



THE CORRECTIONAL SERVICE ACT AND RIGHTS OF PRISONERS IN NIGERIA

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Abstract

The Nigeria Prison Service represents a traditional criminal justice system of punishment philosophy which places emphasis on merely to punish the offender rather than correction of the offender. In 2019, the law establishing the Nigerian Prison Service, was reviewed and became known as the Nigerian Correctional Service. The passing into law of the Nigerian Correctional Service Act has been applauded in many quarters. With this ovation that greeted the Nigerian Correctional Service Act, it became imperative to examine the major changes introduced by the Nigerian Correctional Service Act with a view to identifying the place of the inmate in the new law. This work commenced by examining the provisions of the Nigerian Correctional Service Act, with a view to pointing out the need for speedy implementation of Act. A prisoner should not be subjected to conditions in prisons that are dehumanizing or degrading when the law has adequately catered for the entrenchment and establishment of their rights as human beings. For the non-custodial outfit to operate effectively, trained personnel especially in areas of human rights, paroles, probations, rehabilitation and community service must be employed/deployed to the appropriate departments of the correctional service facilities. Technology is also a vital prerequisite, The non-custodial faculty can only effectively operate if technological facilities, used in tracking criminals such as data mapping crime, smart phone tracking, Wi-Fi capabilities and biometrics is present, which will be used especially to track offenders on parole. Governments at all levels, should put in efforts to support the federal government in making sure that the Correctional Service Act, succeeds as it gives priority to the reform of the inmates and seeks to curtail retrogression and uphold best international standard.

Key Words: Correctional Service, Right, Prison and Prisoner.

Introduction

The penalty idea of imprisonment as an aspect of punishment is contained in the retributive and deterrent school of thought which prescribes that a deviant should be punished in order to pay for his actions and to deter him and others from committing crime. Imprisonment is most appropriately conceived as a formal perspective of inflicting pain on the offender, which has

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been an aspect of the traditional criminal justice system in various societies of the world and Nigeria in particular.²

While imprisonment is a prescription, prisonization is the process of living within a confinement known as a prison. Contemporary prisons are seen as offering many functions.³ First, they get dangerous people off the streets and give them "just deserts" for their crimes with this approach, prison success is measured by such factors as physical security, length of incapacitation, a lower crime rate, and inmates who fear criminal sanctions. Second, they punish, reform and prevent law offenders from recidivating after they reenter society.⁴ It should be noted that the Criminal Procedure Act and the Criminal Procedure have been obliterated by the Administration of Criminal Justice Act (ACJA), 2015 and the Administration of Criminal Justice Laws of the states. Only a few states in Northern, still use the Criminal Procedure Act as the others have adopted the ACJA.

The Nigerian Prison System, was established in accordance with three forms of penal legislation which operated alongside each other in the country; the Penal Code and the accompanying Criminal Procedure Code Cap 81 Laws of the Federation 1990 (CPC); the Criminal Code and the accompanying Criminal Procedure Act Cap 80 Laws of the Federation 1990 (CPA) and the Sharia penal legislation in 12 northern states (which applies to only Muslim members of these states).⁴

By its establishment philosophy, the Nigerian prison service, is an institution meant to administer penal treatment to adult offenders. Its importance is in the bid to reduce crime in the society. On the basis of imprisonment policy, the prison service was established to manage criminals in prison yards. This constitutional function empowers the Nigerian prison operatives to: i keep convicted offenders (prisoners) for safe custody, ii keep awaiting trial inmates in custody, until law courts ask for their production, iii punish offenders as instructed by the law courts iv reform the convicted prisoners

v rehabilitate and to re-integrate prisoners who have completed the sentences in the prison.⁵

The global best practice of inmates in correctional facilities has been a shift from the traditional punishment culture to correction, reformation, rehabilitation and reintegration of law offenders into

² Obioha, E. E. "Punishment in Society". In: UC Isiugo-Abanihe, AN Isamah , O Adesina 'Jimi (Eds.): *Currents and Perspectives in Sociology*. (Lagos: Malthouse Press Limited, 2002) pp. 367-379.

³ Siegel, L. & Bartollas C. *Corrections Today*. (USA: Wadsworth Cengage Learning, 2011).

⁴ Ibid.

⁴ Emeka, E. E. "Challenges and Reforms in the Nigerian Prisons System." *J Soc Sci*, Vol. (27) No. (2): (2011) pp. 95-109.

⁵ Adetula G. A., et al. 'The Prison Subsystem Culture: Its Attitudinal Effects on Operatives, Convicts and the Free Society'. *Ife Psychologia*. Vol. (18) No. (1) (2010) pp. 232-251

Nigerian society.⁵ Punishment for crime has been part of human society.⁵ In the classical times, law offenders were considered as slaves.⁶ Champion observed that ‘During the First World War (WWI) (1939-1945), some United States (US) prisoners were used to determine the physical effects of various gases and other wartime products and some inmates died as a result of being exposed to corrosive or poisonous gases and chemicals.’⁷ However, a change in status quo commenced in 1974 when the United State Supreme Court held in *Wolff v McDonell*⁸, that persons interned are not wholly stripped of their constitutional protections when they are in custody.

The case in Nigeria is that, attempts to introduce a legislation that would change the name of Nigerian Prisons Service to Nigerian Correctional Service commenced in the sixth assembly in 2008.⁹ The bill scaled its first reading in May, 2016 and in October 2016, the bill was read for the second time. By December, 2018, the bill had its third reading and passage by the Eighth Assembly of Nigerian Senate. By May 2019, the process suffered a set-back when President Mohamed Buhari declined assent to the bill citing among others things, Clause 44 (d) which was believed to undermine the independence of the judiciary.¹² The Bill was later corrected and resent to the President by the Ninth Assembly and was subsequently signed into law on Wednesday, 14th August,

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2019.¹⁰ With the signing of the Nigerian Correctional Service Bill into law in 2019, it become necessary to examine some key changes introduced by the Correctional Service Act with a view to identify the rights of inmates of Nigerian Correctional Service, under the new law.

This work is sets out to discuss the changes introduced by the Nigerian Correctional Service Act, 2019. The agenda for the repeal of the Nigerian Prisons Act has been a subject of media and academic debates for several years now.¹¹ For decades now, Nigerian prisons have been 4 centres of human rights abuses and infrastructural decay. The monster transmuted into punishment culture, long detention of awaiting trial inmates, congestion, charge sheets were frequently lost, frequent adjournment of cases in courts, dilapidated infrastructure, poor environmental hygiene, poor feeding, among others. The above situation kicked-off campaign of relevant stakeholders such as the media, Nongovernmental Organisations, researchers,

⁵ Igwe I O, *Nigerian Prisons and the Culture of Punishment: The Need for a Paradigm Shift*, (Abakaliki: Kingdom Age Publications, 2017) p. 46.

⁶ *Ruffin v. Commonwealth*, 62 Va. 790 [1871].

⁷ Champion D J, *Correction in the United States a Contemporary Perspective*, (4th edn), (New jersey: Pearson Education Ltd, 2005) p.394.

⁸ Ibid

⁹ Iroanusi Q E, ‘Eleven years after presentation, Buhari signs bill to reform Nigeria’s prisons’ Premium Times August 15, 2019< <https://www.premiumtimesng.com>> accessed, 1st June, 2024. ¹² Ibid

¹⁰ Ibid.

¹¹ Apart from media jungles, conferences, seminars, committees on the reform of Nigerian prisons have severally been held before the enactment of the Nigerian Correctional Service Act, 2019.

human rights activists among others on the need to repeal the prison law and re-enact same in compliance with international human rights standard and good practices in prison administration. This was imperative in view of the adoption of the United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules), 2015; Kadoma Declaration on Community Service Orders in Africa, 1997 and the enactment of the Administration of Criminal Justice Act, 2015.

Conceptual Clarification And Historical Development Correctional Service

Correction has been defined by the *Black's Law Dictionary* as the punishment and treatment of criminal offender through a programme of imprisonment, parole and probation.¹² Correctional centre, could also mean prison since prison is a state or federal facility of confinement for convicted criminals.¹⁴ This therefore depicts, that the main role of the Correctional service is to put measures in place in order to reform the offender in custody. In some jurisdictions, Correctional Services or Centres and prisons are used interchangeable but, in this work, the use of Correctional Centre in Nigeria shall, mean a prison service but only that, the Centre's jurisdiction is limited to taking proper care of offenders.

Right

The term "Right" comes from the Latin word "Rectus" Meaning "Straight"¹⁷. The word right is a highly important term. One may understand them respectfully as "that which ought to exist as of its own right" and that which one ought to do".¹³ "A right is a claim recognised by society and enforced by the state".¹⁴ Rights are the sum total of those opportunities which ensure enrichment of human personality.²⁰ They are the basic conditions of good life, which are recognized by the state.

Right is a claim, a social claim necessary for the development of human personality. It is not an entitlement a person is possessed with. "A right is one Man's capacity of exacting from others acts or forbearances".¹⁵ "Rights in fact are those conditions of social life without which no man can seek, in general, to be his best".¹⁶ In the ancient and medieval times, some people were entitled to enjoy privileges, but we don't call them rights. Rights are not privileges because they are not entitlement. Rights are claims against others as are others' claims on us; entitlements are privileges granted to some but denied to others; Rights are universal in the sense they are assured to all who live in the society, Privileges are not universal in the sense that they are possessed by the few; Rights are granted to all without any discrimination.¹⁷

¹² Bryan A. Garner, *Black's Law Dictionary* (8th Edition, West Publishing Co., 2007) p. 370.

¹⁴ Ibid. ¹⁷ Ibid.

¹³ Macgregor G; *The Everyman Dictionary of Religion and Philosophy*; (J.M. Dent and Sons Ltd., London, 1990) p.39

¹⁴ Sharma U and Sharma S K, *Principles and Theory of Political Science*; (Altantic Publishers and Distributors; Vol. 1, New Delhi, 2000), p 178 ²⁰ Ibid.

¹⁵ Singh W, *Introduction to Political Science*; (Raj Publishers, Delhi, 1970), p178

¹⁶ Vermani R.C; *Political Theory*; (1st Edition), (Gitanjali Publishing House, New Delhi, 1989), p206

¹⁷ Gettell R G, *Political Science*, (The World Press Private Ltd.; Calcutta 1950) p 153.

²⁰ Ibid.

Privileges are showered on some, the selected few; Rights are obtained as a matter of rights, privileges, as a matter of patronage.

Rights emanate in a democratic structure, privileges are found in undemocratic structure be it absolute Monarchy, oligarchy or despotism.²⁰ That is why we say, that rights are always democratic; undemocratic rights are contradictions in themselves. Because they exist in society and because they are available to all to be exercised for the good of all, including the holder, they are democratic in character always.

Rights are social claims which help individuals to develop their personality. If democracy is a government of the people and also a government for the people, it must then, exist to serve the individual. Such a democratic government can best serve the people, if it maintains and provide a system of rights. States never give rights, they only recognize them, Governments never bestow rights, they only protect them.¹⁸ Rights emanate from society and belong to the individuals as members of the society but they exist to help individuals to attain the development of the human personality. State comes in, to provide an atmosphere for the due enjoyment of the rights. It is in this sense that the functions of the government provide conditions for the exercise of rights and it also provides a source from where all governmental activities begin.

Prisoner

A Prisoner is one who is deprived of his liberty; one who is against his will, kept in confinement or custody. A person restrained of his liberty upon any action, civil or criminal. A prisoner is someone being held in confinement.¹⁹ Commonly, a prisoner is a criminal who is serving a prison sentence after being convicted of a crime, or a person who has been arrested by law enforcement and is being held in custody pending trial, whether or not the person is in prison, jail or other confinement.²⁰

Origin Of The Nigeria Prison Service

The prison system has been around long before the amalgamation of 1914, from mere detention centres to native authority prison and to the federal prison system and at the moment, the Correctional Service we have today. The Nigeria prison has come a long way. The origin of modern prisons service in Nigeria began in the year 1861, the year that conceptually, western

type was established in Nigeria. The declaration of Lagos as a Colony in 1861 marked the beginning of the institution of formal machinery of governance. At this stage, the preoccupation of the colonial government, was to protect legitimate trade guarantee the protectorate of the British merchant in Lagos formed a police force of about 25 constables.²¹ This was followed in 1862 by the establishment in Lagos of a police court to resolve petty disputes among

¹⁸ Pandey J.N, *Constitutional Law of India*, (36th, Edition, Central Law Agency, Allahabad, 2000).

¹⁹ Ibid

²⁰ <<https://www.law.cornell.edu/wex/prisoner#:~:text=A%20prisoner%20is%20someone%20being,prison%2C%20jail%20or%20other%20confinement.>>Accessed 2nd July, 2024.

²¹ Emeka, E. E. 'Challenges and Reforms in the Nigerian Prisons System'. *J Soc Sci*, 27(2) (2011), pp. 95-109. ²⁵ Iginovia, P. E., et al. *Crime and Delinquency in Nigeria: Theories, Patterns and Trends*. (Nigeria: Kryne Monitor Books, 2002).

merchants and traders. The functioning of the courts and the police in the colonial settings necessarily means that prisons were needed to complete the system. It was not long in coming, for in 1872, the broad street prison was established with an initial capacity of 300 inmates.²⁵ Administratively, Jarra, observed that Nigerian Prison, is sandwiched between the Ministry of Internal Affairs (MIA), the Immigration Service and Prisons Service Board (IPB).²²

Whereas the Ministry of Internal Affairs has the absolute financial control over the Prisons Service, the immigration and Prisons Service Board, formulates general policy guidelines and also appoints, promotes and disciplines all senior officers of the Service.³¹ The implications of this on the overall organization, control and development of Nigerian Prisons are, crucial to understanding why many people including Seun Adeoye of the Guardian Newspapers describe Nigerian Prisons as "seriously battered Nigerian Prisons" and why from the mud walls of remote Gaol in Nsukka, Bimin Kebbi, and Gembu to the iron gates of Gashua and Kirikiri, the overriding picture seems to be that of grim images of neglect, overcrowding, absence of basic sanitation, lack of well-trained manpower and lack of Medicare.²³

Distinguishing Features Of The Nigeria Correctional Service Act Of 2019

The Nigeria State, on August 14, 2019, witnessed a metamorphosis leading to a new phrase of prison reform as the President; Mr. Muhammadu Buhari, signed the Nigerian Correctional Service Act into law, which repealed the Prisons Act. The Correctional Act addresses new issues by providing for noncustodial measures. Signing of the Bill into law the Nigeria Correctional Service as represented in the new Act, has two faculties: i The Custodial Service; and

ii The Non-custodial Service.

The Custodial Service, among other roles, will offer custody and take control of persons legally interned in safe, secure and humane conditions, conveying remand persons to and from courts in motorized formations; Identifying the existence and causes of antisocial behaviours of inmates; Conducting risk and needs assessment aimed at developing appropriate correctional

treatment methods for reformation, rehabilitation and reintegration; and implementing reformation and rehabilitation programmes to enhance the reintegration of inmates back into the society, among others.

The Non-custodial Service will be responsible for the administration of non-custodial measures like community service, probation, parole, restorative justice and other measures such as carrying out court orders of competent jurisdiction. Adopting international best practices of prison reforms, the new Service (The Nigerian Correctional Service) like any other correctional institution across the globe, is now saddled with the sole responsibility of accommodating

²² Jarra, J. H. Prisons and the Reformation of the Offenders in Issues in Crime Prevention and Control in Nigeria, *Journal of Soc Sci*, Vol. (1), (1996) p. 196-197. ³¹ Ibid. n. 1.

²³ Ibid.

awaiting trial inmates as well as convicted inmates for the purpose of treatment and reform which are the hallmark of rehabilitation theory.²⁴

From closer look at the opening vignette of the Nigeria Prison Service Act and the Nigeria Correctional service Act, one can deduce that the Nigerian Correctional Service Act of 2019 thus has some distinguishing promising qualities priding itself from that of the 1972 Nigeria Prison Services Act.

Some of the distinguishing features are stated bellow:

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- i The law empowers the State Comptroller of Prisons to reject additional prisoners where the prison in question is already filled to capacity.
- ii The law divides the Correctional Service into two sections, The Custodial Service and Non-custodial Service.
- iii The Custodial Service will, among other things, take control of persons legally interned in safe, secure and humane conditions and provide support to facilitate the speedy disposal of cases of persons awaiting trial.
- iv The Non-custodial Service will be responsible for the administration of non-custodial measures like community service, probation, parole, restorative justice measures and such other measures as a court of competent jurisdiction may order.
- v The objective of the law is to focus on correction and promote reformation, rehabilitation and reintegration of offenders. vi The law stipulates that the Correctional Service will be headed by the Controller-General and a minimum of eight Deputy Controller-Generals. vii The law states the Correctional Service must initiate behaviour modification in inmates through the provision of medical, psychological, spiritual and counselling services for all offenders including violent extremists.
- viii. The law also states that where an inmate sentenced to death has exhausted all legal procedures for appeal and a period of 10 years has elapsed without the execution of the sentence, the Chief Judge may revert the death sentence to life imprisonment.
- ix. The law also prohibits torture, inhumane and abusive treatment of inmates.²⁵

²⁴ Agbola, B. *10 things to know about Nigeria's new law on prisons*. Premium Time. Retrieved from (2019, August 16)<<https://www.premiumtimesng.com/news/topnews/346864-10-things-toknow-about-nigerias-new-law-onprisons.html>>3rd July 2024.

²⁵ Ibid.

Rights Of Prisoners Under The Nigeria Correctional Service Act

A prisoner is entitled to all fundamental rights irrespective of his convicted status, although they may suffer shrinkage necessitated by incarceration. It is viewed that the International human rights standard states that prisoners should continue to enjoy access to all rights guaranteed to all persons in the state, “subject only to restrictions that are unavoidable, necessary and appropriate in the context of imprisonment.”²⁶

Various laws within the country and international instruments to which Nigeria is a signatory, positively provide for the rights of the prisoners. The various international instruments that provide for the rights of prisoners are set forth as follows: the African Charter on Human and Peoples’ Rights, provides for the Rights of Prisoners which states that: “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.”²⁷

The International Covenant on Civil and Political Rights, Article 10 provides: All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human persons.

In Nigeria, the provision of the law does not differ from the assertion that all persons who have been deprived of their liberty, shall be treated with humanity and with respect for the inherent dignity of the human person. The Constitution of the Federal Republic of Nigeria, 1999 (as amended), provides certain inalienable rights available to all classes of citizens in the polity, subject to limitations imposed by law and to the extent prescribed by the law. These rights are set outlined in chapter IV of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and they include:

1. Right to life.²⁸
2. Right to dignity of human person.³⁸
3. Right to fair hearing.²⁹
4. Right to private and family life.³⁰
5. Right to freedom of thought, conscience and religion.³¹
6. Right to freedom of expression and the press.³²
7. Right to peaceful assembly and association.³³

²⁶ Irish Penal Reform Trust Position Paper 4, Human Rights in Prison, August 2009, p. 4 in Oghenefejiro O and Ndubueze-Nduka P M C, The Rights of inmates in Nigeria: A Constructive Criticism. *Journal of Law, Policy and Globalization* Vol.60 (2020).

²⁷ Article 5(2) of the African Charter on Human and Peoples’ Rights.

²⁸ Section 37 ³⁸ Section 34.

²⁹ Section 36

³⁰ Section 37

³¹ Section 38

³² Section 39

³³ Section 40

8. Right to freedom from discrimination,³⁴

9. Right to acquire and own immovable property anywhere in Nigeria.³⁵

The rights listed above, are inalienable except in peculiar situations. For instance, a person could forfeit the right to life in the case of a death sentence after being found guilty of a capital offence.³⁶ It provides that, 'any person who commits the offence of murder shall be sentenced to death'. In the same vein, the right to privacy may be restricted upon incarceration, as a prisoner has no valid prospects of privacy in his cell. It is expected that a prisoner should go through constant and rigorous search in order to forestall the likelihood of bringing in prohibited items such as guns, drugs, and other contraband items. The Rights of a prisoner in Nigeria are also guaranteed under the Nigerian Correctional Service Act 2019. This law provides for the rights of inmates to health, the right to freedom from slavery, the right to respect for human dignity, etc.

These provisions of the law do not stand in isolation but rather have received judicial affirmation by the Superior Courts of record in Nigeria. Notable among others, is the case of *Peter Nemi v. Attorney General of Lagos State & Ors.*⁴¹ The Peter Nemi's case, is on the rights of a condemned prisoner to seek redress against inhuman treatment. The Nigerian Court of Appeal, per Uwaifo, JCA., held that:

Prisoners still have their rights intact, except those deprived by law. The learned Justice stated further that even a condemned criminal awaiting execution still maintains his rights until properly executed by the due process of law.

In light of the above, it is glaring that a prisoner in Nigeria, as opposed to societal perception, has rights which are not denuded by mere reason of his conviction but are afforded him/her by the State on the basis of their humanity and citizenship. Although this is the law, in practice however, prisoners are seen as slaves of the State with all their human rights forfeited upon incarceration and they are subject to the benevolence of the prison authorities. Some of these rights which the Prisoner is entitled to and have been so often trampled upon by the Prison authorities are discussed below, under the appropriate headings.

Right Not to be Treated with Cruelty

It should be reiterated for emphasis that the fact that a person has been confined to prison, does not mean that he has lost his right to be treated as a human being. He therefore ought to be free from cruel and unusual punishment from the prison officials. Inmates shall not be held in slavery or servitude and labour carried out by

³⁴ Section 41

³⁵ Section 43

³⁶ Criminal Code Act 2004 s319(1).

⁴¹ [1996] 6 NWLR (Pt 452), 42.

inmates shall neither be of an afflictive nature or for the personal benefit of any correctional officer.³⁷ This provision and several others in the Nigerian Correctional Service Act, 2019, prevent cruel or harsh treatment of inmates by prison officials and guarantee the right of inmates to be free from such treatment.³⁸

Apart from where it is expressly stated by the law and under such conditions as stipulated by the law, prison officials should not unnecessarily inflict pains on the inmates to do such will be a breach of the prisoners' fundamental right to dignity.⁴⁴ Prisoners should be free from cruel and inhumane punishment by the prison officials. The punishments meted out, should be proportionate to the offence that the prisoner is being punished for.

The United States of America's Supreme Court, has constantly held that excessive use of force can constitute cruel and unusual punishment when the use of force by prison officials was not in good faith effort to maintain or restore discipline' but rather was applied 'maliciously and sadistically for the very purpose of causing harm'.³⁹ This means that the prison officials are not at liberty to treat prisoners anyhow they deem fit, but according to the already laid down pattern of punishment.

The Nigerian Correctional Service Act, 2019, also stipulates that the labour prescribed, shall be according to a person's strength.⁴⁰ This implies that not only is the labour to be proportionate to the offence, it should be certified that the prisoner is fit to perform such a task. This is in line with the view that a prisoner is not a slave and that the labor should not be of afflictive nature or to the personal benefit of the correctional officer.

Right to Health

When a State deprives a person of his liberty, it is saddled with the responsibility of looking after his/her health in terms of the condition under which he/she is detained, and provide individual treatment as may be necessary. There are copious references to the guarantee of the Right to Health of inmates in the Nigerian Correctional Service Act 2019. Section 21(1) of the Nigerian Correctional Service Act, 2019, provides that, 'The Correctional Office shall put in place healthcare services for the promotion and protection of physical and mental health, prevention and treatment of diseases'. Section, 25(1) of the same Act, empowers the State Controller of Correctional Service or Superintendent, to remove sick inmates to the hospital where the inmate is seriously ill and there is no suitable accommodation within the center.⁴¹

Section 16 of the Act, goes further to provide that inmates not yet convicted can be transferred according to the directives and when it appears to the Controller General that the correctional

³⁷ Article 15(1) of the African Charter on Human and Peoples' Rights, 1986.

³⁸ See the Nigerian Correctional Service Act 2019 s14(8) which provides that Correctional Service shall take adequate care to ensure the prevention of torture, inhumane and degrading treatment against inmates and the prevention of sexual and non-sexual violence, bullying. ⁴⁴ See Section 34 CFRN 1999 (as amended).

³⁹ *Hudson v. McMillian*, 503 U.S. 1, 6, 7 (1992).

⁴⁰ Section 15(4) Nigeria Correctional Service Act, 2019.

⁴¹ Section 25(1), Nigeria Correctional Service Act, 2019.

center has exceeded its official capacity or in cases of disease out breaks.⁴² Other sections of the same Act and international instruments binding on Nigeria, provide for the Right to Health of prisoners.⁴³

The European Committee for the Prevention of Torture, has stated that even in the face of harsh economic reality, nothing can relieve the State of the need to provide for the health care of those it has deprived liberty.⁴⁴ This goes to show how germane the Right to Health is, to a prisoner.

Right to Safety and Security

The inmate upon incarceration and to the extent that is unavoidable, necessary and appropriate in the context of his/her imprisonment, has surrendered his right to personal liberty to the State. An inmate is not permitted by law to possess weapons or firearms for whatever intent including self-defense. For this reason, law and necessity imposes the obligation on the State to ensure the safety of prisoners in its custody and protect them from any form of violence or ill treatment from the State prison apparatus and other inmates.

A plethora of laws in Nigeria and binding on Nigeria, adequately provide for the Right to safety and Security of inmates. Section 33 of the 1999 Constitution guarantees the safety of life of every individual.⁴⁵ The Nigeria Correctional Service Act, 2019, further provides safe, secure and humane custody of inmates in section 10(b) of the Act. In a similar vein, Article 10 and 1 of the United Nations International Covenant on Civil and Political Rights (ICCPR), provides that, 'all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of human person'. When this provision of the law was given judicial construction in the case of *Daley v Jamaica*,⁴⁶ the Court held that: 'the State's neglect of the constant complaint of an inmate who was regularly assaulted by other inmates was held to be in breach of article 10 and 1 of the ICCPR'. The right to safety and security, entails that the inmates are safe from any sort of harm either from the prison wardens or even from fellow inmates.⁵⁹ Section 14(8) of the NCSA 2019, provides that it is the duty of the Correctional Service to prevent sexual and non-sexual violence and bullying of the inmates. Also, in event of occurrence, it is the duty of the service to provide for the protection and treatment of affected inmate. All of these goes to show that the safety of inmates is not an alienable right and the State has the responsibility to ensure the safety of inmates.

⁴² Section 16(3)(a)-(b). Nigeria Correctional Service Act, 2019.

⁴³ Section 15(4); 19(3); 24, Nigeria Correctional Service Act, 2019. See also Article 16(2) of the African Charter on Human and Peoples' Rights provides that, 'Every individual shall have the right to enjoy the best attainable state of physical and mental health'.

⁴⁴ Coyle A, 'A Human Rights Approach to Prison Management' A Handbook for Prison Staff, *International Centre for Prison Studies*, Vol. (49) (2002).

⁴⁵ Section 33, Constitution of the Federal Republic of Nigeria, 1999 (as amended).

⁴⁶ HRC, View of 31 July 1998, Comm. 750/1997, para 7.6 (*Daley v. Jamaica*) ⁵⁹ Section 14(8) of the NCSA 2019

Criticisms Of The Nigeria Correctional Service Act, 2019

Though, the Act possesses the qualities that might transform imprisonment and prisonization process with its aims of correcting, rehabilitating and to reintegrating the inmates into society if properly implemented, the provisions of the Act will not only improve the correction and reintegration of convicted persons, but also breathe life into the provisions of the Administration of Criminal Justice Act and the various dealing with Non-Custodial alternatives, there exist some likely criticism with the correctional service Act; first, since the enactment of the Bill into law, the prison structure and operations had only witnessed change in principles but no meaningful changes in practice, especially in the area of personnel who will man the non-custodial outfit.

The correctional service is still marred with the problems of poor prison infrastructure and inadequate training of correctional officers. Second, the non-custodial measures such as community service, probation, parole etc, may not work effectively if we do not have reliable data of every person in the prison and the country at large. If there are no reliable information of inmates, as it will be difficult to effectively trace them when they abscond. Third, there exists a potential problem with Section 12 (8) of the Act. This section provides that:

Without prejudice to sub-section (4), the state Controller of Correctional Service, in conjunction with the Correctional Centre Superintendent, shall have the power to reject more intakes of inmates where it is apparent that the correctional centre in question is filled to capacity.

The questions here are: where will the inmates be taken to? Will such inmates be released, particularly where he/she has been alleged to have committed heinous crime? Fourth, Technology wise, the country is not yet ready for the administration of noncustodial measures, reason been that the whole prisons in the county lags behind in the areas of surveillance, ICT and other hitech devices. Fifth, is the issue of funding with dwindling economic fortunes. The reforms require huge resources which will fiscally transform the prisons from punitive facilities to rehabilitation/correctional centres, otherwise, it would just end with the change, which I consider putting the cart before the horse, as the Federal Government should have before now, implemented the Act by putting in place the required infrastructure before the change of name.

Conclusion And Recommendations

It is considered a welcome development that the Correctional Service Bill of 2008 was finally passed into law in 2019. This changed the Nigeria criminal justice system and by extension, the penological understanding of imprisonment from the orientation of punishment of offenders to the treatment or reform of the offenders with the sole aim of rehabilitation. The implementation of the tenets of the Correctional Service Act, should be held sacrosanct by all the organs of government, if they are to succeed. Though, it has been considered by many as putting the cart before the horse, as they believed that the structure of the prison should have been well equipped and upgraded in areas of manpower, infrastructural and technology wise before the changed name. The government at all levels, should place their hands on deck to support the Federal Government in making sure that the

Correctional Service Act, succeeds as it gives priority to the reform of the inmates and by extension curtails recidivism on one hand and on the other hand, maintaining international standard.

Imprisonment is meant to punish and correct the law offender. The fact that a person has been deprived of his liberty, does not in anyway, mean that such an individual has ceased to be a human being. Prisoners are entitled to same rights and privileges as a free person, on the basis of their humanity and citizenship. Exceptions only exist for those rights that have been lost as a specific consequence of their confinement. Therefore, a prisoner should not be subjected to conditions in prisons that are dehumanizing or degrading when the law has adequately catered for the entrenchment and establishment of their rights as human beings. Government should, as a matter of urgency, revamp the rehabilitation centre and replicate same across the country.

The Federal and State Governments and by extension NGOs as prescribed in the Act, should adequately provide resources needed for the massive changes in terms of budgetary allocation and observance of human rights practices. For the non-custodial outfit to operate effectively, trained personnel especially in areas of human rights, paroles, probations, rehabilitation and community service, must be employed. Technology is also a vital prerequisite, The noncustodial faculty, can only effectively operate if technological facilities, used in tracking criminals (such as data mapping crime, Smartphone tracking, Wi-Fi capabilities and biometrics) are present, which will be use especially to track offenders on parole.

With the above proposed recommendations, it is envisaged that life will be given to the multifarious dead-letter laws that provide for the rights of prisoners in Nigeria and our prisons will become correctional centers indeed and not destruction centers.