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**The Standard Minimum Rules for the  
Treatment of Prisoners in Nigeria**

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**Abstract**

Nigerian prisons are filled with people whose human rights are systematically violated. Most of the people in the prisons are too poor to afford the engagement of legal practitioners. Suspects awaiting trial in detention are accorded little or no right as constitutionally guaranteed them by law. Such suspects are often treated as convicted felons in spite of the enshrined principle of presumption of innocence. The presumption of innocence is so fundamental to the effective administration of justice. This article introduces the subject-matter, gives a brief historical development of prisons in Nigeria and examines the problems in the Nigerian prisons. It examines the essential minimum standard rules for the treatment of prisoners as provided by the United Nations Congress on the treatment of offenders and the applicability of those rules in the Nigerian prisons and the conclusion.

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## **Introduction**

The prison is the third arm of the criminal justice system after the police and the courts. The Nigerian Prisons Service is under the supervision and control of the Ministry of the Interior and the Civil Defense, Immigration and Prisons Board.

Prison is a physical structure in a geographical location where a number of people live under highly specialized conditions and utilize the available resources. They also adjust to the alternatives presented to them by a unique kind of social environment that is different from the larger society in many ways. There are basic social and cultural characteristics that are present in the prison community and other maximum security institutions which do not exist in the larger society. The prison community with its distinct culture and way of life epitomizes a complete design, capable of changing the attitudes of individual members for good or bad depending on the personal experience and the social network action.

The Nigerian Prisons System was established in accordance with three forms of penal legislation namely:

- a. the criminal code and the accompanying criminal procedure Act Cap 80 Laws of the Federation 1990 (CPA);
- b. the Penal Code and the accompanying Criminal Procedure Code Cap of Laws; and
- c. the Sharia Penal Legislations in 12 Northern States<sup>1</sup>.

The Nigerian Prisons Service is an institution meant to administer penal treatment to adult offenders. This constitutional function empowers the Nigerian prisons operative to<sup>2</sup>;

- a. keep convicted offenders for safe custody;
- b. keep awaiting trial inmates in custody, until law courts ask for their production;
- c. punish offenders as instructed by the Law courts;
- d. reform the convicted prisoners;
- e. rehabilitate and to re-integrate prisoners who have completed the sentences in the prison<sup>3</sup>.

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<sup>1</sup> Which applies to only Muslim members of these states.

<sup>2</sup> S. of the 1999 Constitution of the Federal Republic of Nigeria.

<sup>3</sup> Challenges and Reforms in the Nigerian Prisons System.

By the above, the main objective of establishing the prisons in Nigeria is to provide a rehabilitation and correctional facility for those who have violated the rules and regulations of the society.

### **Historical Development of Prisons in Nigeria**

The British taking possession of Lagos<sup>4</sup> and the hinterland led to the establishment of British protectorates towards the end of 1900. It established prison as the last link in the Criminal Justice System. By 1910, there were prisons in Degema, Calabar, Onitsha, Benin, Ibadan, Sapele, Jebba and Lokoja<sup>5</sup>. The Prison Regulation was published in 1917 to prescribe admission, custody, treatment and classification procedures as well as staffing, dieting and clothing regimens for the prisons. Those remanded or convicted by the Native Courts were sent to the Native Authority Prisons. The prison regulation also distinguished between Awaiting Trial and Convicted inmates and even stipulated the convict-category to be found in each type of prison.

In 1934, meaningful attempt was made to introduce relative modernization into the prison service. In 1948, four reformatories were opened in Lagos, part of Port-Harcourt prisons was converted for the housing and treatment of Juveniles. After Nigeria had her independence and became Republic<sup>6</sup>, in 1968, Native Authority Prisons were abolished. The effect of this became the unification of the Nigerian Prisons. It was in 1971 that the government White Paper on the reorganization of the prisons was released. In 1972, there was a Decree which spelt out the goals and orientation of the Nigerian Prisons Service<sup>7</sup>. Between 1974 and 1980, a group of officers was recruited as social welfare officers on adjustment-related programs and rehabilitation of prisoners. In 1999 and 2011, 12 new satellite prisons and three hospitals were built in Nigeria. The essence of this is to modernize and create the enabling environment for the proper treatment and training of offenders<sup>9</sup>. The Special Prison Reform Programme of the Federal Government in 1999 has made a lot of difference to the structure of prisons in Nigeria.

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[www.krepublishers.com/.../JSS-27-2095-11-/116-Obioha-E-E-Ttp...](http://www.krepublishers.com/.../JSS-27-2095-11-/116-Obioha-E-E-Ttp...), accessed on 2<sup>nd</sup> November, 2011; 14.10pm.

<sup>4</sup> Lagos was ceded to the British in 1851.

<sup>5</sup> History of the Nigerian Prisons Service, available at: [www.prisons.govng/about/history.php](http://www.prisons.govng/about/history.php), accessed on 27<sup>th</sup> October, 2011, 13.24pm.

<sup>6</sup> Nigeria became Independent on 1<sup>st</sup> October, 1960 and became a republic in 1963.

<sup>7</sup> Decree No. 9 of 1972, Federal Republic of Nigeria.

<sup>9</sup> History of the Nigeria Prisons, *op.cit.*

### **The Problems of the Prisons in Nigeria**

One of the major problems in the Nigerian prisons is that the prisons-yards are congested and overcrowded beyond their capacity. Since the prisons were built, and as crimes and convictions increase, no expansion of prison in Nigeria was made. No attempt has been made by the government to expand each prison while no new ones are built. The effect of the severe overcrowding of the prisons are seriously damaging the mental and physical health of thousands of inmates.

One other problem faced by the Nigerian prisons is that at least 65 percent of the inmates have not been convicted of any crime. Some await trial for up to ten years, while in some cases, on conviction, they are sentenced to four or more years jail term. People not suspected of committing any crime are imprisoned along with convicted criminals<sup>10</sup>. Some members in the prison could end up spending the whole of their lives behind bars without being convicted.

Moreover, one other problem is that caused by the police in the form of routine torture given to suspects as a means of obtaining confessions. Suspects are often put through severe tortures in the guise of extracting confessions, which are often used as evidence in trials. Sometimes, the suspects give non real confessions as a result of the severe torture. The police may, out of neglect or by commission, contribute to a person being detained in prison remaining for a long time, for instance, when a person's case file carelessly gets lost with the police.

It is common that after a person is convicted by the court, he does not go for appeal because cases take so long to get to the court. Those claiming to be innocent do not risk staying in prison to wait for their appeal to be heard. The effect of this is that they would simply serve the prison term<sup>11</sup>.

### **The Standard Minimum Rules for the Treatment of Prisoners**

The world at a time felt that there was need to have standard minimum rules for the treatment of prisoners. This was adopted by the first United Nations

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<sup>10</sup> Nigerian Prison System report, available at: [www.africafiles.org/articles.asp?D=17362](http://www.africafiles.org/articles.asp?D=17362), accessed on 25<sup>th</sup> October, 2011, 10.00am.

<sup>11</sup> The Nigerian Prison System Report, *op.cit.*

Congress on the prevention of crime and the treatment of offenders. This was held at Geneva in 1955. It was approved by the Economic and Social Council by its 663C (xxiv) of 31 July 1957 and 2076 (LXII) of 13 May 1977<sup>12</sup>. The Standard Minimum rules provide international and domestic laws as regards persons held in prison and other form of custody. They set out what is generally accepted as being good principle and practice in the treatment of prisoners and management of prison.

Some of these rules are:

Rules 8(b) provides that untried prisoners shall be kept separate from convicted persons.

Rule 9(1) provides that where sleeping accommodation is in individual cells, each prisoner shall occupy by right a cell or room by himself. If for special reasons, such as temporary overcrowding, it becomes necessary for the central prison administration to make an exception to this rule, it is not desirable to have two prisoners in a cell or room.

Rule 10 provides that all accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being to climatic content of air, minimum floor space, lighting, heating and ventilation.

Rule 44(2) provides that a prisoner shall be informed at once of the death or serious illness of any near relative. In case of the critical illness of a near relative, the prisoner should be authorized, whenever circumstances allow, to go to his bedside either under escort or alone.

Rule 53(2) provides that no male member of the staff shall enter the part of the institution set aside for women unless accompanied by a woman officer.

There are certain rules applicable to special categories of prisoners. On classification and individualization, rule 67 provides that the purpose of the classification shall be:

- (a) to separate others from prisoners who by reason of their criminal records or bad characters are likely to exercise a bad influence; and
- (b) to divide the prisoners into classes in order to facilitate their treatment with a view to their social rehabilitation.

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<sup>12</sup> Standard Minimum Rules for the Treatment of Prisoners, available at: [www2.obchr.org/english](http://www2.obchr.org/english), accessed on 25 October 2011, 10.00am.

Rule 84(2) provides that unconvicted prisoners are presumed to be innocent and shall be treated as such.

Rule 85(1) provides that untried prisoners shall be kept separate from convicted prisoners.

Rules 85(2) provides that young untried prisoners shall be kept separate from adults and shall in principle be detained in separate institutions.

Rule 89 provides that an untried prisoner shall always be offered opportunity to work, but shall not be required to work. If he chooses to work, he shall be paid for it.

In Nigeria, prison inmates sleep two to a bed or on the floor in the filthy cell<sup>13</sup>. Toilets are blocked and overflowing or simply nonexistent, and there is no running water. As a result, disease is widespread. This does not comply with Rule 9(1) of Standard Minimum Rules for the Treatment of Prisoners<sup>14</sup>.

Most Nigerian prisons do not have sleeping accommodations that meet all requirements for good health. In most cases, the Nigerian prisons do not provide minimum floor space and the prisons rooms do not provide enough space for ventilation.

Above all, prison rooms accommodate five inmates. There is no running water. The effect is that prisoners instead of being rehabilitated after going to the prison become hardened. These do not comply with the standard minimum for treatment of prisoners as provided by Rule 10.

The Nigerian prisons deny inmates the right to have contact with their families and friends. Those who are granted this opportunity are the rich prisoners who can give out money. This falls short of the United Nations Standard Minimum rules for treatment of prisoners<sup>15</sup>.

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<sup>13</sup> Nigeria Prisoners' rights systematically floated, available at: <http://tinyur.com/212wrg>, accessed on 24th October, 2011, 13.40pm.

<sup>14</sup> Approved by the Economic and Social Council resolutions.

<sup>15</sup> Rule 44(2) of the Standard Minimum rules for treatment of prisoners.

All too often, individuals who are not suspected of committing any crime are incarcerated in Nigerian prisons along with those suspected or convicted of crimes. Some were arrested in place of a family member whom the police could not locate. Others suffer from mental illness and were brought to prison to relieve their families of responsibility for their care.

Most are very poor people who have no lawyer to advocate for them<sup>16</sup>. This is not complying with Rule 84(2) of the Standard Minimum treatment of prisoners.

The Nigerian constitution guarantees the right to be brought before a court of law within a reasonable time<sup>17</sup>. If there is a court of competent jurisdiction within 40km, a reasonable time is defined as one day. In all other cases “reasonable” is considered to be two days (24 hours) or longer depending on the distances and circumstances.<sup>18</sup>

In view of the constitutional right of presumption of innocence, awaiting trial prisoners enjoy all rights guaranteed by the constitutions<sup>19</sup>. It is a common knowledge that various forms of degrading and inhuman treatment are meted out to detainees in the process of extracting confessional statements. This practice which is most prevalent among the police, apart from breaching the constitution, has been condemned by the United Nations as far back as 1975 through its resolution 3452 of December, on the protection of all persons from being subjected to torture and other cruel, inhuman or degrading treatment or punishment. This later got the force of international law in the convention against torture and cruel, in-human or degrading treatment punishment in 1984<sup>20</sup>.

Maltreatment of inmates is common abuse in the Nigeria prisons where torture is frequent. In May 1987 at the Benin prison, armed police men killed 24 inmates rioting over food supplies and in 1988, a secret 10-year old detention camp on Ita Oko Island, off Lagos, was exposed and closed. Nearly 300 prisoners died of “natural causes” in 1984, and 79 committed suicides. Ikoyi prison recorded more than 300 deaths in 1988. In June 1989, the Civil

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<sup>16</sup> Nigeria Prison System Report, *op.cit.*

<sup>17</sup> S. 35 of 1999 Constitution of the Federal Republic of Nigeria.

<sup>18</sup> Nigeria: Prison System Report, *op.ct.*

<sup>19</sup> 36 (5) 1999 constitution

<sup>20</sup> International standards on the rights of detainees

Liberties Organization filed suit on behalf of 1,000 detainees held without trial at Ikoyi<sup>21</sup>.

The Standard Minimum rules for treatment of prisoners provide that every prisoner shall be provided by the administration at the usual hours with food of nutritional value adequate for health and strength of wholesome quality and well prepared and served<sup>22</sup>. In Nigerian prisons, the inmates do not enjoy the provision of food at the reasonable hours. The food served to prisoners in Nigeria is far from being nutritious. This is what gave rise to 24 inmates being killed in Benin for protesting for food in 1988<sup>23</sup>. In the Nigerian prisons, the prison personnel do not check the inmates against committing suicide. In foreign countries, it is a serious offence. Prisoners who tear up bed sheets to make a rope for hanging themselves have been punished for misusing state property; vide amended complaint, *Boyd v. Snyder*<sup>24</sup>.

Most prisons in Nigeria have small clinics or sick bays which lack medicines, and in many prisons inmate have to pay for their own medicine. Guards frequently demand that inmates pay bribes for such privileges as visiting the hospital, receiving visitors, contacting their families and in some cases, being allowed outside their cells at all. Prisoners with money may even be allowed mobile phones whereas those without funds can be left to languishing in their cells<sup>25</sup>.

The above is not in compliance with rule 22(1) which provides that at every institution there shall be available the services of at least one qualified medical officer who should have some knowledge of psychiatry. The medical services should be organized in close relationship to the general health administration of the community or nation. It further provides that sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals<sup>26</sup>. The Nigerian prisons do not comply with those rules as adequate medical attentions are farfetched to the inmates. However, the privileged

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<sup>21</sup> Nigeria crime and punishment. [http://www.photius.com/Nigeria/national security/Nigeria National\\_security\\_crime\\_and\\_punishment](http://www.photius.com/Nigeria/national%20security/Nigeria%20National_security_crime_and_punishment), accessed on the 28<sup>th</sup> October, 2011; 4:00pm.

<sup>22</sup> Rule 20(1).

<sup>23</sup> *Ibid.*

<sup>24</sup> 44 sup 2<sup>nd</sup> 966 (N.D. 111.1999) (No.99c56).

<sup>25</sup> Nigeria:Prison System Report, available at: [www.africafocus.org/docus08/ni0802.php](http://www.africafocus.org/docus08/ni0802.php), accessed on the 26th October 2011, 13.30pm.

<sup>26</sup> Rule 22(2).

inmates, because of their status in the society before going into the prison, enjoy certain privileges not accorded to others.

### **Conclusion**

The Nigerian prisons systematically deny the inmates a range of human rights. The Nigerian government has not adequately looked into this. All the country does is mere initiation of policies not implemented and strictly supervised. The police do not help matters as they do not bring suspects promptly before a judge or judicial officers. This does not comply with the Nigerian constitution which provides for bail within 24 hours after arrest of a suspect. Most times, it takes weeks, months and, in some situations, the files of suspects are lost or misplaced. This makes the suspects to spend years in the prison before meeting a judge or judicial officer to look into their cases.