

**HUMAN RIGHTS ABUSES IN NIGERIAN CORRECTIONAL CENTRES: AN APPRAISAL OF THE NIGERIAN CORRECTIONAL SERVICES ACT, 2019**

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**Abstract**

Fundamental human rights are inalienable and jealously guarded by several statutes across the globe and in Nigeria for the protection of all persons, particularly with regards to persons held in lawful custody for various offences. As civilization developed, prisons morphed into correctional facilities created to reform and rehabilitate persons who have committed crimes against the state. In Nigeria, a lot of efforts have gone into providing effective legislations and reforms to ensure compliance with international human rights standards and good correctional practices. The objective of this work is to examine the extent of human rights abuses in correctional centres in Nigeria and the impact of the new legislative regime in stemming this tide. The relevant Acts like the Nigerian Correctional Service Act, the Administration of Criminal Justice Act, and the Constitution of the Federal Republic of Nigeria 1999 (as amended) which govern the administration of our correctional service system and guarantee the human rights for all persons, are properly examined in this work. The Nigerian correctional centers have been reputed to be dehumanizing and punitive as opposed to being corrective. The numerous issues confronting these centres border on lack security of lives, congestion, inhumane and degrading treatment, lack of safe custody, sexual abuse of female inmates, unhygienic and tattered prison environment resulting in the spread of diseases and many health scares. These issues have resulted in making the correctional institution incapable of refining inmates and a constant violation of their human rights. Consequently, this work made recommendations to aid in minimizing further violations of inmates' human rights and to ensure that they are subjected to dignifying humane conditions while incarcerated, such as constant training of correctional facility staff, implementation of the provisions of the law to ensure a reduction in the number of inmates and building and maintenance of correctional facilities.

**Keywords: Correctional Services, Human Rights, Inmates, Criminal Justice, Security**

**1.0 Introduction**

“Our little cell rooms measured about seven feet by eight feet. We would bathe, sleep, eat, defecate, piss, play and pray in there. For us, it was our entire world,” an inmate said.<sup>1</sup>

In Nigeria, the primary law that regulates correctional services is the Nigerian Correctional Services Act, 2019 (hereinafter referred to as NCSA 2019 or the Act). As can be gleaned from the provisions of the NCSA 2019, the ideal prison system seeks to while respecting the rights of the concerned persons, deter those who would otherwise commit crimes and reduce the probability that those who serve a prison sentence will reoffend after their release. However, in reality, the rights of prisoners are not respected as there is a general misconception that prisoners have no rights at all.<sup>2</sup> Nelson Mandela once said, “No one truly knows a nation until one has been inside its jail. A nation should not be judged by

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<sup>1</sup>Nigeria: Prisoners' rights systematically flouted' *Amnesty International* <<https://www.amnesty.org/en/documents/afr44/001/2008/en/>> accessed 20 October 2023.

<sup>2</sup> MU Nnam, 'Responding to the Problem of Overcrowding in the Nigerian Prison System through Restorative Justice: A Challenge to the Traditional Criminal Justice System, *International Journal of Criminal Justice Science*, (2016) (11) (21), 74.

how it treats its highest citizens, but its lowest ones.”<sup>3</sup> A prisoner in Nigeria is often perceived and categorized as an outcast<sup>4</sup> and so, once you are a prisoner, you are automatically a bad egg in the society<sup>5</sup> and should take any treatment meted out on you. Nigerian correctional centers have been described as a “Living Hell”<sup>6</sup> owing to the high rate of human rights violation within the Nigerian correctional centers. This work seeks to appraise the provisions of the NCSA 2019 in a bid to discover whether the Act in actual fact protects the human rights of these inmates; if the provisions of the Act improved the situation of inmates and if the NCSA 2019 lay the foundation for a correctional service system that meets international best practices as regards the human rights of persons in custody.

## 1 2.0 Conceptual Clarifications

### 2.1 Human Rights

The concept of human rights lacks unanimous definition. The international community, legal scholars, as well as different schools of thought and judicial rulings, have put forth various interpretations. The United Nations (UN) defines human rights as those rights that are inherent in our state of nature and the absence or deprivation of which human beings will live as sub-humans<sup>7</sup>. According to Rao,<sup>8</sup> human rights are the inherent dignity and inalienable rights of all members of the human family, which themselves constitute the foundation of freedom, justice and peace in the world while Mishra asserts that human rights do not depend on the specific of the individual or the relationship between the right holder and the right-guarantor.<sup>9</sup> The natural law school of thought asserts that human rights are inherent entitlements bestowed by a higher power (such as God) or discernible through human reason. In contrast, positivists view human rights as rights that have been incorporated into a positive legal framework, deriving either from the state’s will or the sovereign’s command. In *Ransome Kuti & Ors v Attorney General of Nig*<sup>10</sup> Kayode Eso (JSC), stated that a human right is a right which stands above the ordinary laws of the land and which in fact is antecedent to political society itself, and a precondition to a civilized existence.<sup>11</sup>

### 2.2 Prison<sup>12</sup>

The word “prison” was originally derived from the Latin word “prehensionem” which means “a taking.”<sup>13</sup> The Oxford Advanced Learner’s Dictionary defines prison as a building where people are kept as a punishment for a crime they have committed, or while they are awaiting trial. Section 46 of the NCSA 2019 states that ‘Correctional Centre’ means” a prison or any center that serves as a place for detention, imprisonment or incarceration aimed at promoting a reformation, rehabilitation and reintegration of inmates.

Right from olden days, being confined in the prison has always been a form of punishment, and this is

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<sup>3</sup> Nelson Mandela, *Long Walk to Freedom: The Auto biography of Nelson Mandela* (Abacus1995)233;Liora Lazarus, *Contrasting Prisoners Rights: A Comparative Examination of Germany* (Oxford University Press, 2004) <[www.amnesty.org/en/pressreleases/2015/05/mandela-rules-on-prisoner-treatment-adopted-in-landmark-revision-of-un-standards-1/](http://www.amnesty.org/en/pressreleases/2015/05/mandela-rules-on-prisoner-treatment-adopted-in-landmark-revision-of-un-standards-1/)> accessed 20 October 2023.

<sup>4</sup> E Aboki, *History of Nigeria Prisons Service, an inside account.* (Kaduna:BizmakPublishers,2007)

<sup>5</sup> CO Omagbemi, and A O Odunewu, *An Appraisal of Library Service Provision to Prison In mates in Nigeria.*(Lagos: Tolu Express Republic, 2008).

<sup>6</sup> GEO moni, and SUIjeh, ‘Qualitative Education for Prisoners: A Panacea to Effective Rehabilitation and Integration into the Society’ (2009) (2) (1), *Edo Journal of Counselling*, 28-37

<sup>7</sup> DJ O’Byrne, *Human Rights: An Introduction* (Pearson Education Singapore, 2005)5.

<sup>8</sup> RJ Vincent, *Human Rights and International Relations* (Cambridge University Press, Cambridge 1986)12-14.

<sup>9</sup> P Mishra, *Human Rights Global Issues* (Kalpaz Publications, Delhi 2000) 4.

<sup>10</sup> [1985] 2 NWLR (PT6)211.

<sup>11</sup> *ibid*, 229.

<sup>12</sup> The word “prison” will be used interchangeably with the words “correctional center” through this work. Although correctional center may comprise of both custodial and non-custodial services, this work is more focused on the custodial service when the words “correctional center” is used.

<sup>13</sup> Online Etymology Dictionary <https://www.etymonline.com/word/prison> accessed 22 October 2023.

largely based on the concept that a criminal is a dangerous and a misfit person, who should be excluded from the society as a punishment and lesson to other members of the society. Incarceration and the prison system proper, only became widely used in the 1800s,<sup>14</sup> when society deemed it necessary to separate a criminal from the population. Before that time, he was usually exiled and often threatened with death if he returned home.<sup>15</sup> Prison otherwise known as correctional institutions in other jurisdictions and currently in Nigeria is an integral part of criminal justice delivery; and numerous theories exist regarding the suitability of prisons as a form of punishment. These theories encompass both reformatory and retributive perspectives. The reformatory theory posits that a criminal should be incarcerated in a setting where they can transform their character, thereby preventing the reoccurrences of similar offenses in the future. In contrast, the retributive theory advocates for confining a criminal as a means of punishment for their wrongdoing, which said punishment serves to restore the moral balance previously disrupted by the criminal's actions. Throughout history, prison environments have often been portrayed as deplorable and inhumane. In the present day, the conditions in prisons vary significantly across the globe, illustrating how each country approaches the treatment of its offenders.

## **2 2.3 Prisoner**

Simply put, a prisoner is one who is deprived of his liberty. One who is against his will kept in confinement or custody in a prison, penitentiary, or jail. The NCSA 2019 interestingly does not define the word 'prisoner.'<sup>16</sup> More interesting is the fact that the Act does not use the word 'prisoner' in its provisions but rather uses the word 'inmate.' Section 19 of the repealed Prisons Act defines a "prisoner" as any person lawfully committed to custody<sup>17</sup> The NCSA 2019 also defines "inmate" as any person lawfully committed to custody.

In the view of Araromi,<sup>18</sup> by this definition, it means any person who is lawfully confined to prison is a prisoner; therefore, a person becomes a prisoner on the date first admitted into prison, which then qualifies awaiting-trial- inmates as prisoners because they are normally confined to prison by the order of the court.<sup>19</sup> Pre-trial detention itself does not violate human rights if it takes place under the proper conditions, for a short time and as a last resort.<sup>20</sup> Prisoner's rights can be categorized into two main groups: rights before conviction and rights after conviction.<sup>21</sup> These distinctions are crucial in understanding the legal protections afforded to individuals in the criminal justice system. The words 'prisoner(s)' and 'inmate(s)' shall be used interchangeably in this work.

## **3 3.0 The Legal Status of a Prisoner in Nigeria**

The basic tenet of civil liberties is that rights exist at the very core of human existence and must be accorded to all persons irrespective of their race, status, colour, gender, and so on. What becomes the fate of a person who has been detained, having his human right curtailed to a certain extent in Nigeria? The popular belief is that a detainee is stripped off all forms of rights upon conviction; hence, we must ask the question whether a convict can still claim any scintilla of rights especially in a nation like Nigeria, where its criminal justice system is characterized with blatantly vicious, cruel, and inhumane

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<sup>14</sup> O Bamgbose, *The Sentence, the Sentencer, the Sentenced: Towards Penal Reform in Nigeria* (Ibadan, Ibadan University press, 2010).

<sup>15</sup> MS Diri, 'The Journey So Far', (A paper presented at the National summit of penal Reform & Prison Decongestion, Abuja, 2010).

<sup>16</sup> It is submitted that this is a result of the objective of the Act to change the nomenclature from prison to correctional center, hence, the change in descriptive terms were also necessary.

<sup>17</sup> Prisons Act Cap.P29, Laws of the Federation of Nigeria (LFN), 2004.

<sup>18</sup> Marcus Ayodeji Araromi, 'Prisoners' Rights Under the Nigerian Law: Legal Pathways to Progressive Realization and Protection' *Afe Babalola University Journal of Sustainable Dev. Law & Policy* (2015) (6) (1) 169-198 @173.

<sup>19</sup> *Edmund Okoro & Ors v Minister of Internal Affairs & Ors* (Unreported) Suit No. FHC/EN/CP/102/2000.

<sup>20</sup> Jeremy Sarkin, 'Prisons in Africa: An Evolution from a Human Rights Perspective' *Sur International Human Rights Journal* (2009) (9) 22-49 [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1368922](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1368922) accessed 23 October 2023.

<sup>21</sup> (n 17).

treatments.<sup>22</sup> The question of rights of prisoners has quite been elusive.<sup>23</sup> This is because; many people are of the view that prisoners have no rights at all. This misleading thought has judicial backing as far back as 1891 in the English case of *Ruffin v Commonwealth*<sup>24</sup> where the Supreme Court of Virginia found as follows:

The prisoner as a consequence of his crime not only forfeited his liberty but all his personal rights except those which the law in its humanity accords him. He is for the time being, the slave of the state.

Fortunately, this position no longer holds in this current age and time. In the Nigerian case of *Peter Nemi v A.G of Lagos State*<sup>25</sup> where the prosecution lawyer argued that the prisoner has no fundamental right after conviction and sentence, the Court, Per Uwaifo found thus:

Does it mean that the condemned prisoners can be lawfully starved to death by the prison authorities? Is a condemned prisoner not a person or individual?

Unfortunately, criminal justice stakeholders and the average member of the Nigerian community tend to think of persons under lawful incarceration as being less human. Convicts are considered diminished and should have no say on any claim for rights. But they are no less of persons whose rights are only subject to expressly curtailed judicial limitations allowable by law.<sup>26</sup> Human rights apply to both prisoners and the free men alike because these prisoners are (or at least were) members of the civil society. It cannot be over emphasized that by virtue of their humanity, not only are they entitled to certain rights, but they are equally entitled to seek protection and enforcement of those rights within the limits permitted by the law.<sup>27</sup> Prisoners have all the rights and must enjoy such rights as other free citizens, except where such rights are properly denied them under the law.<sup>28</sup> Thus, it is pertinent to reiterate that detainees and inmates are neither spirits nor ghosts.<sup>29</sup> One of the most important steps towards achieving the desired goals and aspirations in a given democratic society is the respect for human rights and rule of law.<sup>30</sup> Therefore, anyone that encounters the criminal justice system, whether as a victim of crime, a witness in a court case or an accused person charged with an offence, has the right to be treated fairly.<sup>31</sup> The Constitution of the Federal Republic of Nigeria, 1999 (as amended) (hereinafter referred to as CFRN 1999) and the UN Standard Minimum Rules on the Treatment of Prisoners (Mandela Rules) set the bench mark for the treatment of prisoners and the prison condition. The CFRN 1999 in Chapter 4 has laid down the fundamental human rights which each citizen of the country is entitled to.<sup>32</sup>

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<sup>22</sup> Unini Chioma, 'Human Rights upon Detention and the Rights of Inmates' *The Nigerian Lawyer*, 22 April 2021 <https://thenigerialawyer.com/human-rights-upon-detention-and-the-rights-of-inmates/> accessed 23 October 2023.

<sup>23</sup> Halima Doma Kutigi, 'A Review of the Nigerian Correctional Service Act 2019 and its relevance to effective Criminal Justice Administration' *I J O C L L E P* (2019) (1) (1) 36.

<sup>24</sup> (21Gratt.) 790,796 (1871).

<sup>25</sup> [1996] 6 NWLR (Pt.452) 42.

<sup>26</sup> *Johnson v A.G Federation* [2002] 8 NWLR) (pt.768) at 192.

<sup>27</sup> *ibid.*

<sup>28</sup> *Peter Nemi v A.G of Lagos State* [1996] 6 NWLR (Pt.452) 42.

<sup>29</sup> P Dele, "Prisoners' Rights in Nigeria and the Work of the legal Research and Resource Development Centre" being a paper presented at the Osiwa Round table on prisoners' Rights in Nigeria organized by Osiwa and held at the Osiwa Conference Room, Ontario Crescent Abuja on the 10th of August, 2001.

<sup>30</sup> Halima Doma Kutigi, 'A Review of the Nigerian Correctional Service Act 2019 and its Relevance to Effective Criminal Justice Administration' *IJOCLLEP* 1 (1) 2019, 1.

<sup>31</sup> *ibid.*

<sup>32</sup> Sections 33-45 CFRN 1999 (as amended).

#### **4 4.0 Nigerian Correctional Services Act, 2019 and Human Rights Violations in Nigerian Correctional Centers.**

The Nigerian Correctional Services Act, 2019 was introduced in the sixth assembly in 2008 through a Bill sponsored by Victor Ndoma-Egba.<sup>33</sup> The Bill passed first reading in May 2016 and in October 2016 the Bill was read for the second time. In December 2018 the Bill had its third reading and passage by the eighth assembly of Nigerian Senate. However, in May 2019, President Mohammed Buhari declined assent to the Bill citing among others that Clause 44 (d) of the Bill undermined the independence of the judiciary. This was corrected, resent to the President by the ninth assembly and was subsequently signed into law on Wednesday, 14th August 2019.<sup>34</sup> The Act is designed to make provisions for the administration of custodial and non-custodial measures in Nigeria and other related matters. The repealed Prisons Act, had been in force since 1972, spanning a period of forty-seven years and consequently, had become outmoded in several respects.<sup>35</sup> In the words of Tarhule<sup>36</sup> it had no clear discernible objectives and was completely silent on the philosophy of reformation/rehabilitation which is the modern thrust of penal policy. Furthermore, it exhibited structural deficiencies and only scratched the surface concerning the well-being of both inmates and prison staff.<sup>37</sup> The Nigerian Correctional Service Act of 2019 was enacted with the intention of rectifying certain evident deficiencies. This legislation aimed to modernize the prison system, now referred to as correctional centers, by dividing it into custodial and non-custodial branches. Additionally, it introduced more humane conditions for managing offenders in custody and fostered collaboration between correctional centers and other components of the criminal justice system, thus improving the situation of inmates.

Briefly, the Act is made up of two parts- Custodial Service and Nigerian Non-Custodial Service, contained in sections 9 – 36 and sections 37 – 47, respectively; with two schedules. The first Schedule sets out the classification of custodial centers created by the Act while the second schedule deals with savings and transitional provisions<sup>38</sup> The NCSA 2019, in section 1, established for the Federation, the Nigerian Correctional Service to provide custodial and non- custodial services. The objectives of the Act as contained in section 2 are as follows: -

- a) Ensure compliance with international human rights standards<sup>39</sup> and good correctional practices;
- b) Provide enabling platform for implementation of non-custodial measures;
- c) Enhance the focus on corrections and promotion of reformation, rehabilitation, and reintegration of offenders; and
- d) Establish institutional, systemic, and sustainable mechanisms to address the high number of persons awaiting trial.

The Controller General is saddled with the responsibility of among others, fulfilling the objectives of the Act which provides that the Controller General shall exercise and perform all powers, duties and functions necessary to give effect to section 2 of the Act<sup>40</sup> The Controller General also shall superintend on: inmates safety and humane custody etc.<sup>41</sup> In order to ensure that the objectives of the Act are at all

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<sup>33</sup> Queen Esther Iroanusi, 'Eleven years after presentation, Buhari signs bill to reform Nigeria's prisons' *Premium Times*, 15 August 2019 <https://www.premiumtimesng.com/news/headlines/346738-eleven-years-after-presentation-buhari-signs-bill-to-reform-nigerias-prisons.html?tztc=1> accessed 29 October 2023.

<sup>34</sup> *ibid.*

<sup>35</sup> Jombo Onyekachi, 'Problems and Prospects of Administration of Nigerian Prison: Need for Proper Rehabilitation of Inmates in Nigerian Prisons' *Journal of Tourism and Hospitality* (2016) (5) (4) 5.

<sup>36</sup> Vearumun Vitalis Tarhule, 'Synoptic Appraisal of the Nigerian Correctional Service Act, 2019' (2019/2020) (9).

<sup>37</sup> Vearumun Tarhule, *Corrections under Nigerian Law* (Innovative Communications, Lagos, 2014).

<sup>38</sup> It is pertinent to observe that sections 1–8, which deals with Establishment of the Service, Objectives, Appointment and Removal of Controller General and Structure of Correctional Service is not under any Part but left on its own. It is submitted that these sections be captured under part one for better organization of the law and for more intelligible comprehension.

<sup>39</sup> Emphasis, mine.

<sup>40</sup> Section 4 (1) (b) NCSA 2019.

<sup>41</sup> Section 4 (2) (a) NCSA 2019.



times the center of action, the Act provides that the Controller General shall direct the most senior Deputy Controller-General to discharge the duties of the office in his absence.<sup>42</sup> Again, the Act categorizes the correctional service into custodial and non-custodial services; and states that the function of custodial service includes providing safe, secure and humane custody for inmates<sup>43</sup> and providing support to facilitate the speedy disposal of cases of persons awaiting trial.<sup>44</sup>

One of the culprits responsible for gross human rights violation in Nigerian prisons is overcrowding.<sup>45</sup> In this regard, the NCSA 2019<sup>46</sup> provides that where the custodial center has exceeded its capacity, the State Controller shall within a period not exceeding one week, notify the: -

- a. Chief Judge of the State;
- b. The Attorney- General of the State;
- c. Prerogative of Mercy Committee;
- d. State Criminal Justice Committee; and
- e. Any other relevant body.

Whereas, with regard to the Federal Capital Territory, the Controller shall notify the Attorney- General of the Federation and Chief Judge of the Federal Capital Territory.<sup>47</sup> Upon receipt of the notification referred to in subsection (4), the notified body shall, within a period not exceeding three months, take necessary steps to rectify overcrowding.<sup>48</sup> Interestingly, the Act allows the rejection of inmates as it states:

Without prejudice to subsection (4), the State Controller of Correctional Service in conjunction with the Superintendent shall have the power to reject more inmates where it is apparent that the Correctional Centre in question is filled to capacity.<sup>49</sup>

What this means is that once a correctional center is filled to capacity, the State Controller is not allowed to keep taking in inmates and shall have the power to reject them. The implementation of this provision has the potential to reduce human rights violation in correctional centres to a great extent as it checkmates overcrowding within the facility. Overcrowding in a facility would naturally lead to a survival of the fittest atmosphere because, where a facility meant for 100 persons is used to carter for 200 persons, the clamor to survive by any necessary means becomes the order of the day and so we find situations where the inmates and not necessarily the prison officials, violate the human rights of a fellow inmates just to survive. Inmates get bullied and their food and bed spaces taken away by their fellow inmates; both of which could result in loss of life which violates their right to life and dignity of human person.

Overcrowding and sub-standard living conditions increase the likelihood of violence among inmates and can lead to riots. In addressing the Kuje prison riot of 28<sup>th</sup> March 2007 which resulted in the death of two inmates and left many others injured, inmates told Amnesty International that the riot was provoked by shortage of food and water.<sup>50</sup> It was also reported that similar circumstances led to at least two other riots in 2007, one in Kano Central prison on 31<sup>st</sup> August 2007 and the other in Ibadan's Agodi Federal Prison on 11<sup>th</sup> September 2007, resulting in the death of almost 20 inmates. Again, where officials who are meant to carter for only 100 inmates are made to oversee 200 inmates as a result of overcrowding, it will definitely get overwhelming, frustrating and will deter them from carrying out

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<sup>42</sup> Section 5 NCSA 2019.

<sup>43</sup> Section 10 (b)

<sup>44</sup> Section 10 (j)

<sup>45</sup> Alaba Iboronke Kekere, 'The Rights of Detained and Condemned Prisoners in the Nigerian Correctional Facilities A Synopsis of the Legislative Framework' *Journal of Law and Criminal Justice* (2021) (9) (1) 7.

<sup>46</sup> Section 12 (4) (a)-(e) NCSA 2019.

<sup>47</sup> Section 12 (5) NCSA 2019.

<sup>48</sup> Section 12 (7) NCSA 2019; the commendable thing about this provision is the fact that a specific time frame is stipulated for the necessary bodies to swing into action to rectify overcrowding.

<sup>49</sup> Section 12 (8) NCSA 2019.

<sup>50</sup> "Nigeria: Prisoners' rights systematically flouted" *Amnesty International*, 22 <<https://www.amnesty.org/en/documents/af/44/001/2008/en/>> accessed 31 October 2023.

their jobs effectively, which responsibility includes ensuring that inmates are kept and treated in safe and humane conditions. An audit conducted by the National Human Rights Commission in 2018,<sup>51</sup> also emphasizes the issue of overcrowding in Nigerian correctional centers and even though this audit was conducted before the coming into force of the NCSA 2019, the current position has remained unchanged. It was discovered by the Commission that the country has 173 prisons with total capacity of 46,024 inmates, however, the average number of inmates detained in these facilities at a time always exceeds the capacity, with awaiting trial detainees far outnumbering the convicted prisoners, leading to congestion. The bedding facilities were also reported to be inadequate, with some of the inmates having to sleep on the bare floor in poorly ventilated cell rooms. For instance, in Bauchi prison, the lockup was 820 as against a capacity of 500; Onitsha prison has a capacity of 326 but the lock up was 755, Enugu prison had 1,625 lockups as against 638 capacity and Owerri prison had 1,745 lockups, compared to a capacity of 548. Ikoyi prison in Lagos State with a capacity of 1,700 had 2,439 lockups, while Abeokuta New and Akure prisons with a capacity of 510 and 160 had 733 and 707 lockups respectively at the time of the audit exercise. So also, Port Harcourt with a capacity of 804 but had a lockup of 2,902, while MSP Oko in Edo State with a capacity of 608 had a lockup of 1,089. Similarly, the MSP Keffi, Nassarawa State, has a capacity of 160 but the lockup was 57126. Across the prisons the number of Awaiting Trial detainees was far above that of convicts. In the 173 prisons audited, out of 50,645 lockups, the number of convicts was 13,901 compared to awaiting trial detainees of 35, 88927. These figures reveal that overcrowding has become a menace in Nigerian correctional centres.

From another point of view, the provision of section 12 (8) of the Act may create a problem. Basically, this section infuses the State Controller of a Correctional Centre with power to refuse to admit inmates if the facility has exceeded its built capacity and he had notified the concerned offices in line with section 12(4) of the Act and nothing has been done to decongest the centre. In the words of Tarhule<sup>52</sup> it would lead to Chief Judges taking panicky measures to decongest the prisons thereby leading to recycling of offenders. Again, it may now warrant taking back the inmates to police detention facility which is worse off. It is also noteworthy that a scrutiny of correctional legislation in several countries did not reveal any jurisdiction where the Service is given such powers.<sup>53</sup>

Furthermore, the Act has provided for the sanctioning of the State Controller or Superintendent who fails to comply with the procedure of section 12 (4) or who continues to take in inmates when the facility is filled. This provision is applaudable but on the other hand, seems vague. The NCSA is the legislation that establishes and guides the activities of the NCS in Nigeria. It is also the legislation that created both the offices of the State Controller and that of the Superintendent as in section 12(11) and (12). Thus merely providing that they will be sanctioned for contravening the provision of section 12, without prescribing the punishment or at least a yard stick for determining same will bring a contrary result as they may be able to either not act at all or act after the statutorily stipulated time with no clearly stated punishment and so the aim of rectifying overcrowding which has earlier been identified as one of the causes of human rights violation in the prisons will be defeated.

Another situation where the Service is empowered to reject inmates is seen in section 13(3) of the Act. To protect the right and dignity of human person and prevent inhumane treatment of offenders, the Act now abhors and prohibits the use of prisons for indiscriminate dumping of persons without due regard to the state of health or age.<sup>54</sup> Thus, the Act states that “a Superintendent shall refuse to admit persons brought in with severe bodily injury; a mentally unstable person or a person in an unconscious state of mind; and someone who is underage.”<sup>55</sup> Also to protect the right to human dignity of prisoners, the Act

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<sup>51</sup> National Human Rights Commission 2018 Prison Report <<https://www.nhrc.gov.ng/files/publications/PRISON-REPORT-min.pdf>> accessed 30 September 2023.

<sup>52</sup> Vearumun Vitalis Tarhule, ‘Synoptic Appraisal of the Nigerian Correctional Service Act, 2019’ *Benue State University Law Journal* (2019/2020) (9) 13.

<sup>53</sup> *ibid.*

<sup>54</sup> Halima Doma Kutigi ‘A Review of the Nigerian Correctional Service Act 2019 and its Relevance to Effective Criminal Justice Administration’ *IJOCLLEP* (2019) (1) (1).

<sup>55</sup> Section 13 (3) NCSA, 2019.

provides that “inmates shall not be held in slavery or servitude, and labour carried out by inmates shall neither be of an afflictive nature or for the personal benefit of any correctional officer;”<sup>56</sup> but permits same as may be necessary to keep the Correctional Centre environment clean or for the general purpose of their well-being.<sup>57</sup> Despite this provision, there has been a report that inmates are held under servitude not just by the prison officials but by their fellow inmates, even to the knowledge of the officials. The Punch Newspaper reported as follows: -

With money, inmates can live as much enjoyable life as they can afford within the walls of incarceration. Some ex-inmates, who share their experiences, speak of “apartments” in the prisons where inmates live like they are in their homes with all the privileges attached. These privileges, it was learnt, don’t just land on the laps of inmates. It is how officials make money on the side, while inmates without the financial muscle, rub shoulders in squalor. In the Kirikiri Maximum Prison in Lagos for instance, it was learnt that inmates who have the money, pay anything between ₦70,000 and ₦300,000 to live in the VIP section. An ex-inmate who has now become a prison reform advocate, Mr. Gwamnishu Harrison, shares his own experience across three prisons in the country, confirming our findings. He says, “At the Maximum Prison, the VIP units are called ‘apartments’ rather than ‘cells.’ Inmates live in self-contained rooms with personal access to shower, toilet, television and even generators. “The amount you pay to live in the VIP section depends on how big your case is. If for instance, you were in prison because of a fraud involving a lot of money, they call you ‘big fish’ at the Kirikiri Maximum Prison. You would have to pay higher than others to get a special cell. The higher the amount of money involved in your case, the higher the money you pay to officials. “Once the court pronounces that you have been remanded, the prison warders sit you down to tell you the situation you would meet at the prison. They would threaten you subtly that you would be put in the general cells, where inmates could beat you regularly but that if you were in the VIP cells, nobody would be able to touch you.” At the Kirikiri Maximum Prison, inmates in the VIP section even get personal guards, it was learnt. These guards are other less-privileged inmates, who have the “luck” of being chosen to serve the VIP inmates, with promise of some privileges. “Once you get a space in the apartment, you are given other inmates, who are less privileged as ‘guards’. They protect you, clean your room and wash your clothes. No one can go into the apartments without informing the ‘guards’ working there. You take permission from them before you go in to see the VIPs,” Harrison says.<sup>58</sup>

In order to also check overcrowding which is one of the reasons for human rights violation in Nigerian prisons, the Act permits the Controller-General, for security or administrative reasons, to order in writing the transfer of any inmate, convicted or un-convicted, to a suitable correctional centre whether or not the correctional centre is named in the warrant or order of detention and such order by the officer shall be sufficient authority for such transfer.<sup>59</sup>

The Act further preserves the rights of prisoners through checking of overcrowding by further giving the Controller-General power to transfer inmates, in section 16 (3) (a), where it appears to the Controller-General that the number of inmates is greater than the official capacity of the Correctional Centre and that it is more convenient to transfer the excess number of inmates to another Correctional Centre. This

<sup>56</sup> Section 15 (1) NCSA, 2019.

<sup>57</sup> Section 15 (6) NCSA, 2019.

<sup>58</sup> Nigerian prison cells where inmates live like kings, use co-prisoners as servants *Punch Newspaper*, 3 March 2018

<<https://punchng.com/nigerian-prison-cells-where-inmates-live-like-kings-use-co-prisoners-as-servants/>>accessed 1 September 2023

<sup>59</sup> Section 16(1) NCSA, 2019.



provision raises a little confusion because the Act had initially directed the State Controller to notify the concerned persons<sup>60</sup> and reject inmates where the correctional centre has exceeded its built capacity. Either way, the provisions of both sections 12(8) and 16(3) (a) have one aim, which is to check overcrowding-the primary culprit for human rights violation in prisons. As a way of resolving the confusion, it is recommended that section 16 should be an alternative cause of action after the conditions and time frames provided in section 12 have been fulfilled.

Section 16(3)(b) provides that by reason of the outbreak of a disease within the correctional centre or for any other reason, it is desirable to provide for the temporary shelter and safe custody of any inmate, the Controller-General may, by order, direct that as many as the inmates, as may be stated in the order, be kept and detained in a building or place which is outside the Correctional Centre specified in the order and the building or place is deemed to form part of the Correctional Centre for the purposes of this Act until the revocation of the order. This section has the potential of protecting the prisoners' right to life as it allows the prisoners to be moved to a temporary space at the outbreak of a disease as against ignoring them, after all, they have been stripped of their rights.

Another cause of the breach of human rights of prisoners is delay during proceedings. This delay can be because of adjournments, it could be caused by the prosecution and in some cases by the prison officials.

The transportation of remanded persons to and from court has been a contentious issue between the prosecutors and the former prison service, which has sometimes resulted in undue delays, much to the disadvantage of the offender. An example of this was seen in the case of *Edet Effiom v State*<sup>61</sup> In that case, the issue of whose duty it was to convey a person on remand to court arose. The Supreme Court, per Onu JSC, held that it was the notional duty of the prosecution. Unfortunately, the failure to bring the offender to court several times led the trial to last for six years, by which time, according to the Court, the offender had degenerated to a bag of bones. The Act has now placed the responsibility on the correctional service, thus laying to rest that controversy and the hardship it occasioned on prisoners.<sup>62</sup>

The issue of detainees awaiting trial is one that needs to be addressed. According to Amnesty International, at least 65% of prisoners in Nigeria are still awaiting trial, and hence have not been convicted for the charges brought against them.<sup>63</sup> This has resulted in a situation of prolonged detention as well as overcrowding, which the government of Nigeria itself has acknowledged. For instance, in Ikoyi Lagos Prison, a cell which is supposed to contain only 500 inmates has been used to cater for 2000 inmates.<sup>64</sup> To this end, the Act in section 18(1) (a)-(b) provides as follows:

- (1) The correctional service, in compliance with the requirements for efficient management of the criminal justice system, shall undertake to—
  - a) liaise with heads of justice institutions and relevant agencies to review and eradicate causes of high numbers of pre-trial detainees and develop effective mechanisms to enhance speedy trial and resolution of such cases;
  - b) provide returns and other necessary information to relevant bodies regarding persons awaiting trial in the Correctional Centre;

Unfortunately, there has not been a lot of changes regarding persons awaiting trial. Amnesty International, as far back as 2008, reported that 65% of Nigerian prisoners are awaiting trial. Statistics on the Nigerian Correctional Service portal as of 13 November, 2023 places the total number of detainees awaiting trial at 55,001. From the portal, 68% await trial whereas, only 32% are convicted inmates. This shows that regardless of the provision of the Act at trying to reduce the number of persons

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<sup>60</sup> Artificial persons.

<sup>61</sup> [1995] ISCNJ1.

<sup>62</sup> Section 17 NCSA, 2019.

<sup>63</sup> *ibid*

<sup>64</sup> *ibid*

awaiting trial, the figures continue to rise, and this encourages overcrowding in the prison facilities; and overcrowding has repeatedly been identified to be one of the causes of human rights violations in Nigerian prisons. Another important thing to point out is that both convicted and awaiting trial inmates are usually housed in the same facility contrary to the minimum standard rules which provide that different categories of prisoners shall be kept in different institutions.<sup>65</sup>

The trials of many inmates interviewed by Amnesty International had started, however they described repeated court appearances with no progress in their cases, often because witnesses do not appear. An inmate in Kuje prison reported: "I was arrested on 5 March 2003, for a killing. Since that time to date, nobody has come to court to testify. The case has been going on, but there are no witnesses until now. It has been four years now, always adjournments." Another inmate said: "Since 2003, nobody came to prosecute the case. There is no complainant. I just continue going to court. They asked me to wait for the DPP advice." These are only but a few instances of the condition of inmates awaiting trial; and these are people who constitute a greater percentage of inmates in the Nigerian prisons. The fact that these detainees awaiting trial suffer as a result of prolonged trial, creates a room for violation of so many of their rights - right to freedom and personal liberty because, some of them may be acquitted in the end; right to life as they could be killed in the prisons, contract diseases and so on. At this juncture, let us call to mind the provision of the CFRN in section 36(5) which provides that a person is innocent until proven guilty. Keeping up to 68% of awaiting trial inmates under the conditions expressed above, is simply a violation of this constitutional provision. Amnesty International reasons that the fact that more than half of the inmates in Nigeria have never been convicted for any crime raises doubts over the competence of the prison administration in Nigeria to successfully ensure that justice is appropriately served to the inmates. It is even more disturbing that the average detainees will have to wait for years before their case would even be visited by the Nigerian courts, and hence, most persons charged by the State would inevitably be forced to go to prison even if no crime has been committed.<sup>66</sup> This is a clear violation of the human rights of these prisoners. The treatments meted out on these inmates in police custody are not one that is pleasing to the ear. Inmates in police custody get raped, beaten, tortured. An inmate at Kuje prison told Amnesty International:

The police use pliers [here he pointed to his teeth]; they say I should give them the gun. On 28 November 2003, that was when they do this thing. This was at the police station, at Maitama police station. They asked me questions. Where was my gun? I tell them I have no gun. Then they did this to my teeth." He opened his mouth to show a gap in his teeth. "There were six police who were there. I know their faces. They also handcuffed me and hung me up. They put an iron in between my legs and hung me up in the middle of two tables. They tortured me. I told them I don't know anything; I'm innocent."<sup>67</sup>

Moving forward, the issue of stigmatization of ex-convicts has been addressed by the Act which provides for the issuance of a certificate to trained offenders who demonstrate a high level of penitence. This certificate enables the holder to engage and compete for social recognition without the label of 'ex-convict'.<sup>68</sup> An issue that rises from this provision mandating the Service to provide opportunities for education, training vocational training, as well as training in modern farming techniques and animal husbandry for inmates is that the rights of female inmates are violated in the area of skill training. This is because almost all the penal institutions visited have workshops for the training of male prisoners on carpentry, wood-carving, iron fabrication pottery and so on; but unfortunately, there are neither such

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<sup>65</sup> Rule 11 Mandela Rules.

<sup>66</sup> Etannibi EO Alemika, 'The Smoke Screen, Rhetorics and Reality of Penal Incarceration in Nigeria' *International Journal of Comparative and Applied Criminal Justice* (1983) (7) (1) 138.

<sup>67</sup> 'Nigeria: Prisoners' rights systematically flouted' *Amnesty International* <<https://www.amnesty.org/en/documents/afr44/001/2008/en/>> accessed 5 September 2023, page 12.

<sup>68</sup> Section 14(1), (2) and (5) NCSA 2019.

skill training workshops nor education programmes for female prisoners in our prisons.<sup>69</sup> The reasons often advanced by the prison administration is that female prisoners are too insignificant to call for any investment on them and that female sections of the prison are always too small to accommodate a good workshop.<sup>70</sup> On the other hand, a person who is issued with the certificate of good behaviour shall not be discriminated against on ground of his custodial sentence.<sup>71</sup> This protects such inmates from discrimination. The Act equally commands the Correctional Service to assist inmates towards effective reintegration by providing funds for transportation of the discharged inmates to their place of abode, and to offer alternative support services as appropriate.<sup>72</sup>

The Act allows the use of fire arm and weapons on inmates which ordinarily should be frowned at, but it specifies the conditions for the use and underscores the principle of legality, necessity, proportionality and accountability in doing same;<sup>73</sup> which conditions help to deter abuse on inmates.

The inspection and supervision of the activities of a correctional centre is one of the ways through which human rights violations can be monitored and attended to appropriately. To this end, the Act provides for official visitors of correctional services in section 21. The functions of these visitors are to: -

- (a) Visit the custodial centre and inspect the wards, cells, yards and other apartments or divisions of the custodial centre;
- (b) Receive the complaint, if any, of the inmates;
- (c) Inspect the journals, registers and books of the custodial centre and condition of treatment of the inmates;
- (d) And call the attention of the superintendent to any irregularity in the administration of the custodial centre or structural defects which may require urgent attention<sup>74</sup>

The Act commands the Service to put in place health care services for the promotion and protection of physical and mental health, prevention, and treatment of diseases.<sup>75</sup> Health care services are essential to the safeguarding of life. Hence, the Act underscores the need for ensuring that even though they are prisoners, that their health is not neglected. By virtue of section 23(2) (a)-(d), the health practitioner shall inspect the Custodial Centre daily and advise the Superintendent, State Controller of Correctional Service or Controller-General as appropriate, on the quantity, quality, preparation and services of food; hygiene and cleanliness of the inmates and Custodial Centres; sanitation, lighting and ventilation of the Custodial Centre; and suitability and cleanliness of the inmates' clothing and beddings. The Superintendent on the other hand shall take immediate steps to give effect to the recommendations, and if they are not within his competence immediately submit a report to the State Controller.

The Act has done a commendable job by making provision for the health and safety of prisoners in correctional facilities. However, the state of prisons has been reported to be continuously deplorable. If the correctional centers are indeed inspected daily as commanded by the Act, and recommendations made on the food, hygiene, cleanliness, lighting, ventilation, and so on, why then does every report concerning the state of Nigerian correctional centers, contain negative comments and findings? It becomes clear that the challenge is not so much the legislative framework; it is rather the implementation that is lacking. These steps, if implemented, will go a long way in addressing the quality of health of inmates which will on the long run, preserve their rights to life. It is also the responsibility of the Service to establish a health centres and deploy a medical doctors to all main custodial centres and where this is not practicable, to have a medical doctors deployed to these centres from the civil service of the Federation or State<sup>76</sup> Again, the Act allows removal of an inmate if the inmate is seriously

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<sup>69</sup> S Akpala, "Addressing the needs of female prisoners in Nigeria's penal institutions" being a paper presented at the British-Nigeria law week, organized by the British Council ,Nigeria at Sheraton Hotels and Towers, Abuja from 23 to 27 April 2001.

<sup>70</sup> Ibid.

<sup>71</sup> Section 14(6) NCSA 2019.

<sup>72</sup> Section 19 NCSA 2019.

<sup>73</sup> Section 20 NCSA 2019.

<sup>74</sup> Section 22 NCSA 2019.

<sup>75</sup> Section 23(1) NCSA 2019.

<sup>76</sup> Section 23(4) and (5) NCSA 2019.

ill; and there is no suitable accommodation within the Centre<sup>77</sup> The Act also makes specific provisions to ensure the health and safety of mentally challenged inmates.<sup>78</sup> The Act in section 30(3) provides that there shall be the provision of basic needs to meet the minimum standards for the treatment of inmates which includes accommodation, feeding, potable water, hygiene, sewage disposal, clothing and toiletries.

One issue among others that comes to mind is that in spite of this provision which seems to this writer to be a mere inclusion of the Mandela Rules, is the condition of female prisoners. In the words of Muhammad and others,<sup>79</sup> the rights of a person under the 1999 Constitution of the Federal Republic of Nigeria are not gender biased but of general application to both sexes, however, due to physiological differences certain rights are peculiar to women. A woman's biological make-up requires that additional efforts be made by the Nigerian correctional service in case of female prisoners as far as their health is concerned. They rightly pointed out that there is only one independent female prison, that is, the Kirikiri Women's Prison in Lagos, whereas other female prisons are carved out of male prisons. According to them, female prisoners are confined in one form of a makeshift, inadequate accommodation without observing the issue of classification. Giving that about 95 percent of Nigerian female prisoners are within childbearing age bracket,<sup>80</sup> nature subjects these female prisoners, just like every other female, to monthly menstruation. Unfortunately, Muhammad and others reported that the stories narrated by these prisoners on how they managed their menstrual period are very pathetic. While some said that they used old rags in between their legs to check the blood flow, others said they used pieces of paper in the same way as rags while others said that they would sit on the floor with their scanty dresses allowing the blood to be absorbed between the floor and the dress.<sup>81</sup> This exposes female prisoners to various types of infectious diseases during their menstrual period thus, affecting both their physical and mental health. Having to pass through this is indeed dehumanizing as it was reported that they would be compelled to walk about with blood stains or sit on a bare floor to control the blood flowing down between their legs.<sup>82</sup> The Mandela Rules (also known as the United Nations Standard Minimum Rules for the Treatment of Prisoners) has provided that "prisoners shall be required to keep their persons clean, and to this end they shall be provided with water and with such toilet articles as are necessary for health and cleanliness." Unfortunately, it is observed that the law has provided theoretically, rules and sections for the care of female inmates, but the theory is not followed by the actual practice of the dictates of the law.

The Mandela Rules or the United Nations Standard Minimum Rules for the Treatment of Prisoners is generally concerned with the accommodation, human dignity and other basic needs of inmates (clothing, bedding, feeding), etc. available to inmates; unfortunately, Nigerian correctional centres have failed to meet this standard, and this results in human rights violations of these inmates. As a result of rampant overcrowding, inmates routinely share beds or sleep on the floor. According to one inmate: "Sometimes when you sleep you wake up with your back paining you."<sup>83</sup> One guard gave this explanation to Amnesty International for the lack of beddings: "The supplies come from Abuja. They only supply the number of the prison capacity." Consequently, in prisons that incarcerate double their official capacity, half of the inmates do not have beds. As it relates to the feeding, Amnesty International reported that portions are small and the quality of the food is, according to the inmates, of a very poor standard: "It is not good for the health. Even the rice is not good –it is stone rice." "The food we eat is

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<sup>77</sup> Section 25 NCSA 2019.

<sup>78</sup> Section 24 NCSA 2019.

<sup>79</sup> Yahaya Abubakar Muhammad and Maryam Ishaku Gwangndi and A S Hassan, 'The Rights of Prisoners in Nigeria and the Role of Prisons and Modern Penology' *Journal of Law, Policy and Globalization* [2017](60) ISSN 2224- 3240.

<sup>80</sup> S Akpala, "Addressing the needs of female prisoners in Nigeria's penal institutions" being a paper presented at the British-Nigeria law week, organized by the British Council, Nigeria at Sheraton Hotels and Towers, Abuja from 23 to 27 April, 2001.

<sup>81</sup> *ibid.*

<sup>82</sup> (n,72)

<sup>83</sup> 'Nigeria: Prisoners' rights systematically flouted' *Amnesty International*

<<https://www.amnesty.org/en/documents/afr44/001/2008/en/>> accessed 5 September 2023, page24.

not the food that a human being will eat.” “Even a dog cannot eat the food.” Accordingly, some inmates ask their families to bring in food. The prison authorities generally permit this so long as the inmate pays for it. Although this report by Amnesty International was done many years ago, the current situation is no different from what was represented by Amnesty International.

The Act commendably mandates the Correctional Service to establish separate male and female borstal training institutions for juvenile offenders in all the states of the Federation for their treatment, including rehabilitation.<sup>84</sup> The import of this is that juvenile and adult offenders are not to be confined in the same space. This is in line with section 248 of the Child Rights Act, 2003 which seeks to avoid criminal contamination of children. The NCSA 2019 does a commendable job by creating this distinction. One must ask if this is obtainable in reality. A readily available answer can be seen in the work of Obidimma and Obidimma who reported that in Onitsha prison in Anambra State, there were, at the time of writing their work, 19 juvenile inmates and even though a separate enclosure is provided for them for sleeping purposes mainly, during the day, they mingle with adult inmates of the prison.<sup>85</sup> They reported that there is also no separate detention facility for juveniles in Enugu and Awka prisons. The one that exists in Owerri prison is akin to the one in Onitsha prison. From these statistics it is evident that the provisions of the Act is merely a blueprint in this regard.

## **5 5.0 Conclusion**

The NCSA 2019 contains provisions that protect the rights of inmates, thus lays the necessary foundation for compliance with international best practices on the treatment of inmates. However, this just like many other Nigerian laws suffer a couple of setbacks that has prevented it from reaching its potential and curing the mischief of human rights violations of inmates. As earlier pointed out, the challenge is not so much the legislative framework; it is rather the implementation that is lacking. It is a challenge that is purely both systemic and human as it is shaped by the thinking and perception that prisoners are second-class human beings with no rights; and that the prison is meant for them to be punished while they serve their sentences rather than being recognized and reformed as human beings. The reality is that the condition of Nigerian prisons despite the provisions of NCSA 2019 is deplorable and with lack of enforcement or implementation, standards of best international practice cannot be fully met. When the rights of these inmates are violated, what happens next? How are complaints made? How are the complaints handled? Can these inmates seek redress? It is only when our laws have answered these questions while actively implementing the letters of the law, can the rights of inmates be said to be protected by the law. What the NCSA has done is at best, providing a set of rules to be followed.

## **6.0 Recommendations**

Premised on the findings of this research, the following recommendations are imperative:

- i. Wide enlightenment of both citizens and law enforcement agencies of the existence of prisoner rights. This will keep everyone in the know so that law enforcement agencies are aware that this prisoner(s) know what their rights are and that they are not allowed to violate them.
- ii. Establishment of more correctional centers around the country. This will help to check overcrowding and will provide jobs for the masses who may be tempted to vomit crimes as a means of survival. Again, complaint desks and mechanisms of redress should be taken seriously by the prison officials.
- iii. The Nigerian Correctional Centre should ensure they implement each of the germane provisions of the novel Nigerian Correctional Service Act, 2019, which is the first step in ensuring Prison reform due to its fine provisions.
- iv. The Officers of the Nigerian Correctional Service should be trained on humane practices

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<sup>84</sup> Section 35 (2) NCSA 2019.

<sup>85</sup> AE Obidimma and EOC Obidimma, Challenges and Prospects of the Juvenile Justice Administration in South East Nigeria, *Nnamdi Azikiwe University Journal of International Law and Jurisprudence, (NAUJILJ)* (2012) 3, 87



- and how to affect positively the psychology of these inmates. They should also be given a proper orientation that incarceration is not an arbitrary violation of the rights of the inmates.
- v. The National Human Rights Commission has to boost its statutory duties and ensure constant visitations to the Prisons to ensure the rights of the inmates are guaranteed.
  - vi. Non-governmental organizations, such as Prisoners Rehabilitation and Welfare Action (PRAWA) should ensure that serve as a serious watchdog on the government to ensure the government hits the ground running on prison reform and not just be complacent about the issue.
  - vii. The Chief Justice of Nigeria should issue a directive for the accelerated hearing of criminal cases or in the alternative separate the civil courts from the criminal courts to unburden these courts.