Indigenous Legal Order' (2002) 1 Indigenous Law Journal 153-199.

Nwagbara C, 'The Nature, Types and Jurisdiction of Customary Courts in the Nigeria Legal System' (2014) 25 Journal of Law Policy and Globalization 1-7.

Nwapa A, 'Building and Sustaining Change: Pretrial Detention Reform in Nigeria' (2008) Justice Initiatives – Pretrial Detention 86-102.

Nwauche E S, 'Law, Religion and Human Rights in Nigeria' (2008) 18 African Human Rights Law Journal 568-595.

Nwekeaku C, 'The Rule of Law, Democracy and Good Governance in Nigeria' (2014) 2 Global Journal of Political Science and Administration 26-35.

Nwocha M E, 'Customary Law, Social Development and Administration of Justice in Nigeria' (2016) 7 Beijing Law Review 430-442.

Nwogugu E, 'Abolition of Courts the Nigerian Experiment' (1976) 20 Journal of African Law 19-22.

Nwogwugwu N and Kupoluyi A K, 'Interrogating the Desirability of State Policing in Nigeria' (2015) 20 Journal of Humanities and Social Science 01-07.

Oarhe O and Aghedo I, 'The Open Sore of a Nation: Corruption Complex and Internal Security in Nigeria' (2010) 3 African Security Journal 127-147.

Oba A A, 'Religious and Customary Laws in Nigeria' (2011) 25 Emory International Law Review 88-895.

Obafunwa J O, Faduyile F A, Soyemi S S, Eze U O, Nwana E J C and Odesanmi W O, 'Forensic Investigation of Mass Disasters in Nigeria: A review' (2015) 56 Nigerian Medical Journal 1-5.

Obaro O A, 'The Nigeria Police Force and the Crisis of Legitimacy: Re-Defining the Structure and Function of the Nigeria Police' (2014)10 European Scientific Journal 421-436.

Obidimma A E and Obidimma E O, 'Judicial Appointments in Nigeria: The Self-Inflicted Inadequate Representation of the Igbos in Federal Courts' (2015) 3 International Law of Business and Law Research 33-43.

Obidimma A E and Obidimma E O, 'The Legislative-Executive Relations in Nigeria's Presidential Democracy' (2015) 3 International Journal of Business and Law Research 71-80.

Obidimma A E, Obidimma E O C, 'Challenges and Prospects of the Juvenile Justice Administration in South East Nigeria' (2012) 3 Nnamdi Azikwe University Law Journal of International Law and Jurisprudence 83-96.

Obilade A, 'Jurisdiction in Customary Law Matters in Nigeria: A Critical Examination' (1973) 17 Journal of African Law 227-240.

Obioha E E, 'Challenges and Reforms in the Nigerian Prisons System' (2011) 27 *Journal of Social Science* 95-109.

Odeh A M and Nanji U, 'State Policing and National Security in Nigeria' (2015) 6 Mediterranean Journal of Social Sciences 412-422.

Odo L U, 'The Impact and Consequences of Corruption on The Nigerian Society and Economy' (2015) 4 International Journal of Arts and Humanities 177-190.

Oduwobi T, ‘From Conquest to Independence: the Nigerian Colonial Experience’ (2011) 25 Historia Actual Online 19-29.

Ogba O N and Enabulele A O, ‘Access to Justice and realities in Justice Administration in Nigeria’ (2012) 13 University of Benin Law Journal 228-249.

Ogbuabor C A, ‘Inquisitorial and Adversarial Process in Nigeria's Criminal Justice System: The Dilemma of a Colonized State’ (2014) 38 University of Western Australia Law Review 175-199.

Ogoloma F, 'The Theory of Separation of Powers in Nigeria: An Assessment' (2012) 6 African Research Review 127-128.

Ogunlade F, 'Rethinking The Judiciary For Good Governance and Sustainable Democracy in Nigeria ' (2006) 1 University of Ado Ekiti Law Society Journal 92-98.

Ogunniran I, ‘The Lock and Key Phenomenon: Reforming the Penal Policy for Child Offenders in Nigeria’ (2013) 10 *Justice Policy Journal* 1-19.

Ogunode S A, ‘Criminal Justice System in Nigeria: For the Rich or the Poor?’ (2015) 4 Humanities and Social Science Review 27-39.

Ogwezzy M C, Adebayo A A and Kekere A I ‘Restorative Justice and non-Custodial Measures: Panacea to Recidivism and Prison Congestion in Nigeria’ (2016) 7 Nnamdi Azikwe University Law Journal 69-78.

Ogwezzy M C, 'From Reformation to Deformation: An Approach Towards Sustainable Development of the Defective Prison System in Nigeria' (2011) 13 Journal of Sustainable Development in Africa 269-283.

Ohonbamu O, ‘The Dilemma of Police Organization under a Federal System: The Nigerian Example’ (1972) 6 The Nigerian Law Journal 73-87.

Ojedokun U A, ‘Contributing Factors to Police Homicide in Nigeria’ (2014) 87 Police Journal: Theory, Practice and Principles 41 - 48.

Ojukwu E, Yemi A G, Chiroma I H, Erugo S, Eyo I, Nwankwo K and Omaka A, ‘Handbook on Prison Pre-Trial Detainee Law Clinic’ (2013) 13 African Human Right Law Journal 481-487.

Okafor F U, ‘A Philosophic Reflection on African Native Laws’ (1988) 22 The Journal of Value and Enquiry 39-52.

Okereke G O, ‘Police Powers and Law Enforcement Tactics: The Case of Nigeria’ (1992) 15 Police Studies: International Review of Police Development 107-117.

Okeshola F B, ‘Human Rights Abuse by Nigerian Police in Four Selected States eand the Federal Capital Territory, Abuja’ (2013) 13 British Journal of Arts and Social Sciences 242-250.

Oko O, 'Seeking Justice in Transitional Societies: An Analysis of the Problems and Failures of The Judiciary in Nigeria ' (2005) 31 Brooklyn Journal of International Law 79-82.

Okogbule N S, ‘Access to Justice and Human Right Protection in Nigeria: Problems and Prospects’ (2005) 2 International Human Rights Journal 100-119.

Okoiye O E, ‘The Inclusion of Emotional Intelligence in Nigerian Police Recruits Training Programme: Agenda for Police Personnel Prosocial Development and Effective Policing’ (2011) 2 Journal of Research in Education and Society 61-70.

Okon E E, ‘Legal and Socio-Ethical Issues in Punishment’ (2013)11 Journal of Law Policy and Globalization 25-30.

Okpalike C, Nwadialor G and Kanayo L, ‘The Contributions of the Christian Missionaries in Building the Nigerian Nation, 1840-1960’ (2015) 4 Academic Journal of Interdisciplinary Studies 159-167.

Okpo O C, Ntunde F O and Anichie A, ‘The Nigerian Police, Safety and Public Policing: An Overview’ (2012) 2 Asian Economic and Social Society 1172-1181.

Okwendi J S and Nwankwoala R, ‘The Role of Restorative Justice in Complementing the Justice System and Restoring Community Values in Nigeria’ (2014) 2 Asian Journal of Humanities and Social Sciences 126-137.

Oladipo B S, ‘Ethnicity and Marginalization within the Nigerian State: A Case study of the Nigeria Police Force’ (2013) 3 Research on Humanities and Social Sciences 79-85.

Olagbegi O O, ‘Delay and Congestion in the Administration of Justice’ (2009)1 Akungba Law Journal 355-364.

Olonisakin T T, Ogunleye A J and Adebayo S O, 'The Nigerian Criminal Justice System and Its Effectiveness in Criminal Behaviour Control: A Social-Psychological Analysis' (2017) 22 Journal of Humanities and Social Science 33-48.

Oloyede I O, 'Theologising the Mundane, Politicising the Divine: The Cross-Currents of Law, Religion and Politics in Nigeria' (2014) 14 African Human Right Law Journal 178-202.

Oluwaniyi O O, 'Police and the Institution of Corruption in Nigeria' (2011) 21 Journal of policing and society 67-83.

Omoruyi I O and Enabulele A O, 'The Effectiveness of the Legal Aid as a Means of Access to Justice in Nigeria' (2004) 2 Benin Journal of Public Law 144-156.

Onuche E, 'An Appraisal of the Right of Private Defence in Nigeria' (2009) 1 Kogi State University Bi-Annual Journal of Public Law 129-138.

Onyekachi J, 'Problems and Prospects of Administration of Nigerian Prison: Need for Proper Rehabilitation of the Inmates in the Nigerian Prisons ' (2016) 5 Journal of Tourism and Hospitality 228-242.

Onyeozili E C, 'Obstacles to Effective Policing in Nigeria' (2001)1 African Journal of Criminology and Justice Studies 32-54.

Opara L C 'The law and Policy in Criminal Justice System and Sentencing in Nigeria' (2014) 4 International Journal of Asian Social Science 886-897.

Osasona T, 'Time to Reform Nigeria's Criminal Justice System' (2015) 3 Journal of Law and Criminal Justice 73-79.

Osegbue C and Madubueze M, 'The Ombudsman and Administration of Justice in Nigeria; A Study of Anambra State; 2010-2015' (2017) 22 Journal of Humanities and Social Science 40-57.

Otto G and Ukpere W I, 'National security and development in Nigeria, (2012) 6 African Journal of Business Management Nigeria Police Force 676-677.

Otu N, 'Colonialism and the Criminal Justice System in Nigeria' (1999) 23 International Journal of Comparative and Applied Criminal Justice 293-306.

Owan E J, Ayuk A A, Udiba U D and Uyang F, 'Awaiting Trial Among Suspected Criminal Persons and Lack of Legal Representation In Cross River State- Nigeria'(2016) 2 International Journal of Sociology and Anthropology Research 1-6.

Oyemwinmina C and Aibieyi S, Analysis Towards Effective Policing in Nigeria (2016) 10 African Research Review, An International Multidisplinary Journal 61-72.

Price J, 'Criminal Law Reform in Northern Nigeria – Retrograde Legislation in the North?' (1961) 24 The Modern Law Review 604-611.

Richard F S, 'Punishment purposes' (2005) 58 Stanford Law Review 67-83.

Robinson P H, 'Ongoing Revolution in Punishment Theory: Doing Justice as Controlling Crime' (2010) 42 Arizona State Law Journal 1089-1111.

Rotimi K and Ogunyemi A O, 'Justice, Due Process and the Rule of Law in Nigeria: the Story of Constable Thomas Shorunke, 1940–1946' (2016) 2 West Bohemian Historical Review 309- 322.

Sampson I T, 'Religion and the Nigerian State: Situating the *de facto* and *de jure* Frontiers of State Religion Relations and its Implications for National Security' (2014) 3 Oxford Journal of Law and Religion 311-339.

Sarkin J, 'Prisons in Africa: An Evaluation from a Human Rights Perspective' (2009) 9 International Human Rights Journal 22-49.

Shobola A and Ajeigbe T O, 'Inmates Incarceration and Family Support As Precursors of Prison Recidivism In Nigeria '(2015)11 European Scientific Journal 492-507.

Sotirios Frantzanas, 'Nathan Jun, Anarchism and Political Modernity' (2013) 21 Anarchist Studies 108-163.

Stephen O B, 'Ethnicity and Marginalization within the Nigerian State: A Case study of the Nigeria Police Force' (2013) 3 Research on Humanities and Social Sciences 79-85.

Taiwo E A, 'Repugnancy clause and its impact on Customary Law: Comparing the South African and Nigerian positions some lessons for Nigeria' (2009) 34 Journal for Juridical science 89-115.

Taiwo E A, Enforcement of fundamental rights and the Standing Rules under the Nigerian Constitution: A Need for a more Liberal Provision. (2009) 9 African Human Rights Law Journal 546-575.

Tajudeen I O, 'Behind the Prison Walls: Rights or No Rights?'(2013) 2 International journal of Innovative Research and Development 779-799.

Uche I B, Uche O A, Ezumah N N, Ebue M O, Okafor A E and Ezegbe B N, 'Effectiveness of Rehabilitation Programs in the Nigerian Prisons: A Study of Perception of Inmates in Enugu Prison' (2015) 6 Mediterranean Journal of Social Sciences 164-170.

Udombana N J, 'An Examination of the Rights of Prisoners and Detainees in Nigeria' (2010) 6 Nigerian Bar Journal 1-10.

Ugwu O L, The Impact and Consequences of Corruption on The Nigerian Society and Economy (2015) 4 International Journal of Arts and Humanities 177-190.

Ugwuoke C U and Ameh S O, 'Rehabilitation of Convicts in Nigerian Prisons: A Study of Federal Prisons in Kogi State' (2014) 4 Research on Humanities and Social Sciences 33-43.

Umar L Y and Mohammed A M, 'Sociological Analysis of Police Public Relations in Yobe State, Nigeria' (2014) 3 International Journal of Humanities and Social Science Invention 14-22.

Uweru B C, 'Repugnancy Doctrine and Customary Law in Nigeria: A positive aspect of British Colonialism' (2008) 2 African Research Review 286-295.

Uzodike E N, 'Judicial Concepts of Adultery, Intolerability and Damages in Nigeria' (1990) 34 Journal of African Law 93-103.

Viljoen F, 'Africa's Contribution to the Development of International Human Rights and Humanitarian Law' (2001)1 African Human Right Law Journal 18-39.

Yadudu A H, 'Colonialism and Transformation of Islamic Law in the Northern State of Nigeria' (1992) 24 Journal of Legal Pluralism and Unofficial Law 103-139.

Yakubu J A, 'Colonialism, Customary Law and Post-Colonial State in Africa: The case of Nigeria' (2005) 30 African Development 201-220.

Yekini A O and Salisu M, 'Probation as a Non-Custodial Measure in Nigeria: Making A Case for Adult Probation Service' (2013) 7 African Journal of Criminology and Justice Studies 101- 117.

Yekini A O, 'Comparative Choice of Jurisdiction Rules in Cases having a Foreign Element: Are there any Lessons for Nigerian Courts?' (2013) 39 Commonwealth Law Bulletin 333-358.

Yusuf U L and Mechanic M A, 'Sociological Analysis of Police Public Relations in Yobe State, Nigeria' (2014) 3 International Journal of Humanities and Social Science Invention 14-22.

Zumve S I, 'Community Policing in Contemporary Nigeria: a synthesis of models' (2012) 2 Journal of Educational and Social Research 132-139.

Books

Abba J B, *Philosophy of Thomas Aquinas on Justice and Human Rights: A Paradigm for the Africa-Cultural Conflicts Resolution - Nigerian Perspectives* (LIT Verlag Münster 2017).

Abdulkadir M B, 'Improved Training on Disciplinary Investigations' in Alemika E E and Chukwuma I C (eds), *Civilian Oversight and Accountability of Police in Nigeria* (Centre for Law Enforcement Education CLEEN 2003).

Abegunrin O, 'Federalism, Political Instability and the Struggle for Democracy in Nigeria' in Ojo B (ed), *Problems and Prospects of Sustaining Democracy in Nigeria* (Nova Publishers 2001).

Abegunrin O, *Nigerian Foreign Policy under Military Rule, 1966-1999* (Greenwood Publishing Group 2003).

Achebe C, *Things Fall Apart* (e Books 1959).

Adebanwi W and Obadare E (eds), *Encountering the Nigerian State* (Springer 2010) 168.

Adediji O B, *Challenging Issues and Accountability in Nigeria'S Public Administration* (AuthorHouse 2012).

Adediran B, 'The Origins of Nigerian Peoples' in Olaniyan R (ed), *Nigerian History and Culture,* (Longman Group Limited Essex 1985).

Adedokun A A, 'United Nations Human Rights Instruments and Criminal Justice Norms and Standard' Bassiouni C and Motala Z (eds) *The Protection of Human Rights in African Criminal Proceedings* (Martinus Nijhoff Publishers 1995).

Adejumobi S, *Governance and Politics in Post-Military Nigeria: Changes and Challenges* (Springer 2010).

Adekunle J O 'National Ethnicity and National Integration: An Analysis of Political History' in Oyebade A (ed), *The Transformation of Nigeria: Essay in Honour of Toyin Falola* (Africa World Press 2002).

Adelugba D and Ujomu P O, (eds) *Rethinking Security in Nigeria: Conceptual Issues in the Quest for Social Order and National Integration* (African Books Collectives 2008).

Adewumi J O, *Essentials of the Nigerian Corpus Juris* (Alabi-Eyo and Company 1998).

Adibe J, D*ebating Nigeria* (Adonis and Abbey Publishers Ltd 2016).

Afigbo A E as cited by Akpeninor J O, *Giant in the Sun: Echoes of Looming Revolution?* (Author House 2012).

Afigbo A E, 'Local Government in Nigeria in the Era of Indirect Rule: 1900-1950' in Falola T (ed), *Nigerian History, Politics and Affairs: The Collected Essays of Adiele Afigbo* (Africa World Press 2005).

Afigbo A E, *the Abolition of the Slave Trade in South-Eastern Nigeria, 1885-1950* (University of Rochester Press 2006).

Agbakoba O and Mamah W U, *Towards a people's Constitution in Nigeria, A civil education manual for the Legal Community* (The Human Rights Law Services 2002).

Agbu O, 'The Nigerian State and Politics in the Fourth Republic' in Agbu O (ed), *Elections and Governance in Nigeria's Fourth Republic* (Council for the Development of Social Science Research in Africa 2017).

Agozino B, 'Nigerian Women in Prisons: Hostages in Law' in Saleh-Hanna V (ed), *Colonial Systems of Control: Criminal Justice in Nigeria* (University of Ottawa Press 2008).

Agozino B, 'Nigerian Women in Prisons: Hostages in Law' in Sudbury J (ed), *Global Lockdown: Race Gender and the Prison- Industrial Complex* (Routledge 2014).

Aguda T A and Okagbue I E, *Principles of Criminal Liability in Nigerian Law* (Heinemann Educational Books Nigeria PLC 1990).

Aguda T A and Isabella O, *Principles of Criminal Liability in Nigerian Law* (2nd edn, Lagos: Heinemann Educ. Books, 1990).

Aguda T A, *The Crisis of Justice* (Eresu Hills 1986).

Ajayi F, The effect of Religion on the Political Process: The case of the Federal Sharia Court of Appeal 1975-1990 (iUniverse 2009).

Aka J, *Blacks Greatest Homeland: Nigeria Is Born Again* (iUniverse 2006).

Aka-Basorun A, 'The Supreme Court and the Challenges of the 90s' in Akinseye-George Y (ed), *Law*, *Justice and Stability in Nigeria: Essays in Honour of Justice Kayode Eso* (Shalom Multiservice Bureau 1993).

Akak E O, *Bribery and Corruption in Nigeria* (Kajola Press 1953).

Akers R A, *Criminological Theories: Introduction and Evaluation* (2nd edn, Routledge 2013).

Akers R L and Sellers C S, *Student Study Guide for Criminological Theories: Introduction, Evaluation, Application* (Oxford University Press 2000).

Akhirome-Omonfuegbe I, 'Law in Social Context' in Ohuruogu C C and Umahi O T (eds), *Nigerian Legal Methods* (Cambridge Scholars Publishing 2013).

Akinbiyi S, *Criminal Procedure and Trials in Nigeria* (Ascend Publications 2002).

Akinbulumo S O, 'Nigeria' in Shoemaker D J (ed), *International Handbook on Juvenile Justice* Victorian Literature and Culture (Greenwood Publishing Group 1996).

Akinola B, *Authority Stealing: How Greedy Politicians and Corporate Executives Loot the World's Most Populous Black Nation* (Author House 2012).

Akinseye–George Y, *Legal System, Corruption and Governance in Nigeria: Including the Corrupt Practices and other Related Offences Act, 2000* (New Century Law Publishers 2000).

Akinseye–George Y, *Nigerian Prisons Service: Justice Sector Reform and Human Rights in Nigeria* – Centre for Socio Legal Studies CSLS, Abuja, Nigeria (CSLS Publishing 2009).

Akpala S A, *Legal Aid Services in Nigeria: The Humanitarian Perspective* (Society for the Welfare of Women Prisoners 2001).

Akumadu T, *Patterns of Abuse of Women's Rights in Employment and Police Custody in Nigeria* (Civil Liberty Organisation 1995).

Alemika E E O, 'Criminal Victimization and Criminal Justice Administration in Nigeria' in Alemika E E O (ed), Crime *and Public Safety* (CLEEN Foundation publisher 2014).

Alemika E E O, 'Police Accountability in Nigeria: Framework and Limitations' in Alemika E E and Chukwuma I C (eds), *Civilian Oversight and Accountability of Police in Nigeria* (Centre for Law Enforcement Education CLEEN 2003).

Ali A M, *Sharia Legal Practice in Nigeria 1956-1983* (Kwara State University Press 2018).
Ali Y, *Nigerian Legal System* (National Publishing House 1982).

Ali-Akpajiak S C A and Pyke T, *Measuring Poverty in Nigeria* (Oxfam 2003).

Alpert G P, Dunham R G and Stroshine M S, *Policing Continuity and Change* (2nd edn, Waveland Press 2014).

Altbach P G and Kelly G P, *Education and Colonialism* (Longman 1978).

Ambuhl R, *Prisoners of War in the Hundred Years War: Ransom Culture in the Late Middle Ages* (Cambridge University Press 2013).

Anderson W S, *Blantine's Law Dictionary* (3rd edn, The Lawyers Cooperative Publishing Co 1969).

Anifowose R and Odukoya A O, 'Towards Curbing Electoral Violence in Nigeria' in Ayoade J A and Akinsanya A A (eds), *Nigeria's Critical Election, 2011* (Rowman and Littlefield 2013).

Aremu A O, 'Urbanization and Community Policing in Nigeria' in Cordner G, Das D K and Cordner A M (eds), *Urbanization, Policing, and Security: Global Perspectives* (CRC Press 2009).

Armed Police Force (Armed Hausa Police Force - 1863). Gold Coast Constabulary (1876).

Asiwaju K and Marenin O, 'Policing Nigeria: Challenges and Reforms' in Hinton M S and Newburn T (eds), *Policing Developing Democracies* (Routledge 2008).

Assein J O, *Introduction to Nigerian Legal System* (Sam Bookman Publishers 1998).

Asuzu O J, *The Politics of being Nigerian* (Lulu.Com 2005).

Awe B, 'The History of the Prison System in Nigeria' in Elias T O (ed), *The Prison System in Nigeria* (University of Lagos Press 1968).

Ayeni V O (ed), *The Impact of the African Charter and the Maputo Protocol in selected African states* (Pretoria University Law Press 2016).

Ayoade J A and Akinsaya A A, *Nigeria's Critical Election 2011* (Rowman and Littlefield 2013).

Bacon F, *The Works of Francis Bacon, Baron of Verulam, Viscount St. Alban, and Lord High Chancellor of England: Law tracts. Maxims of the law* (C. and J. Rivington 1826).

Bageric M, *Punishment and Sentencing* (Cavendish Publishing 2001).

Bahannan P, *Justice and Judgment among the Tivs* (Oxford University Press 1957).

Baker B, *Multi-choice Policing in Africa* (Stylus Pub Llc 2008).

Bald M and Karolides N J, *Literature Suppressed on Political Grounds* (Infobase Publishing 2014).

Balogun J M, *The Route to Power in Nigeria: A dynamic engagement option for Current and Aspiring Leaders* (Springer 2009).

Barbieri G, 'Prisons' in Simon R J (ed), *A Comparative Perspective onMajor Social Problems* (Lexington Books 2001).

Barend Van Der *et al* (eds), *Reflections on the Universal Declaration of Human Rights: A Fiftieth Anniversary Anthology* (Martinus Nijhoff Publishers 1998).

Bassiouni C M, *Introduction to International Criminal Law* (Martinus Nijhoff Publishers 2013)

Bayley D H and Shearing C D, *The New Structure of Policing: Description, Conceptualization and Research Agenda* (National Institute of Justice 2001).

Bayley D H, *Patterns of policing a comparative International Analysis* (Rutgers University Press New Brunswick 1990).

Beccaria C M, *An Essay on Crimes and Punishments* (J Almon Publisher 1767).

Beccaria C M, *On Crimes and Punishments* (5th edn, Transaction Publishers 2016).

Belloni F and Hodgson J, 'The Trial' in Jewkes Y and Letherby G (eds), *Criminology:A Reader* (Sage 2002).

Berman M N, 'The Justification of Punishment' in Marmor A (ed), *The Routledge Companion to Philosophy of Law* (Routledge 2012).

Billich D, 'The International Criminal Court and the African Continent: Prosecution of International Crimes in National Courts' in Lint W, Marmo M and Chazal N (eds), *Criminal Justice in International Society* (Routledge 2014).

Black H C, *Black's Law Dictionary* (5th edn, West Publishing Co. 1979).

Black H C, *Black's Law Dictionary* (9th edn, West Publishing Company 1981).

Black's Law Dictionary (West Publishing Co. 1979).

Blaustein A P and Flanz G H, *Constitutions of the Countries of the World* (Oceana Publications 1971).

Blumberg A S, *Criminal Justice Issues and Ironies* (2nd edn, New Viewpoints A Division of Franklin Watt Inc 1979).

Bolanle A, 'History of the Prison System in Nigeria' in Elias T O (ed), *The Prison System in Nigeria* (University of Lagos Press 1968).

Books T, *Punishment* (Routledge 2012).

Bosworth M, *The U.S. Federal Prison* (Sage 2002).

Bovier J, *Bovier's Dictionary* (8th edn, St Paul Minn West Publishing Company 1914).

Brodeur J, *The Policing Web in Crime and Public Policy* (Oxford University Press Inc 2010).

Brody D C and Acker J R, *Criminal Law* (Jones and Bartlett Publishers 2014).

Bronitt S, Gani M and Hufnagel S (eds), *Shooting to Kill: Social- Legal Perspectives on the use of Lethal Force* (Bloomsbury publishing 2012).

Brown G, *The Universal Declaration of Human Rights in the 21st Century: A Living Document in a Changing World* (Open Book Publishers 2016).

Bruner M and Suntinger W, 'Nigeria' in Baehr P R, Hey H and Smith J (eds), *Human Right in Developing Countries: Yearbook 1995* (Martinus Nijhoff Publishers 1995).

Buendia H G, *Urban Crime: Global Trends and Policies* (United Nations University 1989).

Burke R P, *Criminal Justice Theory: An Introduction* (Routledge 2012).

Byner G A, *Black's Law Dictionary* (8th edn, West Publishing Co. 2004).

Campbell D and Cotter S, *Comparative Law Yearbook* (Kluwer Law International 1999).

Campbell H, *Black's Law Dictionary* (6th edn, Centennial Edition 1891-1991).

Carland J M, *The Colonial Office and Nigeria, 1898-1914* (Hoover Press 1985).

Cassel E and Bernstein D A, *Criminal behavior* (Psychology Press 2013).

Chand H, *Nigerian Constitutional Law* (Santosh Publishing House 1981).

Chudi C N, *Intellectual Property Law in Nigeria* (Malthouse Press 2016).

Chukwu C B, *Reforming Nigeria Prisoners* (Lulu com 2012).

Chukwuma C, 'Police Transformation in Nigeria: Problems and Prospects' Crime and Policing in Transitional Societies (South African Institute for International Affairs, University of Witwatersrand Johannesburg September 2000).

Chukwuma I, 'Internal Disciplinary Systems as important complement to external oversight of Police in Nigeria', in Alemika E E and Chukwuma I C (eds), *Civilian Oversight and Accountability of Police in Nigeria* (Centre for Law Enforcement Education CLEEN 2003).

Chukwuma, I 'Nigeria: Social Structure, Criminal Justice and Criminology' in Smith C J, Zhang S X and Barberet R (eds), *Routledge Handbook of Criminology* (Routledge 2011).

Civil Liberties Organisation Nigeria, *Annual Report* (Civil Liberties Organisation 1999).

Claude R P and Weston B H (eds), *Human Rights in the World Community: Issues and Action* (University of Pennsylvania Press 2006).

Cleinig J, 'Professional Law Enforcement Codes: A Documentary Collection' in Cleinig J and Zhang Y (eds), *Contemporary International and Foreign Codes* (Greenwood Publishing Group 1993).

Colvin V and Stenning P, *The Evolving Role of the Public Prosecutor: Challenges and Innovations* (Routledge 2018).

Comolli V, *Boko Haram: Nigeria's Islamist Insurgency* (Oxford University Press 2015).

Coyle A, *A Human Rights Approach to Prison Management Handbook for Prison Staff* (2nd edn, International Centre for Prison Studies 2009).

Crabb G, *English Synonyms, with Copious Illustrations and Explanations, Drawn from the Best Writers* (Harper 1854).

Crawshaw R and Holmstrom L (eds), *Essential Texts on Human Rights for Police: A Compilation of International Instruments* (2nd edn, Martinus Nijhoff Publishers 2008).

Cripe C A and Pearlman M G, *Legal Aspects of Corrections Management* (Jones and Barret Learning 2004) 502.

Dada A D, *To the Rescue: say no to Corruption* (Author House 2014).

Dada O V, *Nigeria: A Nation on the Threshold of a new Beginning* (Mustard Seed International 2004).

Dambazau A B, *Criminology and Criminal Justice* (Nigerian Defence Academy Press 1999).

Dambazau A B, *Criminology and Criminal Justice* (Spectrum Books Limited 1999).

Dammer H R and Albanese J S, *Comparative Criminal Justice System* (5th edn, Cengage Learning 2013).

Daniels W C, *The Common Law in West Africa* (Butterworths 1964).

Davis A Y, *Are Prisons Obsolete?* (Seven Stories Press 2011).

De Montesquieu B, *The Spirit of Laws* Thomas Nugent translation (Hafner Publishing Co. Ltd 1962).

De Montesquieu, *Montesquieu the Spirit of the Laws* (Cambridge University 1989).

Dias R W M, *Jurisprudence* (5th edn, Butterworth 1985).

Dibua J I, *Modernization and the Crisis of Development in Africa: The Nigerian Experience* (Ashgate Publishing Ltd 2006).

Dicey A V, *Introduction to the Study of the Law of the Constitutional Law* (3rd edn, Macmillan and Company 1889).

Dikotter F and Brown I, *Cultures of Confinement: A History of Prison in Africa, Asia and Latin America* (Cornell University Press 2007).

Dixon J, *Social Welfare in Africa* (Routledge 2016).

Dixon M, McCorquodale R and Williams S, *Cases and Materials on International Law* (Oxford University Press 2016).

Dowell-Jone M, *Contextualizing the International Convenant Ecomic, Social and Cultural Rights Assessing the Economic Deficit* (Martinus Nijhoff Publishers 2004).

Drumbi M A, *Atrocity, Punishment and International Law* (Cambridge University Press 2007).

Ebbe O N I, 'The Judiciary and Criminal Procedure in Nigeria' in Ebbe O N I (ed), *Comparative and International Criminal Justice Systems: Policing Judiciary and Corrections* (3rd edn, CRC Press 2013).

Egbejimba V C, *Mugu,* (Dorrance Publishing 2009).

Ehindero G S, *The Nigerian Police and Human Rights* (Ehindero Press 1998).

Ehonwa O L, *Behind the Wall: A Report on Prison Conditions in Nigeria and the Nigerian Prison System* (2nd edn, Civil Liberties Organization 1996).

Ekstedt J W and Griffiths C T, *Corrections in Canada: Policy and Practice* (2nd edn, Elsevier 2013).

Elaigwu I J, *Security and Peace* (Adonis and Abbey Publishers Ltd 2014).

Elechi O and Otu S E, 'Eze Udu, Ebonyi Court' in LoweD and Das D K (eds), *Trends in the Judiciary: Interviews with Judges Across the Globe* (CRC Press 2016).

Elechi O O, *Doing Justice without the State: The Afikpo (Ehugbo) Nigeria Model* African Studies (Routledge 2006).

Elias T O, *Ground Work of Nigeria Law* (Routledge and Kegan Paul 1954).

Elias T O, *The Nature of African Customary Law* (Manchester University Press 1972).

Elias T O, *The Nature of African Customary Law England* (Manchester University press 1956).

Elias T O*, The Nigerian Legal System* (2nd edn, Routledge and Kegan Paul Limited 1963).

Elias T O, *The Prison System in Nigeria* (University of Lagos Press 1964).

Elliot C and Quinn F, *The English legal System*, (England Pearson Education Ltd 2002).

Emeni N T, *The Last Dictator* (Trafford Publishing 2012).

Emeziem C, 'The Human Right to Clean Water and Sanitation-A Perspective from Nigeria' in Chaisse J (ed), *Charting the Water Regulatory Future: Issues, Challenges and Directions* (Edward Elgar Publishing 2017).

Eminri F and Deinduomo G (eds), *Law and Petroleum in Nigeria: Current Challenges: Essay in Honour of Justice Cate Abiri* (African Books Collective 2009).

Enright R D, 'The Moral Development of Forgiveness' in William M Kurtines, Jacob Gewirtz and Jacob L Lamb, *Handbook of Moral and Development:Volume 1 Theory* (Psychology Press 2014).

Ernest O, *Legal Practitioner's Charges in Nigeria: Law and Practice* (Helen-Roberts 1997).

Erugo S and Charles O A, *Lawyering With Integrity: Essays in Honour of Earnest Ojukwu* (Lulu.Com 2018).

Etieyibo E and Omiegbe O, Disabilities in Nigeria: Attitudes, Reactions, and Remediation (Rowman and Littlefield 2017).

Ezera K, *Constitutional Developments in Nigeria: An Analytic Study of Nigeria's Constitution-making Developments and the Historical and Political Factors that Affected Constitutional Change* (CUP Archive 1964).

Falola T and Aderinto S, *Nigeria, Nationalism and Writing History* (University Rochester Press 2010).

Falola T and Genova A, *Historical Dictionary of Nigeria* (Scarecrow Press 2009).

Falola T and Oyeniyi B A, *Nigeria* (ABC-CLIO 2015).

Falola T and Heaton M M, *A History of Nigeria* (Cambridge University Press 2008).

Falola T, *Colonialism and Violence in Nigeria* (Indiana University Press 2009).

Falola T, *Culture and Customs of Nigeria* (Greenwood Publishing Group 2001).

Falola T, T*he History of Nigeria* (Greenwood Press 1999).

Foley E P, *the Law of Life and Death* (Harvard University Press 2011).

Fombad C M, *Constitutional Adjudication in Africa* (Oxford University Press 2017).

Fombad C M, *Separation of Powers in African Constitutionalism* (Oxford University Press 2016).

Fowkes J and Fombad C M, 'Introduction' in Fombad C M (ed) *Separation of Powers in African constitutionalism* (Stellenbosch Handbooks in African Constitutional Law 2016).

Frank Belloni and Jacqeline Hodgson, 'The Trial' in Yvonne Jewkes and Gayle Letherby (eds),

Frynas J G, *Oil in Nigeria: Conflict and Litigation Between Oil Companies and Village Communities* (LIT Verlag Munster 2000).

Fyree A A A, *Outline of Muhammedan Laws* (3rd edn, Oxford University Press 1974).

Garner B A, *Black's Law Dictionary* (5th edn, West Publishing Co 1979).

Garner B A, Black's *Law Dictionary* (8th edn, St. Paul, Minnesota West Publishers 2004).

Geary W M, *Nigeria under British Rule 1927* (Routledge 2013).

Gelsthorpe L, 'Critical Decisions and Process in the Criminal Courts' in McLaughlin E and Muncie J (eds), *Controlling Crime* (2nd edn, Sage Publication Ltd, 2001).

Gibson B and Cavadino P, *Introduction to the Criminal Justice Process* (Waterside Press Winchester 1995).

Gwangndi I and Tagi S M, *the Law on Armed Robbery, Theft and House Breaking in Nigeria: A Survey of Adamawa, Borno, Taraba and Yobe States* (Author House 2012).

Hart H L A, *Punishment and the Elimination of Responsibility* (University of London Press 1962).

Harunah H, *Nigeria's Defunct Slave Ports: Their Cultural Legacies and Touristic Value* (First Academic Publishers 2000).

Hessbruegge J A, *Human Right and Personal Self-Defence in International Law* (Oxford University Press 2017).

Hittinger R, 'Natural Law and Virtue: Theories at Cross Purposes' in George R (ed), Natural *Law Theory Contemporary Essays* (Oxford University Press 1994).

Hornby A S, McIntosh C and Wehmeier S, *Oxford Learner's Dictionary* (7th edn, Oxford University Press 2005).

Howell T B, *A Complete Collection of State Trials and Proceedings for High Treason and Other Crimes and Misdemeanours from the Earliest Period to the Year 1820* (Longman 1870).

Howell T J, Cobbett W and Jardine D, *A Complete Collection of State Trials and Proceedings for High Treason and Other Crimes and Misdemeanours from the Earliest Period to the Year 1783, with Notes and other Illustrations, Volume 2* (Longman Rees Orme Brown and Green 1828).

Ibhawoh B, *Imperial Justice: Africans in Empire's Court* (Oxford University Press 2013).

Ibrahim I, *The Nigerian Law of Evideínce* (Malthouse Press 2017).

Ifaturoti T O, 'The Challenges of Nigerian Prisoners in the Light of the Human Rights Campaigns' in Bassiouni C and Motala Z (eds), *The Protection of Human Rights in African Criminal Proceedings* (Martinus Nijhoff Publishers 1995).

Iheduru O C, 'Nigeria' in Kopstein J, Lichbach M and Hanson S E (eds), *Comparative Politic: Interests, Identities, and Institutions in a Changing Global Order* (Cambridge University Press 2014).

Ijaiya H O, *Judicial Approach to Interpretation of Constitution: A Study of Nigeria, Australia, Canada and India* (Malthouse Press 2017).

Ikein A A, Alamieyeseigha D S and Azaiki S S*, Oil, Democracy and the Promise of the Federalism in Nigeria* (University Press of America 2008).

Iliffe J, *Obasanjo, Nigeria and the World* (Boydell and Brewer Ltd 2011).

Imam A M 'Women's Reproductive and Sexual Rights and the Offence of Zina in Muslim Laws in Nigeria' in Chavkin W and Chesler E (eds), *Where Human Rights Begin: Health, Sexuality, and Women in the New Millennium* (Rutgers University Press 2005).

Imoedemhe O C, *The Complememtarity Regime of the International Criminal Courts: National Implementation in Africa* (Springer 2016).

Inamete U B, *Foreign Policy Decision-making in Nigeria* (Susquehanna University Press 2001).

International Commission of Jurists, *International Principles of Independence and Accountability of Judges, Lawyers and Prosecutors, Practitioners Guide* (Geneva Switzerland 2007).

International Committee of Red Cross, *International Rule and Standard for Policing* (ICRC 2015).

International Labour Office, *Social Protection Floors for Social Justice and a Fair Globalization: Fourth Item on the Agenda, Part 1* (Cambridge University Press 2011).

Iroegbu P E, 'The KPIM of Social Order: A Season of Inquiry Meaning, Significance in the Modern World' in Uzoma G, Ukagha D O and Nwankwor O J (eds), *The Studies in Philosophy, Culture of Uprising and Social Order* (Xelibris Publisher 2013).

Ivkovic S K and Haberfeld M R, 'Measuring Police Integrity across the World: Studies from Established Democracies and Countries in Transition' in Ivkovic S K and Haberfeld M R, *A comparative perspective on police integrity* (Springer 2015).

Iwarenue D J, *Criminology the Study of Crime* (Springfield Publishers ltd 2003).

Iyioha I O and Nwabueze R N, *Comparative Health Law and Policy: Critical Perspectives on Nigerian and Global Health Law* (Routledge 2016).

Jean Daniel B, *Diversity, Justice, and Community: the Canadian Context* (Canadian Scholars 2016).

Jensen E Land Jepsen J (eds), *Juvenile Law Violators, Human Rights, and the Development of New Juvenile Justice Systems* (Bloomsbury Publishing 2006).

Jerome S H and James F J, *Above the Law: Police and the Excessive use of Force* (Free Press 1993).

Johari J C, *Comparative Politics* (Sterling Publishers Pvt Ltd 1982).

John B O (ed), *Digest of Judgements of the Supreme Court of Nigeria: Volumes 3 and 4* (Safari Books Ltd 2017).

John B O, *Digest of Judgements of the Supreme Court of Nigeria: Vols 1 and 2* (Safari Book Ltd 2013).

Johnson T, *Industrial Relations System in Nigeria* (Teedek Associates 2001).

Johnston M, 'The definitions debate: old Conflicts in new Guises' in Jain A K (ed), *The Political Economy of Corruption* (Routledge 2002).

Jones M and Johnstone P, *History of Criminal Justice System* (Routledge 2010).

Jun N, *Anarchism and Political Modernity Contemporary Anarchrist Studies* (AandC Black 2011).

Kalu A U and Osibanjo Y (eds), *Perspective on Human Rights* (Federal Ministry of Justice 1992).

Kalu K N, *State Power, Autarchy, and Political Conquest in Nigerian Federalism* (Rowman and Littlefield 2009).

Kamalu C, *The Little African History Book-Black Africa from the Origins of Humanity to the Assassination of Lumumba and the turn of the 20th Century* (Lulu.Com 2007).

Kant I, *Philosophy of Punishment* (Edinburgh Scotland 1887).

Karpiak K G, 'The Anthropology of Police' in Bradford B, Loader I, Jauregui B and Steinberg J (eds), *The SAGE Handbook of Global Policing* (SAGE 2016).

Keay E A and Richardson S S, *Native and Customary Courts in Nigeria* (Sweet and Maxwell 1966).

Kesselman M, Krieger J and William A Joseph W A, *Introduction to Comparative Politics: Political Challenges and Changing Agendas* (8 edn, Centage Learning 2018).

Kieriseiye D D, *Alternative Dispute Resolution in Nigeria: A Functional Approach* (Malthouse Press 2016).

Kolajo A A, *Customary Law in Nigeria through the Cases* (Spectrum Books 2000).

Kolawole Y, *Lord Lugard's Nigeria: A Century of Myopia and Acerebral Waste: A Perspective of a post-Independence Nigerian (1914-2014)* (Strategic Book Publishing and Rights Agency 2014).

Konrad-Adenauer-Stiftung *Crime and Policing In Transitional Societies: 30 August- 1 September 2000, Jan Smuts House, University of the Witwatersrand, Johannesburg* (Konrad-Adenauer-Stiftung 2001.

Kukah M H, *Religion, Politics and Power in Northern Nigeria* (Spectrum Books Limited 1993).

Ladan M T, 'Women Rights, Access to and Administration of Justice under the Sharia Law in Nigeria' in Ezeilo J N, Ladan M T and Akiyode A A (eds), *Sharia Implementation in Nigeria: Issues and Challenges on Women's Rights and Access to Justice* (Women's Aid Collective 2003).

Lansford T, *Political Handbook of the World 2012* (SAGE 2012).

Larsen N, *The Canadian Criminal Justice System: An Issues Approach to the Administration of Justice* (Canadian Scholars Press 1995).

Laverick W, *Global Injustice and Crime Control* (Routledge 2016).

Lerman A E, *The Modern Prison Paradox: Politics, Punishment, and Social Community* (Cambridge University Press 2013).

Levine J P, Musheno M C and Palumbo D J*, Criminal Justice- A Public Policy Approach* (Harcourt Brace Jovanovich Inc. 1980).

Limbach K, *Uniformity of Customs Administration in the European Union* (Bloomsbury Publishing 2015).

Lindholt L, *Human Rights and the Police in Transnational Countries* (Martinus Nijhoff Publishers 2003).

Lipschutz M R and Rasmussen K 'The Dictionary' in Rasmussen K (ed), *Dictionary of African Historical Biograph* (University of California Press 1989).

Locke J, *Second Treatise of Government* (Barnes and Noble Publishing 1690).

Louis F, *The Politics of Shared Power: Congress and the Executive* (4th edn, Texas and M University Press 1998).

Lovejoy P, *Transformations in Slavery: A History of Slavery in Africa* (Cambridge University Press 2012).

Lowe D and Das D K (eds), *Trend in the Judiciary: Interviews with Judges Across the Globe, Volume Two* (CRS Press2016).

Lugard F L, *the Dual Mandate in British Tropical Africa* (Routledge 2013).

Lutz E L and Reiger C, *Prosecuting Heads of State* (Cambridge University Press 2009).

Lyman M D, *The Police: An Introduction* (2nd edn, Prentice Hall 2001).

Maldar S, *'Rest in Peace': Nigeria: Police Turture and Deaths in the Custody in Nigeria* (Human Rights Watch 2005).

Malemi E, The Nigerian Legal Method (1st edn, Princeton Publishing Company 2010).
Malicoat S L, *Crime and Criminal Justice: Concepts and Controversies* (SAGE Publications 2016) 12.

Manby B, 'Civil and Political Rights in the African Charter on Human and People's Rights: Articles 1–7' in Evans M and Murray R, *The African Charter on Human and People's Rights: The System in Practice 1986–2006* (2nd edn, Cambridge University Press 2008).

Mandela N, *Long Walk to Freedom: The Autobiography of Nelson Mandela* (Abacus 1995).

Mandela N, *No Easy Walk to Freedom* (Heinemann 1973).

Mbaku J M, 'Confronting Police Corruption in Developing Societies: The role of the Rule of Law' in Hope K R (ed), *Police Curruption and Police Reforms in developing Societies* (CRC Press 2015).

Mbaku J M, *Corruption in Africa: Causes, Consequences, and Cleanups* (Lexington Books 2007).

McCartney M, *Economic Growth and Development: A Comparative Introduction* (Palgrave Macmillan 2015).

McConville M and Mirsky C L, *Jury Trial and Plea Bargaining: A True History* (Hart Publishing 2005).

Melissaris E, 'Theories of Crime and Punishment' in Dubber M D and Homle T (eds), *The Oxford Handbook of Criminal Law* (OUP Oxford 2014).

Mesthtie R (ed), *Africa South, South East Asia* (Walter De Gruyter 2008).

Midttun A, 'Civil Society as a Driver of Governance Innovation: A Montesque Perspective' in Tragardh L and Witoszek N (eds), *Civil Society in the Age of Monitory Democracy* (Berghahn Books Publishers 2013).

Milner A, *The Nigerian Penal System* (Sweet and Maxwell 1972).

Mowoe K, *Constitutional Law in Nigeria, Volume 1*(Malthouse Press 2003).

Murray R and Evans M, *Documents of the African Commission on Human and Peoples' Rights Volume 1 1987-1998* (Bloomsbury Publishing 2001).

Murray R, *The African Commission on Human and People's Rights and International Law* (Hart Publishing 2000).

Mwalimu C, *The Nigerian Legal System, Volume* 2 (Peter Lang 2009).

Ndekwu E C and First Bank of Nigeria, *First Bank of Nigeria: a Century of Banking* (Spectrum Books 1994).

Ndiomu C B, Briggs D A and Sanda J G, *National Institute for Policy and Strategic Studies Nigeria* (National Institute 2004).

Newburn T, 'Introduction: Understanding Policing' in Newburn T (ed), *Handbook of Policing* (2nd edn, Willian Publishing 2004).

Newman G R, *Crime and Punishment around the World [Four Volumes]* (ABC-CLIO 2010).

Nicholls C Q, Daniel T, Bacarese A and Hatchard J, *Corruption and Misuse of Public Office* (OUP Oxford 2011).

Nifosi-Sutton I, *The Protection of Vulnerable Groups Under International Human Rights Law* (Taylor and Francis 2017).

Nigeria Supreme Court, *Judgment of the Supreme Court of Nigeria* (Authority 1985).

Nkrumah Kwame, '1909-1972' in Earl M and Sonnenburg P M (eds), *Colonialism: an International Social, Cultural, and Political Encyclopedia, Volume 1* (ABC-CLIO 2003).

Nnabuike M L, *Media Law and Policy in Nigeria* (Malthouse Press 2016).

Nowak M, *Torture: An Expert's Confrontation with an Everyday Evil* (University of Pennsylvania Press 2018).

Nwabueze B O, *A Constitutional History of Nigeria* (C Hurst and Co Publishers 1982).

Nwabueze B O, *The Machinery of Justice in Nigeria* (Butterworths 1963).

Nwabueze R N, B*iotechnology and the Challenge of Property: Property Rights in Dead Bodies, Body Parts, and Genetic Information* (Routledge 2016).

Nwalimu C, *The Nigerian Legal System: Public Law, Volume 1* (Peter Lang 2005).

Nwankwo B O, *Institutional Design and Functionality of African Democracies: A Comparative Analysis of Nigeria and Uganda* (Tenea Verlag Ltd 2003).

Nwankwo C *et al*, *Human Rights Practices in the Nigerian Police* (Constitutional Rights Project 1993).

Nwankwo P O, *Criminal Justice in the Pre-Colonial, Colonial, and Post-Colonial Eras an Application of the Colonial Model to Changes in the Severity of Punishment in the Nigerian Law*. (University Press of America 2010).

Nwanna C, 'Gentrification in Nigeria: The case of two Housing Estates in Lagos' in Lees L, Shin H B and Morales E L (eds), *Global Gentrification: Uneven Development and Displacement* (Policy Press 2015).

Nwano T C, 'Aspects of Law' in Ohuruogu C C and Umachi O T (eds), *Nigerian Legal Methods* (Cambridge Scholars Publishing 2013).

Nwaogaidu J C, *Globalization and Social Inequality: An Empirical Study of Nigerian Society* (LIT Verlag Munster 2013).

Obasohan J O, 'Sources of Law in Nigeria' in Ohuruogu C C and Umahi O T (eds), *Nigerian Legal Methods* (Cambridge Scholars Publishing 2013).

Obe A I, *Essays on Human Rights Law in Nigeria* (Concept Publications Ltd 2002).

Obiagwu C and Odinkalu C A, 'Combating Legacies of Colonialism and Militarism' in Abdullahi A Rajend Mesthtie (ed), *Africa South, South East Asia* (Walter De Gruyter 2008) A (ed), *Human Right Under African Constitutions: Realizing the Promise for Ourselves* (University of Pennsylvania Press 2013)

Obilade A O, *Nigeria Legal System* (Sweet and Maxwell 1979).

Obilade A O, *The Nigerian Legal System* (Spectrum Book Ltd 2009).

Obilade A, *The Nigeria Legal System* (3rd edn, Spectrum Books Ltd 2005).

Obiora A A, *Restorative Justice and Crime Prevention: Antidote for Prison Congestion and Improvement of Prison Condition in Nigeria* (Cambridge Scholars Publishing 2014).

Odeme P, *Human Right and the Mission of The Church in Nigeria* (LIT Verlag Munster 2013).

Odionikhere P, *Bringing Down this House African Politics* (Lit Verlag Münster 2008).

Odunsi B A, *The Role of the Ombudsman in Nigeria: Redress of Grievances* (Edwin Mellen Press 2007).

Oguche S, 'Development of Plea Bargaining in the Administration of Criminal Justice in Nigeria: a Revolution, Vaccination against Punishment or mere Expediency?' in Azinge E and Azinge L A, (eds), *Plea Bargain in Nigeria: Law and practice* (Nigerian Institute of Advanced Legal Studies Press 2012).

Ogunade R, 'African Religion in Democracy' in Chepkwony A K, Hess P M J and Dopemu A P (eds), *Human Views on God: Variety not Monotony: Essay in Honour of Ade P Dopemu* (Moi University Press 2010).

Ogundiya I S, *Assessment of Democratic Trends in Nigeria* (Gyan Publishing House 2011).

Ogunnika Z O, *Non-Formal Approach to Ethnicity: an interpretative explanation of Nigerian peoples coping Mechanisms* (Trafford Publishing 2013).

Ojeleye O, *The Politics of Post-War Demobilization and Reintegration in Nigeria* (Routledge 2016).

Ojukwu E, Akinseye-George Y, Chiroma I H, Erugo S, Eyo I, Nwankwo C K and Omaka A, *Handbook on Prison Pre-Trial Detainee Law Clinic*, (Network of University Legal Aid Institution 2012).

Okafo N, Reconstructing Law and Justice in a Post-colony (Routledge 2016).

Okafor V O, *A Roadmap for Understanding African Politics: Leadership and Political Integration in Nigeria* (Routledge 2013).

Okany M C, *the Role of Customary Courts in Nigeria* (Fourth Dimension Publishers 1984).

Okereke D, *Africa's Quiet Revolution Observed from Nigeria* (Paragon Publishing 2012).

Oko O C, *Problems and Challenges for Lawyers in Africa: Lessons from Nigeria* (Mellen Press 2007).

Okoduwa A I, 'African Culture and its Paradox in the 21st Century: The Nigeria Experience' in Ayotunde J, Bewaji I, Harrow K W and Omonzejie E E (eds), *The Humanities and the Dynamics of African Culture in the 21st Century* (Cambridge Scholars Publishing 2017).

Okonkwo C O 'The Nigerian Penal System in the Light of the African Charter for Human and People's Rights' in Kalu A and Osinbajo Y (eds), *Perspectives on Human Rights* (Federal Ministry of Justice 1992).

Okonkwo C O and Naish M E, *Criminal Law in Nigeria* (Spectrum Books Limited 2010).

Okonkwo C O and Naish M E, *Criminal Law in Nigeria* (Spectrum Books Limited 2002).

Okonkwo C O, *Criminal Law in Nigeria* (2nd edn, Sweets and Maxwell 1980).

Okoro E, *Mental Masturbation: The Throbs of a Young Biafran Soul* (ABIC Books 2003).

Okoye G O, *Proclivity to Genocide: Northern Nigeria Ethno-Religious Conflict, 1966 to Present* (Lexington Books 2014).

Okoye O O, *The Development of Judicial Trial in Nigeria* (Africana-Fep Publishers 1988).

Okunola R A, Aderinto A A and Akinyemi A A *The Prison as a Social System*: *Current and Perspectives in Sociology* (Malthouse Press 2002).

Okure T, 'Nigeria Colossians' in Patte *et al* (eds),*Global Bible Commentary* (Abingdon Press 2004).

Okwonkwo C O and Naish M E, *Criminal Law in Nigeria* (2nd edn, Spectrum Law Series 1998).

Olaniyan R, *Nigerian History and Culture* (Addison-Wesley Longman Ltd 1985).

Olanrewaju F R, *Forensic Linguists: An Introduction to the Study of Language and Law* (Lincom Europa 2009).

Olasunkanmi I H, *Judicial Approach to Interpretation of Constitution: A Study of Nigeria, Australia, Canada and India* (Malthouse Law Books 2017).

Olong A M, *The Nigerian Legal System: An Introduction* (2nd edn, Malthouse Press 2007).

Oloruntimilehin O, 'Crime Control' in Heiland H G, Shelly L I and Katoh H (eds), *Crime and Control in Comparative Perspectives* (Walter de Gruyter 1992).

Oluseyi A, *A Reformatory Approach to the Criminal Justice System in Nigeria* (Crest Publishers 2013).

Olutokun A, *Repressive State and Resurgent Media Under Nigeria's Military Dictatorship, 1998-98* (Nordic Africa institute 2004).

Omolewa M, Fadayi T and Aderioye R A, *Transparency in Gorvernance: A Training Manual* (University Village Association 2001).

Omonfuegbe L A, 'Law in social context' in Ohuruogu C C and Umahi T O (eds), *Nigerian Legal Methods* (Cambridge Scholars Publishing; Unabridged edition 2013).

Omorere H O, *Lost Legacies: and Broken Promises of our Fathers* (Xlibris Corporation 2011).

Onwudiwe I D, 'Community Policing: The case of Informal Policing in Nigeria' in Wisler D and Onwudiwe I D (eds), *Community Policing: International Patterns and Comparative Perspectives* (CRC Press 2009).

Onwukike U F, *Democracy in Nigeria: Its Anthropological and Social Requirements* (Peter Lang Pub Incorporated 1997).

Onyekwelu F E, *The Courts and Administration of Law in Nigeria* (Fourth Dimension Publishing Company 1989).

Open Society Justice Initiative, *Criminal Force Torture, Abuse, and Extrajudicial Killings by the Nigeria Police Force* (Open Society Institute 2010).

Opolot J S C, *Police Administration in Africa: Towards Theory and Practice in the English-Speaking Countries* (University of America Press 2008).

Oputa C A, *The Law and Twin Pillars of Justice* (Government Printers 1981).

Ordu R, 'Political Participation: Making Change Happen for Women in Politics in Nigeria' in Bachay J B and Fernandez-Calienes R (eds), *Women Moving Forward Volume Two: An Intersectional Lens for a Tapestry of Diverse Voices* (Cambridge Scholars Publishing 2010).

Ormerod D, *Smith and Hogan Criminal Law* (13th edn, Oxford University Press 2013).

Oshitokunbo O L, *An Almanac of Contemporary and Comparative Judicial Restatements* (Almanac Foundation 2018).

Osinbajo Y, *Proposals for the Reform of the Criminal Procedure Laws of Lagos State of Nigeria*, (Lagos State Ministry of Justice 2004).

Ostien P, 'The Sharia Penal Codes' in Ostien P (ed), *Sharia Implementation in Northern Nigeria 1999–2006, A Source Book* (Spectrum Books Limited 2007).

Otu S E, 'Criminals and Criminal Justice Administration in Nigeria: How Just, Fair And Dignifying is the System?' in Emezue GMT, Kosch I and Kangel M (eds), *Justice and Human Dignity in Africa* (Lulu com 2014).

Ovienloba A A, *Crimes and Criminal Justice in Nigeria since Independence: The Way Forward* (JDPC 2000).

Ovo E M, *Modern Nigerian Constitutional Law: Practices, Principles and Precedents* (Malthouse Press 2017).

Oxford University Press, *The Oxford American College Dictionary* (G P Putnam's Sons 2002).

Oyewo T A, *The Trial Judge and his Guides in Nigeria* (Jacto Publisher 1999).

Peak K J*, Policing America: Challenges and best Practices* (7th edn, Pearson Education Inc 1997).

Pereira C, 'Endangering Governance in Federal Politics; The Nigeria Cases' in Gana A T and Egwu S G (eds), *Federalism in Africa: The Imperative of Democratic Development, Volume 2* (Africa World Press 2003).

Perry R J, *From Time Immemorial: Indigenous Peoples and State Systems* (University of Texas Press 2010).

Peter O, *The Nigerian Criminal Law* (Liberty Publications Ltd 2006).

Peters R, *Crime and Punishment in Islamic Law* (Cambridge University Press 2005).

Police Service Commission (Establishment) Act, 2001 Prassel F R*, Introduction to American Criminal Justice* (Harper and Row Publisher New York 1937).

Prikic F, 'Military Intervention as the Trans-nationalization of Democratization: The Case of West Africa' in Grugel J (ed), *Democracy without Borders: Trans-nationalization and Conditionality in New Democracies* (Routledge 2002).

Quashigah E K, and Okafor O O, *Legitimate Governance in Africa: International and Legal Perspectives* (Martinus Nijhoff Publishers 1999).

Redmayne M, *Expert Evidence and Criminal Justice*, (Oxford University Press Inc. 2001).

Reed A and Bohlander M, *General Defences in Criminal Law: Domestic and Comparative Perspective* (Routledge 2016).

Rigakos G S and Leung C, 'Canada' in Jones T and Newburn T (eds), *Plural Policing: A Comparative Perspective* (Psychology Press 2006).

Roderigue L, *The Pursuit of Wisdom* (Exposition Press 1984).

Rodley N and Pollard M, *The Treatment of Prisoners under International Law* (Oxford University Press 2009).

Rotimi K, *The Police in a Federal State: the Nigerian Experience Colledge* (College Press 2001).

Saleh-Hanna V and Affor C*, Colonial Systems of Control: Criminal Justice in Nigeria* (University of Ottawa Press 2008).

Saleh-Hanna V and Ume C, 'An Evolution of the Penal System: Criminal Justice in Nigeria' in Saleh-Hanna V (ed), *Colonial Systems of Control: Criminal Justice in Nigeria* (University of Ottawa Press 2008).

Samaha J, *Criminal Law* (12th edn, Cengage Learning Publisher 2016).

Samson U, Justice Supreme Court, Valedictory Speech in Dahiru Musdapher CJN, The Nigerian Judiciary: Towards Reform of the Bastion of Constitutional Democracy (Nigerian Institute of Advanced Legal Studies 2011).

Schedler A, 'Conceptualizing Accountability' in Schedler A, Diamond L and Plattner M F (eds), *The self-restraining State Power and Accountability in New Democracies* (Lynne Rienner Publishers 1999).

Schoentich M, *Presumption of Guilt the Global Overuse of Pretrial Detention* (Open Society Justice Initiative 2014).

Senna J J and Siegel L J, *Introduction to Criminal Justice, Criminal Justice Series* (2nd edn, West Publishing Series 1994).

Shelton D L (ed), *The United Nations System for Protecting Human Rights Volume 4* (Routledge 2016).

Shetreet S and Deschenes J (eds), *Judicial Independence: The Contemporary Debate* (Martinus Nijhoff Publishers 1985).

Siegel L J and Senna J J, *Introduction to Criminal Justice* (Cengage Learning 2007).

Siegel L J and Worrall J L, *Essentials of Criminal Justice* (10th edn, Cengage learning 2016).

Simon R and De Waal C, *Prisons the World Over* (Rowman and Littlefield 2009).

Skogan W G and Hartnett S M, *Community Policing Chicago Style* (Oxford University Press 1997).

Slapper G and Kelly D, *The English Legal System* (12th edn, Pearson Education Ltd 2012).

Smith A B and Berlin L, *Treating the Criminal Offender Criminal Justice and Public Safety* (3rd edn, Springer Science and Business Media 1988*)*.

Smith C J, Zhang X S and Barberet R (eds), *Routledge Handbook of Criminology* (Routledge 2011).

Smith P, *Moral and Political Philosophy: Key Issues Concept and Theories* (Palgrave Macmillan 2008).

Sodiq Y, *A History of the Application of Islamic Law in Nigeria* (Springer 2017).

Son J H, *Terahertz Biomedical Science Technology* (CRC Press 2014).

Spohn C, *How Do Judges Decide? The Search for Fairness and Justice in Punishment* (SAGE 2009).

Stevenson A, *Oxford Dictionary of English* (Oxford University Press 2010).

Steverson L A, *Policing in America: A Reference Handbook* (ABC-CLIO 2008).
Suberu R T, 'Nigeria: a Centralizing Federation' in Loughlin J, Kincaid J and Swenden W (eds), *Routledge Handbook of Regionalism and Federalism* (Routledge 2013).

Sufiyan C K, *Defences to Criminal Liability in Nigerian Law: A Critical Appraisal, (*Ahmadu Bello University Press 1980).

Sufiyan C K, *The Law of Crimes in Nigeria* (Ahmadu Bello University Press 1988).

Sunday O O and Obi E A, *Government and Politics of Nigeria: the Struggle for Power in an African State* (Book point 2003).

Tamuno T N, *The Evolution of the Nigerian State –The Southern Phase, 1898-1914* (Longman Group Limited Essex 1978).

Tamuno T N, *The Police in Modern Nigeria* (University Press Ibadan 1970).

Tarskian C, *Nigeria Political Sharia: Human Rights and Islamic Law in Northern Nigeria* (Human Rights Watch 2004).

Taylor A*, Principles of Evidence* (2nd edn, Cavendish Publishing Ltd 2000).

Tertsakian C, *Nigeria 'Political Shari'a'? Human Rights and Islamic Law in Northern Nigeria* (Human Right Watch 2004).

The Holy Bible, King James Version.

The Holy Qur'an.

Tim Newburn, *Criminology* (Taylorand Francis 2017).

Tom Lansford, *Political Handbook of the World 2012* (SAGE 2012).

Travis L F, *Introduction to Criminal Justice* (Routledge 2010).

Tumber H and Waisbord S (eds), *The Routledge Companion to Media and Human Rights* (Taylor andFrancis 2017).

Umaru T B, *Christian-Muslim Dialogue in Northern Nigeria* (Xlibris Corporation 2013).

Ume F F O, *The Courts and Administration of Law in Nigeria* (Fourth Dimension Publishing Company 1989).

Ume F F O, *The Courts and Administration of Law in Nigeria* (Fourth Dimension University Press 2011).

United Nations Asia and far East Institute for The Prevention of Crime and Treatment of Offenders, *Resource Material Series, Issue 60-62* (UNAFEI 2003).

United Nations Office on Drugs and Crime, *Handbook on Restorative Justice Programmes Criminal Justice Handbook Series* (United Nations publications 2006).

United State Congress House Committee on Rules, *Legislative Veto after Chadha: Hearings before the Committee on Rules, House of Representatives, Ninety-Eight Congress, Second Session,on the Impact of the Supreme Court Decision in the case of Immigration and Naturalization Services v Chadha which found the Legislative Veto Unconstitutional* (United States Government Printing Office 1984).

United States Office of the Federal Register, *Code of Federal Regulations: 2000* (United State General Service Administration, National Achives and Records Services, Office of the Federal Register 2009).

Usa U I, *Nigeria Company Laws and Regulations Handbook Volume 1 Strategic Information, Important Laws and Regulations* (Int'l Business Publications 2010).

Uvieghara E E, *Trade Union Law in Nigeria* (Ethiope Pub Co 1976).

Uwakah O T, *Due Process in Nigeria's Administrative Law System: History, Current Status, and Future* (University Press of America 1997).

Uwazie E, *Alternative Dispute Resolution and Peace-Building in Africa* (Cambridge Scholar Publishing 2014).

Vasiliev S and Zappala S, 'Appeals, Reviews, and Reconsideration' in Sluiter G, Freeman H, Littion S, Vasiliev S and Zappala S (eds), *International Criminal Procedure: Principles and Rules* (Oxford University Press 2013).

Viljoen F, *International Human Right Law in Africa* (2nd edn, Oxford University Press 2012).

Vishnoo B, Shirur R R and Vidya B, *World Constitutions* (Sterling Publishers Pvt Ltd 1997).

Vito G F, Maahs J R and Holmes R M, *Criminology: Theory, Research and Policy* (Jone and Bartlett Learning 2006).

Wacks R, *Understanding Jurisprudence: An Introduction to Legal Theory* (1st edn, Oxford University Press 2005).

Walker S A, *Critical History of Police Reform: The Emergence of Professionalism Lexington M T* (Lexington Books 1997).

Weil D, *Economic Growth: International Edition* (Routledge 2016).

Weimann G J, *Islamic Criminal Law in Northern Nigeria: Politics, Religion, Judicial Practice* (Amsterdam University Press 2010) 7.

Weissbrodt D (ed), *The Development of International Human Rights Law, Volume1* (Routledge 2017).

Weldesellasie K I, 'The Development of Criminal Law and Criminal Justice in Africa from Pre- Colonial Rule to the Present day' in Jalloh C C and Bantekas I (eds), *The International Criminal Court and Africa* (Oxford University Press 2017).

Whitney W D and Smith B E, *The Century Dictionary* (Century Company 1895).

Williams G, *Textbook of Criminal Law* (2nd edn, Stevens and Sons 1983).

World Bank, *A Guide to the World Bank* (2nd edn, World Bank Publications 2007).

Yakubu A and Toriola A Oyewo, *Criminal Law and Procedure in Nigeria* (Malthouse Press 2000).

Yakubu M G, 'Independence of Judiciary' in Ajibola B, Osinbanjo Y and Kalu K A (eds), *Law Development and Administration in Nigeria* (Lagos Federal Ministry of Justice Review Series 1990).

Yemi O, *Proposals for the Reform of the Criminal Procedure Laws of Lagos State of Nigeria* (Lagos State Ministry of Justice 2004).

Zalman M, *Criminal Procedure: Constitution and Society* (Prentice Law 2002).

Thesis

Abiodun T O, 'A Historical Study on Penal Confinement and Institutional Life in Southern Nigeria, 1860-1956' (PhD thesis, University of Texax 2013)

Omale J O, 'Restorative Justice as an Alternative Dispute Resolution Model: Opinions of Victims of Crime, and Criminal Justice Professionals in Nigeria' (PhD thesis, De Montfort University Leicester UK 2009)

Websites

Abdesselam S B, 'The Islamic ruling concerning the criminal act of Zina (adultery and fornication)'<https://www.linkedin.com/pulse/islamic-ruling-concerning-criminal-act-Zina-adultery-bint-abdesselam>.

Abubakar M, Police budget can't pay salaries of officers, Inspector-General Lament <https://www.premiumtimesng.com/news/155784-nigeria-police-budget-cant-pay-salaries-of-officers-ig-laments.htmlnigeria>.

Adebayo T, 'The Legality of the use of Plea Bargain in the Nigeria Criminal Justice System' < https://topeadebayollp.wordpress.com/2012/03/27/the-legality-of-the-use-of-plea-bargain-in-the-nigerian-criminal-justice-system/>.

Adedoyin P A, 'Police as a form of Criminal Justice System' <https://www.academia.edu/10081478/Police as a form of Criminal Justice System>.

Adetokunbo A, 'Personnel Problems in the Administration of Justice in Nigeria' < http://www.scholarship.law.duke.edu/cgi/view content.cgi? Article=2939andcontext=lcp>.

Aduba N J and Alemika E I, 'Bail and Criminal Justice Administration in Nigeria' <https://issafrica.s3.amazonaws.com/site/uploads/M161C5>.

Alade K, 'Forensic Science Helps in Solving High Profile Murder Cases' *The Nation* (Nigeria, 26 November 2014) <http://thenationonlineng.net/forensic-science-helps-in-solving-high-profile-murder-cases.>.

Ali Y, 'The Evolution of Ideal Nigerian Judiciary in the New Millennium' < www.yusufali.net/articles>.

Ani C C, Reforms in The Nigerian Criminal Procedure Laws< http://www.nials-nigeria.org/journals/Comfort%20Chinyere%20AniL.pdf>.

Amnesty International Research, Nigeria justice systems,9 December 2009 <https://www.amnesty.org/en/documents/AFR44/038/2009/en/.

'Background: Attitudes towards Policing, History of Policing in Pre-Colonial and Colonial Nigeria'< https://www.hrw.org/reports/2005/nigeria0705/4.htm>.

Bob-Manuel J, Legal Aid Council, Developing Legal aid strategy for poor Nigerians https://www.dailytrust.com.ng/daily/law/31958-developing-legal-aid-strategy-for-poor-nigerians.

Bridge J, 'Constitutional Guarantees of the Independence of the Judiciary' < http://www.ejcl.org >.

Brief History of Supreme Court < http://sconmonitor.com/index.php/the- Court/2017-01-11-16-24-08>.

Chiroma I H, 'Punishment for the Offence of Zina (Adultery) under the Shariah and Nigeria Criminal Law: A Comparative Analysis' (1998) <http://www.researchgate.net/publication/40439895>.

Coke E, 'Judicial discretion: Coke's Kings Bench Reports volume 5: Rooke's case' <https://dominicdesaulles.wordpress.com/2016/03/04/cokes-kings-bench-reports-volume-5-rookes-case/.

Complaint against Practice of Arbitrary Transfers of Judges without Adequate Consideration to the Impact of Transfers on Litigants, and without Institutional Arrangements to Mitigate Effects of Transfers <http://accesstojustice-ng.org/a2jdownloads4.pdf.>.

Dina Y, Akintayo J and Ekundayo F, 'Guide to Nigerian Legal Information'< http://www.nyulawglobal.org/globalex/Nigeria.htm>.

Duru O, 'An Overview of The Aspects and Attributes of Judicial Independence in Nigeria'< http://www.academia.edu/5185435/anoverviewofaspectsandattributesofjudicialindependencein Nigeria.>.

Encyclopedia Britiannica, < https://www.britannica.com/topic/police/Decentralized-police-organizations>.

Evolution of imprisonment in Nigeria< http://martinslibrary.blogspot.com/2014/05/evolution-of-imprisonment-in-nigeria.html> .

Falana F, illegal parade trial-criminal suspects,<http://www.vanguardngr.com/2017/03/illegal-parade-trial-criminal-suspects/>accessed

Falayi K, 'Nigeria Police: A Force Surviving on Donations' <http://punchng.com/nigeria-police-a-force-surviving-on-donations >.

Famoroti F, Plea bargaining: A Blessing or Curse to Nigeria's criminal justice system< http://www.nigerianlawguru.com/articles/criminal%20law%20and%20procedure/PLEA%> .

Four Nigerian Policemen, army officer killed in clash with kidnappershttp://www.africanews.com/2017/04/10/4-Nigerian-Policemen-army-officer-killed-during-clash-with-kidnappers/ .

Gandhi M, < www.gandhian peace com/quotes.html>.

GCSE Religions Studies at Harrogate Gramma School< https://hgsrs.wordpress.com/religion-and-morality/religious-attitudes-to-crime-and-punishment/the-aims-of-punishment>.

How Prison Vocational Could Effectively Fight Mass Incarceration Training < http://www.genfkd.org/how-prison-vocational-training-could-effectively-fight-mass-incarceration>.

http://www.yusufali.net/articles/The evolution of ideal nigerian judiciary in the new millennium.pdf>.

http://www.ceanational.org/documents/3StateFinal.pdf.

http://www.refworld.org/pdfid/4d6647c42.accessed 1 November 2018.

http://www.differencebetween.net/miscellaneous/politics/difference-between-Protectorate-and-Colony/>.

https://www.amnesty.org/en/press-releases/2008/02/nigeria-criminal-justice-system-utterly-failing-nigerian-people-majority >.

<http://www.economist.com/news/middle-east-and-africa/21660143-shocking-number-pre-trial-prisoner>

http://www.efccnigeria.org/index.php?option=comcontent&task=view&id=1704&Itemid=2 >.

http://home.page.ch/pub/rfm@vtx.ch/punishment.html>

< http://eikins.com.ng/2016/10/25/what-is-criminal-justice-in-nigeria/>.

< http://www.nigerianmuse.com/20161010095043zg/nigeria-watch/inside-the-very-corrupt-world-of-nigerias-judiciary>.

http://punchng.com/billionaire-kidnapper-evans-files-fresh-suit-against-police-seeks-n300m-in-damages.

http://www.pulse.ng/local/Judges-arrest-inside-the-very-corrupt-world-of-nigerias-Judiciary>.

https://thenextgalaxy.com/15-advantages-and-disadvantages-of-plea-bargaing>.

https://www.vanguardngr.com/2013/02/police-pension-fruad-a-chronology-of-plea-bargain-compromises

https://www.vanguardngr.com/2016/11/police-station-gets-n45000-running-cost-three-months-lagos-cp/>.

< https://www.vanguardngr.com/2017/06/meet-evans-lawyer-ogungbeje-known-unpopular-cases >.

Ibrahim H, 'Reflections on the Case of Amina Lawal'< https://www.wcl.american.edu/hrbrief/11/3ibrahim.pdf>

Igwe O W, 'Repugnancy Test and Customary Criminal Law in Nigeria: A Time for Re-Assessing Content and Relevance'https://www.researchgate.net/publication/275271417.

Ikenna O S, 'The Police and Administration of Criminal Justice System in Nigeria' <http://www.academia.edu/19792244>The Police and Administration of Criminal Justice System In Nigeria>.

Kingsley O M, 'A Comparative Analysis between the Offence of Theft and Stealing under the Nigerian Criminal Laws < http://Www.Academia.Edu/13973424/Comparative Analysis between the Offence of Theft and Stealing under the Nigerian Criminal Law>.

Law Pavalion, 'The Administration of Criminal Justice Act, 2015'< http://lawpavilion.com/blog/the-administration-of-criminal-justice-act-2015-acja/>.

Levine P J, Musheno M C and Palumbo D J, *Criminal Justice-A Public Policy Approach* (Harcourt Brace Jovanovich Inc. 1980) 156; <http://eikins.com.ng/2016/10/25/what-is-criminal-justice-in-nigeria/ >.

Locke J, 'Second Treaties of Civil Government 1960 of Legislative, Executive and Federative Power of the Common-wealth'< https://www.marxists.org/reference/subject/politics/locke/ch12.htm>.

Mitee L E, 'History of Nigerian Legal System' < https://abd2belg.wordpress.com/2013/08/13/history-of-the-legal-system-in-Nigeria/>.

'Nigeria Past and Present'< http://www.Nigeriaembassyusa.org/index.php?page=Nigeria-past-present-and-future>.

'Nigerian Police dismiss 14 officers for criminalmisconduct' <http://www.premiumtimesng.com/newhe/sheadlines/215997-nigeria-Police-dismiss-14-officers-criminal-misconduct.html>.

Nigerian Police Recruitment 2017 <http://shiloh-2016.com.ng/nigeria-Police-recruitment-2017/.

Nigeria: Prison System Report, Africa Focus Bulletin< http://www.africafocus.org/country/nigeria.php.

Ogbeche D < http://dailypost.ng/2016/05/17/27-year-old-man-stabs-twin-brother-to-death-in-lagos/>.

Ogungbeje O, < https://www.vanguardngr.com/2017/06/meet-evans-lawyer-ogungbeje-known-unpopular-cases >accessed 23 September 2017.

Oji G and Okenwa L, 'Corruption: Balogun Pleads Guilty, Jailed 6 Months'< http://nm.onlinenigeria.com/templates/?a=6126#EFCC.

Olanrewaju O, 'Historical Evolution of Nigerian Criminal Law'< http://www.djetlawyer.com/historical-evolution-Nigerian-criminal-law/>.

Olin D. 'Plea Bargain' The New York magazine, September 29, 2002 <http://www.nytimes.com/2002/09/29/magazine/the-way-we-live-now-9-29-02-crash-course-plea-bargain.html? > .

Omate R, 'Problem in the Administration of Criminal Justice in Nigeria' *Vanguard Newspaper* (Nigeria, 23 October 2009) http://www.vanguardngr.com/problems-in-the-administration-of-criminal-justice-in-nigeria/>.

Onyekach D and Ceazar W, 'The role and Historical Development of The Judiciary in Nigeria' < https://www.academia.edu/5185440/theroleandhistoricaldevelopmentoftheJudiciary >.

Otto G and Ukpere W I, 'National Security and Development in Nigeria' (2012) 6 African Journal of Business Management Nigeria Police Force 6765; < http://www.npf.gov.ng/visionmission.php>.

Onyekachi D, 'The role and historical development of the Judiciary in Duru' (2012)< https://www.researchgate.net/publication/256033174 The Role and Historical Development of the Judiciary in Nigeria>.

Premium Times June 8 2017 < http://www.premiumtimesng.com/regional/north-central/227505-armed-robbers-kill-two-Police-office>.

Premium Times News Paper Tuesday, May 30, 2017< http://www.premiumtimesng.com/regional/ssouth-west/224393-court- entences-man-death-killing-wife.html>.

Report of the Secretary- General on the Rule of Law and Transitional Justice in Conflict and Post-conflict Societies, (S/2004/616) 'United Nations and the rule of law'<https://www.un.org/ruleoflaw/what-is-the-rule-of-law>.

Sanni A M, 'The Nigerian Judiciary Trends Since Independence'http://9jalegal.com.ng/downloads/Cases/Legal%20System/THE%20NIGERIAN%20JUDICIARY%20TRENDS%20SINCE%20Independence%20A.M.%20SANI%20ESQ.pdf.

Samson F, 'I don't want to go to the Prison the Eighth Time' *The Punch Newspaper* (Nigeria) 10 October 2016, http://punchng.com/dont-want-go-prison-eighth-time-suspect/accessed

Secondat C and Montesquieu B, 'The Spirt the Laws'1748<https://sourcebooks.fordham.edu/mod/montesquieu-spirit.asp>.

State of New Jersey < http://www.njsp.org/recruiting/minimum-qualifications.shtml

'The lawyer's chronicle, Holding charge and Pre-trial Detention vis-a-vis the Doctrine of Fair hearing in Nigeria'http://thelawyerschronicle.com/holding-charge-and-pre-trial-detention-vis-a-vis-the-doctrine-of-fairhearing-in-nigeria

The Nigeria Police Force and Poor Funding< http://leaders.ng/the-nigeria-Police-force-and-poor-funding >.

The Oyez Project at IIT Chicago-Kent College of Law http://www.oyez.org/cases/2010-2019/2011/2011109646).

The pointer, decongesting Nigerian Prison< http://thepointernewsonline.com/?p=22495.>.

The United Nations Criminal Justice Standards for United Nations Police (United Nations New York, 2009) 5<https://www.unodc.org/pdf/criminaljusticedig/UNcriminaljusticestandardsforUN Police.pdf.

This Day Newspaper report 21 February 2012, Nigeria: Condemned Prisoners and right to life. http://allafrica.com/stories/201202211114html.

USCCR, 'Revisiting Who Is Guarding the Guardians? A Report on Police Practices and Civil Rights in America,' U.S. Commission on Civil Rights, November 2000,< http://www.usccr.gov/pubs/guard/main.htm.>

Walker S, 'Police accountability: Current issues and research needs' < http://www.ncjrs.gov/pdffiles1/nij/gran Police accountability>

Yakubu J A, 'Colonialism, Customary Law and Post-Colonial State in Africa: The case of Nigeria' (2005) African Journals 201-220 < https://www.ajol.info/index.php/ad/article/view/22246 >.

Yusuf A, 'The Evolution of Ideal Nigerian Judiciary in the New Millennium' < http://www.yusufali.net/articles/The evolution of ideal nigerian judiciary in the new millennium.pdf>.