

Analysis of Human Rights Violations of Awaiting-Trial Inmates in Nigeria

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**Being a PhD Thesis Submitted to the Department of Politics and International
Relations, Faculty of Management and Social Sciences,
Lead City University, Ibadan, Oyo State, Nigeria**

**In Partial Fulfillment of the Requirements for the Award of the Doctor of
Philosophy (PhD) Degree in International Relations**

2024

Certification

This is to certify that Martin Abimbola Ogunbanjo with matriculation number LCU/PG/001484 carried out this research study titled ‘Analysis of Human Rights Violations of Awaiting-Trial Inmates in Nigeria’ in the Department of Politics and International Relations, Faculty of Management and Social Sciences, Lead City University, Ibadan, Oyo State, Nigeria, for the award of Doctor of Philosophy (PhD) Degree in International Relations and that this has not been previously submitted.

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Supervisor

Date

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Head of Department

Date

Dedication

This research work is dedicated to God Almighty and Foluso Olapeju Ogunbanjo, who is my lovely wife, soulmate and best friend.

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Acknowledgement

First and foremost, I wholeheartedly thank the Almighty God (the Creator and Sustainer of man, the Master of all times and Architect of all destinies) for His infinite love, guidance and gift of good health all through my Doctor of Philosophy (PhD) programme.

Many institutional, intellectual and individual debts have been incurred in the long and arduous process leading up to the completion of this PhD thesis. But I cannot possibly acknowledge all the debts incurred. Nevertheless, a few must be singled out for mention. Unequivocally, I am profoundly indebted to my loving, persevering and extremely versatile teacher and supervisor, Dr. Modupe Oluremi Albert. It has been an exciting journey with stimulating discussions and constructive criticism. Her sharp and clear reading and comments have continually impressed me. Despite having important academic work of her own, she still found time out of her active life to read and correct the entire manuscript: not only did she point out grammatical errors and infelicities of style but she also offered most valuable suggestions at important stages. I am most grateful for all this help.

Next, I have also benefited immensely from the information and insights of various eminent and world-renowned scholars. Although some of these scholars preferred not to be named, I cannot help acknowledging the contributions of others. Special recognition is, therefore, due to the following: Emeritus Professor Alaba Ogunsanwo of the Department of Politics and International Relations, Lead City University, Ibadan, Nigeria; Distinguished Professor Abiodun Williams of the Edmund A. Walsh School of Foreign Service, Georgetown University, Washington, D. C., United States; Professor Akeem Amodu of the Department of Politics and International Relations, Lead City University, Ibadan, Nigeria; Professor 'Tunde Oseni of the Department of Politics and International Relations, Lead City University, Ibadan, Nigeria; Professor Ronald Badru of the Department of Politics and International Relations, Lead City University, Ibadan, Nigeria; Professor Michael B. Dolan of the Department of Political Science and International Relations, Carleton University, Ottawa, Canada; Dr. Adebola Alade of the Department of Politics and International Relations, Lead City University, Ibadan, Nigeria; and Dr. Olubunmi Akande of the Department of Politics and International Relations, Lead City University, Ibadan, Nigeria. I owe a great debt to these and many other individuals who have, in small and large ways, shaped my thinking about the fields of Political Science, International Relations, and International Human Rights.

My sincere gratitude goes to the staff of the various libraries and other established institutions, especially the Nigerian Institute of International Affairs (NIIA), Abuja/Lagos; U.S. Embassy Library (Rosa Parks American Centre), Abuja; U.S. Consulate Library (Whitney M. Young (Jr.) American Centre), Lagos; Sir Kashim Ibrahim Library, Ahmadu Bello University, Zaria; Bayero University Library, Kano; Nigerian Institute of Advanced Legal Studies (NIALS), Abuja/Lagos; University of Ibadan Library, Ibadan; University of Lagos Library, Lagos; Centre for Research and Documentation, Kano; Nigerian Legal Aid Council Library, Abuja; National Institute for Policy and Strategic Studies (NIPSS), Kuru near Jos; National Human Rights Commission, Lagos/Abuja; National Library of Nigeria, Abuja; British Council, Abuja; The Institute for Human Rights and Humanitarian Law (IHRHL), Abuja; Centre for Democracy and Development (CDD), Abuja; Human Rights Research and Development Centre (HRRDC), Abuja; Centre for Environment, Human Rights and Development (CEHRD), Port Harcourt; The Federal Office of Statistics, Abuja Nigeria; and The Nigerian Institute of Social and Economic Research (NISER), Ibadan, Nigeria, where I carried out the bulk of my research, for the invaluable assistance and co-operation they gave me with the collection of my material.

Special thanks are due to all my colleagues in the Department of Politics and International Relations, ISM-Adonai University, ably led by Dr. John Afris (a worthy friend, intellectual companion, and *alter ego*). He read the entire typescript with great care and made many extremely helpful suggestions, most of which have been incorporated into the thesis. I am immensely grateful to John for his excellent work and inspiring collaboration.

As the ancients said, *docendo discimus*—we learn by teaching. I have gained much from those I taught Philosophy, Political Science and International Relations at ISM-Adonai University. Needless to say, I owe a debt to the students in these courses, who have shown sufficient interest in my teaching to encourage me to deepen my studies in this area. They have added to my understanding, and offered a rich patina of detail. The postgraduate students in International Human Rights at the university also deserve mention for their vibrancy and fresh ideas. They all read draft chapters of the manuscript and provided suggestions and critiques that have been invaluable in strengthening these chapters and improving the overall quality of the PhD thesis.

I would like to remain not unthankful to Kemi Jimoh, Yetunde Sanya and Elaine Jackson, great women who have touched and graced the lives of many. Many thanks for their

unfaltering love and crucial assistance at several junctures. However, I undoubtedly owe my greatest debt of gratitude to my family, Foluso, Temitope, Oluwatobiloba, and Oluwatosin, for their sustained interest and absorption in all my works. You all deserve my undivided attention, but accepted much less. They have had to deal with a man whose focus has been on books and his laptop for a very long time. They have all provided constant, multiform support, without which both writing and teaching would have been impossible. They have tolerated my crabby moods with patience, loyalty and love. Maybe now that the Doctor of Philosophy (PhD) programme is done, we can travel without the laptop coming along.

I wish to express my resplendent appreciation to Florence Ijasan, an embodiment of academic excellence, who did most of the typing and editing of the manuscript. All this she accomplished with impeccable professionalism, exceptional competence, heart-warming charm, and supreme patience and understanding; for this (and for much, much more), I am deeply and sincerely grateful to her.

Even though the above-mentioned institutions and persons have assisted in the process of this research work, I alone stand responsible for the errors, if any, found in the work.

Abstract

The issue of the dignity of the human person was first foregrounded by ancient Stoic philosophers who argued extensively that the human person has an ontological worth which is constituted by the power of reason. In promoting this ontological worth, various legal documents have been compiled. The most universally accepted among them is the 1948 Universal Declaration of Human Rights (UDHR), which articulates the dignity and rights of all members of the human family. Given the foregoing, this research examines the extent to which Awaiting-Trial Inmates (ATIs) in Nigeria enjoy their rights as spelt out by the international instruments and local laws, where violations occur, the kinds of violation they suffer from, and the trends and motivating factors for the violations. Its institutional scope revolves around Kirikiri, Jos, Abakaliki, Kano and Katsina Correction Centres. This research adopts the Classical Marxian Theory as a frame of reference. It adopts the doctrinal and empirical methods to achieve the desired goal of addressing the pervasive violations of ATIs' rights. Its findings show that most Awaiting-Trial Inmates were victims of arbitrary arrests and detention; young, poor, uneducated, unemployed, held for property offences; and unable to afford legal representation. Also, the police, courts and correctional institutions were responsible for the bulk of their problems, and there were correlates and costs of and remedies against human rights violations. Based on its findings, the research argues for the reformation of the society especially the police, courts and correctional institutions which would address the ugly state of affairs in the criminal justice system. This will ensure the emergence of a responsive and dependable justice system in the interest of the common people rather than the economic and power elite in Nigeria.

Keywords: Universal Declaration of Human Rights, Awaiting-Trial Inmates, Correctional Institutions, Human Rights, Violations

Word Count: 300

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List of Acronyms

Abbreviation	Meaning
ACJA	Administration of Criminal Justice Act
ACLU	American Civil Liberties Union
AIDS	Acquired Immunodeficiency Syndrome
AJC	Advisory Judicial Committee
ATI	Awaiting-Trial Inmate
AU	African Union
ACHPR	African Union Charter on Human and Peoples' Rights
BGC	Belonging to Gang of Criminals
BGT	Belonging to Gang of Thieves
CAPP	Community Action for Popular Participation
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CBT	Criminal Breach of Trust
CCTV	Closed-Circuit Television
CDHR	Committee for the Defense of Human Rights
CEDAW	UN Convention on the Elimination of All Forms of Discrimination Against Women
CERD	Convention of the Elimination of All Forms of Racial Discrimination
CLO	Civil Liberties Organization
CLOPP	Civil Liberties Organization Prison Project
COD	Centre for Organizational Development
CPA	Criminal Procedure Act
CPC	Criminal Procedure Code
CRC	Convention on the Rights of the Child
CSCE	Conference for Security and Cooperation in Europe
CSO	Civil Society Organization
CTCIDTP	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
DPP	Director of Public Prosecution
ECHR	European Convention on Human Rights
FGI	Focus Group Interaction

FIDA	International Federation of Women Lawyers
HBF	Henrich Boll Foundation
HIV	Human Immunodeficiency Virus
HRW	Human Rights Watch
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IDI	In-Depth Interview
ILO	International Labour Organization
IMF	International Monetary Fund
INGO	Inter-Governmental Organization
LAA	Legal Aid Act
LAC	Legal Aid Council
LPDC	Legal Practitioners' Disciplinary Committee
NADECO	National Democratic Coalition
NADL	National Association of Democratic Lawyers
NBA	Nigeria Bar Association
NCJ	National Council of Justice
NCoS	Nigerian Correctional Service
NCSA	Nigerian Correctional Service Act
NGO	Non-Governmental Organization
NHRC	National Human Rights Commission
NHRI	National Human Rights Institutions
NJC	National Judicial Council
NPA	Nigerian Police Act
NPS	Nigeria Prison Service
NPSSO	Nigerian Prisons Service Standing Orders
ONEF	Organization for Non-Formal Education Foundation
OPCTCIDTP	Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
OPICCPR	Optional Protocol to the International Covenant on Civil and Political Rights
OPICESCR	Optional Protocol to the International Covenant on Economic, Social and Cultural Rights
OSCE	Organization for Security and Cooperation in Europe

OUNHCHR	Office of the UN High Commissioner for Human Rights
PDA	Prison Detainees' Association
PO	Prison Ordinance
PPRO	Police Public Relations Officer
PR	Prisons Regulations
PTD	Pre-Trial Detainee
SMR	Standard Minimum Rules for the Treatment of Prisoners ("the Nelson Mandela Rules")
STF	Supremo Tribunal Federal
SPSS	Statistics Programme for the Social Sciences
UDHR	Universal Declaration of Human Rights
UNCCLEO	United Nations Code of Conduct for Law Enforcement Officials
UNCHR	United Nations Commission on Human Rights
UNGA	United Nations General Assembly
UNHRC	United Nations Human Rights Council
UNO	United Nations Organization
URC	Union of Radical Criminologists
VDPA	Vienna Declaration and Programme of Action
WB	World Bank
WCHR	World Conference on Human Rights
WINET	Women Information Network
WO	Welfare Officer

Chapter One

Introduction

1.1 Background to the Study

The study of human rights and human rights violations are vast areas of interest. Inquiries into prisons, human rights, and jail reforms have taken on a new dimension and gained significant attention in the modern world¹. This is due to the fact that jail overcrowding and human rights issues are two topics that are gaining international attention. Every human being in Nigeria is entitled to a set of rights. The Universal Declaration of Human Rights (UDHR), which was ratified and proclaimed by General Assembly Resolution 217 A (iii) on December 10, 1948, contains the rights that the constitution guarantees².

The Universal Declaration of Human Rights sprang from the ashes of World War II, just like the United Nations itself. A large portion of the world was still healing from the bloodiest war in history, which lost over 60 million lives, when it was adopted in 1948³. The world looked to diplomacy in the wake of such unheard-of levels of death and devastation to ensure that history would not be repeated. For the first time, nations united to formally proclaim the fundamental freedoms that are universal⁴. Our most fundamental birthrights are outlined in 30 Articles of the UDHR, which include safeguards against slavery, servitude, brutal punishment, torture, and cruel treatment⁵. The document marked the beginning of a new era in human history².

The Declaration, a key document in the history of civil and human rights, outlines a person's "basic rights and fundamental freedoms" and affirms their universal nature as innate, unalienable, and relevant to all people⁶. The UDHR declares that all people are "born free and equal in dignity and rights" regardless of "nationality, place of residence, sex, national or

ethnic origin, color, religion, language, or any other status"⁷. It was adopted as a "common standard of achievement for all peoples and all nations"⁷.

Due to its Universalist wording, which does not mention any specific culture, governmental structure, or religion, the Declaration is widely regarded as a landmark text⁸. It served as the initial stage in the creation of the International Bill of Human Rights, which was finished in 1966 and went into effect in 1976⁷. It also directly influenced the evolution of international human rights law⁹. The UDHR's provisions have been expanded upon and incorporated into later international treaties, regional human rights instruments, national constitutions, and legal codes, despite the fact that they are not legally obligatory¹⁰.

Of the nine legally binding treaties affected by the Declaration, all 193 United Nations members have ratified at least one, and the majority have ratified four or more¹⁰. Most countries agree that many of the Declaration's contents are part of customary law, even though courts in some countries have been more restricted on its legal effect. However, most countries also agree that the statement itself is non-binding and not part of customary international law¹¹. However, the UDHR has shaped social, political, and legal developments both domestically and internationally, and its 530 translations serve as part of the evidence of its importance¹².

The United Nations initiated a significant year-long endeavor to revitalize the worldwide human rights movement. UN officials have spent the past year listening to communities around the world on the particular achievements of freedom and equality as well as the continued challenges to these ideals through the Human Rights 75 initiative¹³. We face complex and interconnected concerns that require international cooperation, ranging from the triple planetary catastrophe of pollution, global warming, and biodiversity loss to the increase in awaiting-trial inmates, hate speech, disinformation, and polarization globally. And

safeguarding and enhancing equality and liberty, particularly for the most vulnerable among us, is one of the best strategies to get over these obstacles¹⁴. The best indicator of humanity's resistance against oppression and misery is human rights¹⁰.

Many people who go through the criminal justice system today may not have their rights upheld and advanced as stipulated by international agreements (such as the Universal Declaration of Human Rights) and national laws¹⁵. These individuals are incarcerated and are commonly known as "Awaiting-Trial Inmates" or "Pre-Trial Detainees." Those who are suspected of committing a crime are arrested and incarcerated in every nation on the planet¹⁵. They might not be the criminals in such situations¹⁶. Often, these people are held for weeks, months, or even years before a court passes judgment on their case¹⁷. The conditions in which these people are held are often the worst in the national prison system¹⁷. Their legal status is undermined – they are suspected, but have not yet been found guilty – and they are also under enormous personal and psychological pressures, strains and stresses such as economic loss and separation from family and community ties¹⁸. The problem being experienced by these people is as a result of the facts that their human rights are being denied or infringed. Human rights are a person's legal or social entitlements¹.

Today "human rights" has become an overly important aspect of civic life. Its multi-dimensional nature, character and logic have made its invocation very popular in national and international politics, among the academia, political scientists, sociologists and others¹⁹. The problem of human rights is one of the most discussed and controversial politico-legal issues that emerged after the Second World War²⁰. This problem though dated back to antiquity, the comprehensive body of municipal and international laws on the promotion and protection of human rights, is the product of the last six to seven decades¹.

Human rights' is a general notion embracing rights that are attributable to individuals, groups of individuals, peoples and mankind². There is no generally accepted definition of human rights. Instead, legal instruments usually contain disparate lists of rights which they are supposed to promote, secure, or protect. However, definitions have been proffered by learned writers in political theory, legal theory and jurisprudence, but these vary considerably depending on the philosophical inclinations of the particular authors. Human rights are the result of an age-long oppression and exploitation. It was out of that struggle that the first set of ethical, moral and religious rules emerged, which systematically metamorphosed into legal rules, first at municipal level, then at international level³. The quintessential aim is to promote fundamental freedoms and protection of human rights.

The idea that there are rights that all human beings possess by virtue of their humanity is one of the pivotal ideas of our civilization, one derived from the ancient idea of a natural law, revealed to reason⁴. For thinkers of the Enlightenment human rights provided the criterion to assess the legitimacy of government: a government that respected natural rights respected freedom, and therefore the consent of its citizens¹⁰. But today, the list of human rights has expanded beyond the idea of individual freedom, beyond the foundation in natural law, to include any kind of claim that empowers some favoured group against the rest of us⁵.

The historic struggle of man against oppression and intimidation which is still fought at all times and places conditioned man's consciousness on human rights⁶. That consciousness varies from place to place and depends on historical, cultural and socio-economic background of the people concerned. Consequently, in a pluralistic and interdependent world of today, a wide range of views and approaches to human rights exist. A common parameter (denominator) in this respect is sought at the international level by means of legal instruments aimed at finding common standards acceptable to all, and acknowledging the pluralistic character of human rights in a pluralistic world.

The idea of human rights comprehends the whole range of rights of human beings⁷. Whereas it was once the case that rights were almost always associated with domestic legal and political systems, in the last few years a complex network of international law and practice (the “international human rights regime”) has grown up around the idea that individuals possess rights simply by virtue of being human, of sharing in a common humanity⁸. Many cultures and civilizations have developed ideas about the intrinsic worth and dignity of human beings, but the notion that humans are “right-bearers” is specifically European⁹. Medieval in origin, this notion was embodied in the positive law of a few countries in the early modern era. By the late eighteenth century, the slow process of broadening the idea of the “rights of man” by recognizing the rights of women, and, via campaigns against the slave trade, those of non-Europeans, began. These preliminary moves set the scene for the globalization processes of the post-1945 era¹⁰.

There have been a number of global and regional treaties and declarations concerning human rights, and the emergence of Non-Governmental Organizations (NGOs) such as Amnesty International dedicated to their enforcement¹¹. Moreover, governments, such as that of the United States, and Inter-Governmental Organizations (INGOs), such as the International Monetary Fund (IMF) and the Commonwealth, have increasingly (and controversially) seen it as part of their remit to promote human rights. All of this amounts to an impressive body of international and diplomatic practice, which has led to a further broadening and deepening of the idea of rights, often (although somewhat inaccurately) conceptualized in terms of three generations. Early statements concentrated on first-generation (political) rights such as freedom of speech and assembly and “the right to take part in the government of his (*sic*) country, directly or through freely chosen representatives” (Universal Declaration, Article 21). But the same declaration also recognized second-generation rights to the “economic, social and cultural rights indispensable for his dignity and the free development of his personality”

(Article 22) and these economic and social rights feature very largely in later United Nations documents, especially, of course, the International Covenant on Economic, Social and Cultural Rights. Both first- and second-generation rights are, in essence, possessed by individuals. Third-generation rights build on this collective dimension and concern the rights of “people”; for example, under the Banjul Charter peoples have the right to “freely dispose of their wealth and natural resources” (Article 21(1)), while the individual has a duty “to serve his natural community by placing his physical and intellectual abilities at its service” and to “preserve and strengthen positive African cultural values in his relations with other members of the society. . .” (Article 29 (2) and (7)).

Human rights research and human rights abuses are broad areas of concern. Inquiries into human rights, prison and prison reforms have assumed a new dimension and attracted great attention and currency in the world today¹². This is because the issue of human rights and prison congestion are among the concepts receiving global attention. The global concept of human rights transcends any known period in history. History itself is full of events and struggles for rights by people all over the world at all times¹³. Many examples of the outcome of these events and struggles have undoubtedly influenced later Constitutional and legal developments all over the world - the great Magna Carta of England (1215), the United States Declaration of Independence (1776), the French Declaration of the Rights of Man and the Citizen (1789), and the American Bill of Rights of 1791 etc. The fight for the protection of human rights still continues, and the main organization in the forefront is the United Nations Organization (UNO) and lately the African Union (AU).

There are certain rights that all human beings are entitled to in Nigeria. The rights guaranteed by the Constitution are found in the Universal Declaration of Human Rights (UDHR) adopted and proclaimed by United Nations General Assembly at its Third Session on 10th December 1948 as Resolution 217 A (iii) at the Palais de Chaillot in Paris, France, and the African

Union Charter on Human and Peoples' Rights (also known as the Banjul Charter) adopted in Nairobi, Kenya on 27th June 1981 and entered into force on 21st October 1986. The central declaration in international rights law is the Universal Declaration of Human Rights (UDHR). This Declaration is seen as the foundation of international human rights protection and subsequent international human rights laws. The UDHR is widely considered to be part of customary international law and therefore binding upon all states as customs¹⁴.

Since 1948, when the Universal Declaration on Human Rights (UDHR) was passed at the United Nations, various governments all over the world have incorporated its ideals in their Constitutions. The Nigerian nation is no exception. The rights in the Nigeria's Constitution of 1999 include: Right to Life – Section 30; Right to Dignity of the Human Person (which encompasses Freedom from Torture, Cruel, Inhuman and Degrading Treatment, Slavery, Servitude or Forced Labour) – Section 31; Right to Personal Liberty – Section 32; Right to Fair Hearing – Section 33; Right to Private and Family Life – Section 34; Right to Freedom of Thought, Conscience and Religion – Section 35; Right to Freedom of Expression and the Press – Section 36; Right to Peaceful Assembly and to Freedom of Association – Section 37; Right to Freedom of Movement – Section 38; Right to Freedom from Discrimination – Section 39; and Protection from Compulsory Acquisition of Private Property – Section 40. These rights are incorporated in Section IV of the 1999 Constitution in Nigeria, and they are commonly referred to as first-generation rights. The government has a responsibility to provide and protect these rights. Because they are justiciable and enforceable, citizens can seek redress in court if the government fails to protect them¹⁵.

Furthermore, there are also rights that are not justiciable or enforceable in the second and third generations. Fundamental Objectives and Directive Principles of State Policy are the second-generation rights. Section II of the Nigerian Constitution contains such rights. They deal with issues such as health care, education, jobs, security, farming equipment, and so on.

In Nigeria and other Third World countries, they are not justifiable or enforceable. This is primarily to avoid the possibility of a slew of lawsuits. The rights of the third generation are a result of the rich countries' overbearing mentality and attitude in international affairs. Human rights include agitation by developing countries for rights to development, equal recognition, right to culture, freedom from greenhouse emissions, pollution-free environment, and freedom from imperialism, among other things. They are referred to as third-generation since they are the most in demand.

The idea of human rights began as a call for individual freedom from tyranny, yet today it is exploited to rationalize oppression and promote collectivism¹⁶. As this research interrogates the human rights violations of awaiting-trial inmates in Nigeria, it brings into sharp focus the fundamental flaw in the Universal Declaration of Human Rights, the basis for many international treaties and institutions. It mixes freedom rights rooted in natural law – *authentic* human rights – with “economic and social rights”, or claims to material support from governments, which are intrinsically *political*¹⁷. As a result, the idea of human rights has lost its essential meaning and moral power.

The principles of natural rights, first articulated in antiquity, were compromised in a process of accommodation with the Soviet Union after World War II, and under the influence of progressivism in Western democracies¹⁸. Geopolitical and ideological forces ripped the concept of human rights from its foundations, opening it up to abuse¹⁹. Dissidents behind the Iron Curtain saw clearly the disparity between freedom rights and state-granted entitlements, but the collapse of the USSR allowed demands for an expanding array of economic and social rights to gain legitimacy without the totalitarian stigma. The international community and civil society groups now see human rights as being defined by legislation, not by transcendent principles²⁰. Freedoms are traded off for the promise of economic benefits, and

the notion of collective rights is used to justify restrictions on basic liberties. We all have a stake in human rights, and few serious observers would deny that the concept has lost clarity.

Human rights violations are a big problem that affects people in countries like Nigeria. Human rights have been routinely and repeatedly ignored and violated by successive governments²¹. As a result, human rights violations in Nigeria today take numerous forms: extrajudicial executions, assassinations, ritual murders, violations of the right to freedom of association and assembly, violations of the right to freedom of expression and the press, and so on. The rights of the first and second generations are violated in different ways. While first-generation rights are violated during the pre-trial and trial processes, second-generation rights are violated when the government fails or refuses to respect them²². The rights violations on the global stage in general and in the Nigerian society in particular triggered off this research study. This study is interested in the following rights violations: arbitrary arrest and imprisonment; denial of bail; torture, cruel, inhuman, and humiliating treatment; and rights breaches in prison, such as indecent housing, bad nourishment, lack of medical services, prisoner mixing, and so on. Over the years, the level of the infractions shown in these highlighted areas has been observed to be high²³. A vast number of persons travel through the criminal justice system, and their rights may or may not be safeguarded and promoted in accordance with international conventions and state laws. There are numerous international and local safeguards²⁴. The laws primarily concern fair hearings and humane treatment of detainees awaiting trial.

The human rights of awaiting-trial inmates are in no way different from the right of other citizens²⁵. The reason is not far-fetched. Citizens are human beings, and conviction or imprisonment does not divest an awaiting-trial inmate of certain rights. In fact, there are some specific rights available to awaiting-trial inmates to protect them from maltreatment emanating from the unlawful acts of prison officials and the law enforcement agencies²⁶.

The rights of awaiting-trial inmates are primarily geared towards enhancing their welfare. It therefore seeks to shield them from arbitrary treatment of prison officials whether convicted or held on holding charge²⁷. Deprivation of liberty does not mean deprivation of humanity for the awaiting-trial inmate²⁸. Awaiting-trial inmates are subject to a special regime and have a special status. Nevertheless, they are not entirely denuded of all fundamental rights and liberties which are inherent in our Constitution²⁹. Thus, despite the deprivation of the general liberty an awaiting-trial inmate remains invested with residuary rights appertaining to the nature of his incarceration³⁰. The realization of this aspiration must definitely give priority to the humanity and person of the detainee as this is the basis and justification of the rights of awaiting-trial inmates. More so, the reason for guaranteeing the rights of awaiting-trial inmates is that over time, the concept of imprisonment has ceased from being solely a source of punishment, and hence an end in itself, to being regarded as a means to an end, that is reformation of the offender³¹. Indeed, there was a time when the prevailing belief was that criminal offenders having transgressed against the law had given up all claims to humanity and so deserved to be subject to such conditions of treatment that completely violate their rights as human beings³². However, this belief has changed significantly due to the humanitarian concern and effort towards the improvement of the situation of awaiting-trial inmates on humanitarian grounds³³.

1.2 Statement of the Problem

It is doubtless, from literature review, that many scholars and other researchers have written extensively on the problem of human rights violations in Nigeria. The minds of scholars, academics and policy formulators are now geared towards a scientific study and analysis of denial and violation of human rights in the country with a view to improving the situation³⁴. This is not unconnected with the prevalence of the violations, which have caused the nation serious negative publicity around the world causing concern for mitigating the problem. The

issue of human rights violation has also been given serious attention by NGOs and other humanitarian organizations motivating government interest on the issue.

Reports concerning the pathetic situation of Nigeria's criminal justice system that negatively affect detainees awaiting trial are many²⁵. In Nigeria, the nature and character of detainees' rights violations has been documented. These violations can be examined at the pre-trial and trial levels that are considered severe and widespread. The Civil Liberties Organization (CLO) of Nigeria gave the nature of the violations thus: shooting suspects at sight; burning a suspect with acid; shooting a canister of tear gas into the anus of a suspect; extorting money from the suspects; denial of bail; incessant court adjournment and cramming detainees in poor accommodation⁴⁷. Similarly, an international human rights organization, Human Rights Watch (HRW) documented many human rights violations in Nigeria like arrest and torture; detention, ill-treatment, harassment and intimidation⁴⁸.

There are other reports supporting widespread torture of detainees¹⁰. There is data regarding poor food quantity and quality for awaiting-trial inmates in Nigeria's criminal justice system⁵². And the health situation is equally bad⁵⁰. Three renowned legal pundits are of the view that the police do not observe fundamental rights of suspects. They have asserted that unlawful detention has been the most recurring breach committed by the police⁵¹. Furthermore, many scholars believe that victims of abuse have one common feature: they are poor, lowly educated and unemployed⁵².

Equally important in the administration of justice are the courts. For a case to be quickly disposed of, the facts adduced in court must be both relevant and admissible¹⁰. The problems associated with the quick dispensation of justice in the Nigerian courts are as a result of such factors as: shortage of judicial personnel, unnecessary courts adjournment, and slow dispensation of justice. Others include unlawful arrest, and harsh conditions for obtaining

bail⁵³. The human rights of awaiting – trial inmates (ATIs) are neglected by our courts because in treating them consideration is not given to types of offenders or offenders with certain characteristics so that consideration on whether or not the individual is a first-time offender, the likelihood of not committing same or similar offence, past conduct, repentance, poverty level in the society⁵⁴. These variables need to be taken into account if the awaiting-trial inmates are not to be marginalized. The problems are compounded by the elitist nature of the Nigerian courts, which, instead of advocating the philosophy of simplified proceeding, complicate matters with technicalities, and adversarial proceedings that leaves the suspect frustrated, scared and confused. In line with protocol, some scholars reported that detainees being prosecuted are not expected to do certain things while the court is in session⁵⁵. For example, it is unlawful to smile, laugh or ask questions in court; it is even an offence to yawn or whisper, cough, sneeze or blow their noses at will; detainees cannot freely move. These manifestations culminate into human rights violations with effects on detainees.

As a result of prolonged detention, the sexual desire of the awaiting-trial inmates is often provoked. There is indulgence of prison inmates into indiscriminate homosexual practices⁵⁹. Thus, there are now higher chances of Human Immunodeficiency Virus (HIV)/acquired immunodeficiency syndrome (AIDS) infection by prisoners (including awaiting trials) who engage in homosexuality.

It has been emphasized that: even though the laws of most African countries contain substantive and procedural provisions providing safeguards guaranteeing observance of human rights, yet their law enforcement officials, on occasions, do violate these rights. The prison system still suffers from lack of foodstuff, from poor health and sanitation conditions. The death rate in some of the government correctional facilities is so high. There is no provision for quarantine facilities for infected prisoners. Indeed, provisions are not made for the segregation of criminal lunatics from other prisoners.

The above is corroborated in a study of Nigerian correctional institutions that the deplorable condition of detainees on remand is more the result of in-built structural constraints such as their ambivalent status, over-crowding, long stay and inadequate resources⁵⁸. It has been revealed that majority of the prison population in Nigeria is awaiting trial (see Table 1.1 below), and these are in the main not very serious criminals. This is seen as a problem that needs attention.

Table 1.1 Summary of Inmate Population by Convicted and Awaiting-Trial Persons in Nigeria as at December 2022

Status	Number of Prisoners	Percentage (%)
Total Inmate Population in Nigerian Correctional Institutions	74,081	
Male Prisoners	72,662	98%
Female Prisoners	1,419	2%
Total Convicted Prisoners	22,701	31%
Convicted Prisoners (Male)	22,390	
Convicted Prisoners (Female)	311	
Total Awaiting-Trial Prisoners	51,380	69%
Awaiting-Trial Prisoners (Male)	50,272	
Awaiting-Trial Prisoners (Female)	1,108	

Source: The Nigerian Correctional Service (NCoS) *Annual Report* (2022)

Despite the large number of studies that have been undertaken by scholars, thinkers, decision-makers and practitioners in developed countries to address all the myriad problems in the criminal justice system as a whole, fewer researches have been conducted in developing countries like Nigeria. For instance, little efforts have been made by scholars and policy-makers in Nigeria to determine whether or not the rights of Awaiting-Trial Inmates are being respected, protected and promoted (that is, extensive studies have not been geared towards

interrogating the human rights violations of detainees awaiting trial). Hence, this research study being on suspects on remand examines critically the extent to which Awaiting-Trial Inmates (ATIs) enjoy their rights as spelt out by the international instruments and local laws, where violations occur, the kinds of violation they suffer from, and the trends and motivating factors for the violation. These are the specific issues that form the fulcrum of the study.

1.3 Aim and Objectives of the Study

The aim of this research is to examine and analyze human rights violations in Nigeria by identifying and analyzing the kinds of violation suspects on remand suffer from. In specific terms this research is set out to:

- i. determine the nature, extent and types of human rights violations Awaiting-Trial Inmates experienced within the criminal justice system in Nigeria.
- ii. identify the socio-demographic and economic attributes of the victims of human rights violations.
- iii. offer an assessment of the Awaiting-Trial Inmates' perceptions of the correlates and costs of human rights violations.
- iv. examine remedies against human rights violations from the perspectives of Awaiting-Trial Inmates and officials.
- v. make appropriate recommendations for minimizing the incidence of violating the human rights of Awaiting-Trial Inmates.

1.4 Research Questions

In the light of all the problems mentioned, the issue of human rights violation of Awaiting-Trial Inmates (ATIs) needs inquiry. For instance, one will want to know:

- i. what is the nature, extent and types of human rights violations of Awaiting-Trial Inmates (ATIs)?

- ii. what are the socio-economic correlates of the violation of human rights of Awaiting-Trial Inmates?
- iii. what is the Awaiting-Trial Inmates' perceptions of the correlates and costs of human rights violations?
- iv. what are the possible remedies against the violations of the rights of Awaiting-Trial Inmates?
- v. what concrete recommendations can be made to policy makers and related institutions and agencies for the protection of the rights of Awaiting-Trial Inmates in Nigeria?

1.5 Significance of the Study

This research touches on the rights and freedoms of mainly under-privileged people. Thus, this research when completed and its recommendations implemented, such people will know more of their rights and freedom within the criminal justice system. This is because the research focuses on suspects awaiting trial that constitute the bulk of the prison population and are adversely affected by the problems bedeviling the criminal justice system.

The research is going to help in highlighting those areas in which people have rights and whose violation by government agencies will not be possible once the people are cognizant of these rights especially those rights spelt out in the Constitution and other Statute books. The research also awakens the consciousness of people engaged in the dispensation of justice, so that they can cherish and respect the ethics of their profession. Therefore, when completed and the recommendations contained in the study implemented by the relevant authorities, corruption by criminal justice administrators, financial extortion, infringement on human rights and undue harassment and repression meted out to suspects awaiting trial will be drastically reduced if not completely eradicated.

In addition, awareness is raised among the organs charged with the dispensation of justice regarding the status of detainees awaiting trial. This is specially to do with the fact that suspects are deemed innocent until proven guilty by a competent judicial court of law. The assumption is that some violations occur due the inefficiency and ineffectiveness of the organs charged with the administration of justice. Furthermore, these agencies have over the years been unprofessional and not as independent as they are supposed to be. The research is of benefit to policy makers since the study is intended to highlight areas of human rights violation with a view to making corrections. This is beneficial to the country since respect for human rights is now a yardstick for international recognition and acceptance.

The research is going to add to the existing body of knowledge and scholarship in Nigeria. This is because the study would assist in developing courses to be taught in our universities and other institutions of learning. The research is hoped to stimulate further Researchers in the field with a view to improving the human rights situation especially the rights of those awaiting trial in Nigeria and the world over. In other words, the research could be considered worthwhile for its academic importance.

1.6 Scope of the Study

This research study is on the analysis of human rights violations of Awaiting-Trial Inmates (ATIs) in Nigeria, and it has been limited to the period 2000 to 2022. Its scope includes, among other relevant issues, the human rights abuse and violations suffered by Awaiting-Trial Inmates in the criminal justice system, which is conceptualized here to encompass the role of the police, courts and correctional institutions. While its geographical scope revolved around Lagos, Plateau, Ebonyi, Katsina and Kano states, its institutional scope revolved around Kirikiri, Jos, Abakaliki, Katsina and Kano Correction Centres. The agencies/institutions covered include the police, courts and correctional facilities located in

Kirikiri, Jos, Abakaliki, Katsina and Kano towns. The population comprised of the justice officials in these agencies/institutions and the Awaiting-Trial Inmates in police and prison cells.

Therefore, the purview of this study rest on what happened from the point of arrest through trial and the role, action or inaction of the principal characters involved in the administration of justice regardless of the motivating factors for the alleged or actual offence. The units of analysis for this study were Awaiting-Trial Inmates in the five correction centres, the sampled prison authorities and the sampled police officials.

The towns and correction centres selected for this research are located in four geopolitical zones in Nigeria (Jos Correction Centre is in the North Central geopolitical zone; Kirikiri Correction Centre is in the South West geopolitical zone; Abakaliki Correction Centre is in the South East geopolitical zone; Katsina Correction Centre and Kano Correction Centre are both in the North West geopolitical zone). The towns and correction centres were chosen because they could provide the required population for the study and the information needed. Additionally, they offered the opportunity for regular visits for cross-checking information if the need arose. This added quality to the data collected.

Furthermore, the towns and correction centres were purposively selected because of the Researcher's familiarity with them. They are fairly close to the base of the Researcher's friends and relatives who work with the Nigerian Correctional Service (NCoS) Zonal Offices. The Researcher was able to easily network and break bureaucratic bottlenecks that arose because of his familiarity with the areas and his close relationship with relatives and friends; familiarity and closeness that became relevant because of the security issues involved in prison management and administration where the need and requirement to apply and obtain

permission before having access to the police stations and correctional institutions, their records and inmates are necessary, and time consuming.

The knowledge of the research effort is also capable of evoking more research in the towns concerned because it may expose the condition of the people with regards to human rights violations that has some bearings on existential conditions. In these towns, rudiments of feudalism and patron-client relationship which promote subservience, are still found. The Researcher hopes to bring about some effects, as a by-product of this exercise, which are capable of promoting awareness and empowerment among the people. Such effects may in the long run engender positive social change in the areas under inquiry and enhance respect for human rights in general.

A study like this requires time and huge resources, which can be more judiciously utilized if the research locale is easily accessible. This further informed the selection of Abakaliki, Kirikiri, Kano, Katsina and Jos townships police stations and correction centres.

1.7 Limitation of the Study

Like in other similar undertakings, a number of constraints or problems were encountered in the course of this research study. Compilation of information on and from the five correctional institutions (Abakaliki, Kirikiri, Katsina, Kano and Jos) covered in this study was an uphill task. This was particularly so because majority of existing correction centres in Nigeria are inaccessible due to the fact that they have experienced prison breaks in recent times.

There were problems in getting access to the awaiting-trial inmates in the police stations and the correctional institutions. However, an introduction letter from the Controller of the Nigerian Correctional Service (NCoS) eased matters and reduced the hostilities of some of the officials. In Jos, if not for the intervention of the Police Commissioner and the advice of

the Police Public Relations Officer (PPRO), data would not have been collected. Another problem is that the Researcher was not given unfettered access to the awaiting-trial inmates, prison environment and the financial records for alleged reasons of security and time constraints. Yet another problem is that while dealing with the correction centre and police officials, the Researcher was not allowed and/or encouraged to distribute the questionnaires himself. On the first problem, the Researcher had to appeal to the conscience of the Welfare Officers to render assistance with information on those matters which proved useful, while on the second, the Researcher insisted on ensuring privacy for the awaiting-trial inmates while filling-in the questionnaires.

In Jos, Katsina and Kano, the majority of respondents were illiterate. So, the questionnaires had to be translated to them. This debilitated the process of getting information from them and a lot of time was wasted in the process. Also, some of the data were obtained in local language that had to be transcribed into English. The correction centre officials produced the awaiting-trial inmates for the Researcher and offence type was a determining factor. Thus, suspects accused of property offences, serious offences like armed robbery, homicide, rape, burglary and common ones like Belonging to Gang of Criminals (BGC), Belonging to Gang of Thieves (BGT), Criminal Breach of Trust (CBT), etc. were produced. Although the correction centre officials decided the style to be used in bringing out the awaiting-trial inmates from the cells, in all strata, the Researcher emphasized fair representation. Because of the diverse activities of those who completed the questionnaires, there were postponements of scheduled interview dates. At the time of actual interviews, some respondents were not as forthcoming in giving out information as expected. This reluctance was based upon suspicion - the intent of the interview. In addition, some correction centres and police officials claimed they had not gotten clearance from their respective superiors to grant interviews. All these

resulted in repeated calls by the Researcher. No doubt, this led to some avoidable extra cost and great inconvenience to the Researcher.

The high transportation cost led to an increased cost of the fieldwork especially when repeated visits/calls had to be made before a questionnaire could be retrieved. Respondents, perhaps because of the harsh economic environment demanded payment for the time they spent in either completing the questionnaire or in searching out relevant information from the files. This practice is common among uneducated awaiting-trial inmates, and some police and prison officials who are not yet fully appreciative of the importance of this type of research study.

All the above problems were seen as challenges to be overcome, and they were appropriately dealt with. The overall data collected in the field were quite satisfactory as their analysis provided sufficient insight into the objectives of this study. The data set, no doubt, satisfied adequately the purpose for which it was collected. Findings arising from the study were useful for generalization on the sampled respondents having respected the principal tenets of social-science investigation.

1.8 Operational Definition of Terms

There are certain concepts that are basic to this study. They are “Human Rights”, “Human Rights Violations” and “Awaiting-Trial Inmates”. These concepts are to be dilated upon in relation to their usage in this study.

1.8.1 Human Rights

This research study is of the view that human rights is an important issue in contemporary politics, and the last few decades have also seen a remarkable increase in research and teaching on the subject. And, there is no unanimity in the definition of human rights by both political and legal writers. But legal instruments usually contain lists of rights which they are

supposed to promote, secure and protect. General definitions are avoided. Such definitions are proffered by learned authors in political theory, legal theory and jurisprudence, which on their part differ considerably depending on the philosophical schools that such authors represent.

The human rights concept of this study represents something of which no one may be deprived without a great affront to justice. There are certain deeds which should never be done, certain freedoms which should never be invaded, some things which are suppressively sacred³⁵. This definition sounds idealistic as it refers to some other notion like justice, which as a value varies from society to society, and to freedoms which itself requires definition.

Human rights are perceived as those claims made by men, for themselves or on behalf of other men, supported by some theory which concentrates on the humanity of man, on man as a human being, a member of humankind³⁶. These thoughts, though shrouded in ambiguity, can be linked to the philosophy of natural law which in its time was politically motivated, in spite of its religious and ethical colourations. The developing capitalist class of the early 19th century waged their war against feudalism on the banner of the ideas of natural law which also centres on the humanity of man³⁷.

Human rights are demands or claims made on society by people or groups, some of which are recognized by law and have become part of Lex Lata, while others remain ambitions for the future³⁸. From the definition, human rights encompass those claims some of which are contained in and enforceable by the extant laws, and others, though desirable, are unenforceable either because they have not found expression in an objective law or because of other circumstances, which may make their enforcement impracticable. "A right may thus be aspirational and therefore, at that moment unenforceable in practice"³⁹.

Human rights are seen in this study to refer to claims, which are invariably supported by ethics and which should be supported by law, made on society, especially on its official managers, by individuals or groups on the basis of their humanity. They apply regardless of race, colour, sex or other distinction and may not be withdrawn or denied by governments, people or individuals. They are those rights which every individual claim or aspires to enjoy irrespective of his colour, race, religion, status in life⁴⁰. This definition seems to suggest that human rights are basically ethical claims begging to be supported by the law. However, the question of human rights as claims had gone beyond the level of ethics, having received formal expression in objective law, both at national and international levels⁴¹. Indeed, human rights are used to refer to those rights to which an individual is entitled by virtue of his status as a human being. While civil, political and socio-economic rights are dependent on an individual's status as a citizen of a particular state; his human rights are not determined by this condition⁴². Thus, the scope of human rights is very wide. They set the standards for the provision and expansion of civil, political and social-economic rights⁴³. Again, where an individual's civil, political and social-economic rights are exhausted, he can still hope to get some relief under the umbrella of human rights. For instance, a foreigner, a refugee, a prisoner-of-war or a proclaimed offender may have left without ordinary rights, yet the beneficent hand of human rights will not be withdrawn from over his head.

This study sees human rights as the fundamental features of any true democratic setting because the essence of democracy itself is based on the idea of human rights. Human rights are mostly viewed as the inalienable rights of people⁴⁴. They are the legal entitlements which every citizen could enjoy without fear of the government or its fellow citizens⁴⁵. Human rights cannot be said to have been given to man by man but are earned by man for being a human because these are necessary for his continuous happy existence with himself, his fellow man and for participation in a complex society⁴⁶.

Human rights, in this study, constitute the very source of all rights of human beings. They embody the scheme of ideal rights. They provide for moral foundation of any system of rights⁴⁷. In a way they are akin to the concept of justice. As the idea of justice determines the principles on which law should be based, so the idea of human rights sets the standards on which all other rights should be based⁴⁸. Moreover, when ordinary rights are reinterpreted in the light of human rights, they enter the ever-expanding domain of human welfare⁴⁹. For instance, the right to life in this context may be interpreted to include the right to live on uncontaminated land, to breathe in clean air and to consume clean water; and government may be held responsible to satisfy these conditions.

1.8.2 Human Rights Violations

The Universal Declaration of Human Rights (UDHR) was established in response to the atrocities during the Second World War, including the Holocaust. The document outlines the human rights that all people are entitled to such as freedom from torture, freedom of expression, and the right to seek asylum⁵⁰. When those rights are not protected or blatantly disregarded, they are violated. Violation is seen as unfair, cruel or violent treatment of somebody⁵¹. Along the same view, it can be described as the act of using something in a way that it should not be used⁵². Human rights violation also means denying human his fundamental human rights as it involves treating man in a cruel, unfair and violent way or less human⁵³.

A state commits human rights violations either directly or indirectly⁵⁴. Violations can either be intentionally performed by the state and or come as a result of the state failing to prevent the violation⁵⁵. When a state engages in human rights violations, various actors can be involved such as police, judges, prosecutors, government officials, and more⁵⁶. The violation can be physically violent in nature, such as police brutality, while rights such as the right to a

fair trial can also be violated, where no physical violence is involved⁵⁷. The second type of violation – failure by the state to protect – occurs when there is a conflict between individuals or groups within a society. If the state does nothing to intervene and protect vulnerable people and groups, it is participating in the violations⁵⁸.

Nigeria is among the countries where human rights violations are recorded daily and virtually in all human endeavours. Indeed, human rights violations have become endemic in Nigeria. This is because individuals, groups and state actors are complicit in this vicious circle⁵⁹. In the recent past, human rights violations and abuses have held people down, devalued the nation's cherished values and constituted blight on diplomatic relations with the rest of the world⁶⁰. Therefore, Nigerians must come together to combat these ills by impressing upon their democratically elected government that the principles of democracy and human rights must be sacrosanct⁶¹. Democracy is characterized by definite principles. These include, adherence to the rule of law, respect for fundamental human rights and the protection of lives and properties⁶². For a prosperous democratic governance to be realized in Nigeria, true principles of democracy must be imbibed and deepened⁶³.

In human rights treaties, the Nigerian state and other states in the world bear the primary burden of responsibility for protecting and encouraging human rights⁶⁴. When a government ratifies a treaty, they have a three-fold obligation. They must respect, protect, and fulfill human rights⁶⁵. When violations occur, it is the government's job to intervene and prosecute those responsible. The government must hold everyone (and itself) accountable⁶⁶.

Members of civil society also have a responsibility to prevent human rights violations⁶⁷. Businesses and institutions must comply with discrimination laws and promote equality, while every individual should respect the rights of others⁶⁸. When governments are violating human rights either directly or indirectly, civil society should hold them accountable and speak out⁶⁹. The international community also has an obligation to monitor governments and

their track records with human rights⁷⁰. Violations occur all the time, but they should always be called out.

1.8.3 Awaiting-Trial Inmates (ATIs)

This research study sees Awaiting-Trial Inmates (ATIs) as suspects or accused persons locked up on criminal charges in police station and prison before the completion of their trial. These are persons detained in the prison by the state for an offence committed against the laws of the state prior to or pending trial⁷¹. They are a special category of inmates found in police cells and correctional facilities⁷². This is because they are not classified and no provision is made to cater for their needs⁷³. Hence, violation of their rights can be said to be a common occurrence and widespread. For some scholars and writers, Awaiting-Trial Inmates are those prisoners in jail, but not sentenced⁷⁴. These people languish in miserable conditions in correction centres across the world, awaiting trial⁷⁵. Awaiting-trial inmates are detained in correction centres until a later date when a trial or sentencing hearing will take place⁷⁶. The majority of prisoners on remand have not been convicted of a criminal offence and are awaiting trial following a not guilty plea. It has been stressed that awaiting-trial inmates are people who are innocent, as they have not been proven guilty and yet their liberty has been taken away from them⁷⁷. This is a human right issue and a cause of overcrowding in most police stations and correctional institutions.

The high number of detainees on remand is caused by slow investigations, corruption, backlog of cases in courts and few judges, among others. Delays on remand have adverse effects on the rights of awaiting-trial inmates to a fair and speedy trial. It is still a practice for police to arrest perceived suspects before concluding investigations and to carry on investigations whilst the suspect is in police detention. Detainees are often held in

overcrowded facilities which may have an impact on their health and increases their risk of being subjected to torture and other cruel, inhuman and degrading treatment or punishment.

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Chapter Two

Literature Review

2.1 Conceptual Review

2.1.1 Rights

What are rights? A right is described as an entitlement or justified claim to a certain kind of positive and negative treatment from others, to support from others or non-interference from others¹. In other words, a right is something to which every individual in the community is morally permitted, and for which that community is entitled to disrespect or compulsorily remove anything that stands in the way of even a single individual getting it². Rights belong to individuals, and no organization has any rights not directly derived from those of its members as individuals; and, just as an individual's rights cannot extend to where they will intrude on another individual's rights, similarly the rights of any organization whatever must yield to those of a single individual, whether inside or outside the organization³. Rights are those important conditions of social life without which no person can generally realize his best self⁴. These are the essential conditions for health of both the individual and his society⁵. It is only when people get and enjoy rights that they can develop their personalities and contribute their best services to the society⁶. In simple words, rights are the common claims of people which every cultured society recognizes as essential claims for their development, and which are therefore enforced by the state⁷.

A scholar has stressed that rights are those conditions of social life without which no man can seek in general, to be himself at his best⁸. Rights are powers necessary for the fulfilment of man's vocation as a moral being⁹. Rights are nothing more nor less than those social conditions which are necessary or favourable to the development of personality⁹. Other moral theorists define rights in terms of positive liberties and negative freedoms¹⁰. A positive right

is an entitlement to; a right to free expression, for instance, entitles one to voice opinions publicly. A negative right is a freedom from; Freedom of person is a right to be free of bodily interference. Most rights are both positive and negative¹¹.

The main features of rights are: rights exist only in society. These are the products of social living; rights are claims of the individuals for their development in society; rights are recognized by the society as common claims of all the people; rights are rational and moral claims that the people make on their society; since rights are here only in society, these cannot be exercised against the society; rights are to be exercised by the people for their development which really means their development in society by the promotion of social good. Rights can never be exercised against social good; rights are equally available to all the people; the contents of rights keep on changing with the passage of time; rights are not absolute¹². These always bear limitations deemed essential for maintaining public health, security, order and morality; rights are inseparably related with duties. There is a close relationship between them “No Duties No Rights. No Rights No Duties.” “If I have rights it is my duty to respect the rights of others in society”; and rights need enforcement and only then these can be really used by the people¹³. These are protected and enforced by the laws of the state. It is the duty of a state to protect the rights of the people¹⁴.

There are compelling theories of rights offered by several theorists. These are:

First, this is Utilitarianism. For the utilitarian, the just action is that which, relative to all other possible actions, maximises utility or “the good” (defining “the good” is the subject of philosophical conjecture). This is the utility principle. Utilitarianism is solely consequentialist; the justice or injustice of an action or state of affairs is determined exclusively by the consequences it brings about. If an action maximises utility, it is just. On this account, therefore, rights are purely instrumental. It is also worth noting that many in the utilitarian

tradition have expressed hostility to the notion of rights of any sort. Utilitarian will honour a right if and only if it will lead to the maximisation of utility¹⁵. This statement also indicates the limits of all rights. If the exercise of a particular will not maximise utility, the utilitarian is obligated to violate that person's rights for the sake of utility. The point at which the letter of the right defeats the purpose (i.e. the point at which the exercise of a particular right will not maximise utility) is the point at which society may justly curtail that right.

Rights are limited by the utility principle. If the exercise of a right maximises the good, the right ought to hold. If it fails to do so, the right may be justly abridged. Challengers of the utilitarian account of rights argue that in some cases it extends rights too far and in other cases it restricts rights unjustly.

Second, this is Kantianism (Deontology). Kant proposes that the essence of morality is captured by what has been called the Categorical Imperative¹⁶. In this paraphrase, this reads: Act only on those rules of action that you could be universal laws.

The Categorical Imperative is a rule for testing rules of conduct. It will exclude as immoral any rule of conduct that implies that one person may do something but another, in relevantly similar circumstances, may not. In other words, it demands consistency. What's all right for me is all right for you if our relevant circumstances are similar. If I may throw my toxic waste into the river to save money for myself, then you may do so likewise. But of course I would not want you to do that, so it would be wrong for me. This is relevant to human rights, because we think of human rights as universally applicable to human beings. And Kant says that what is morally permissible applies to all rational beings. It is also relevant that this test tends to endorse rules of action that protect our most basic interests, just the sorts of things that rights protect.

Kantianism is an explicitly non-consequentialist ethic. Kant believed that the consequences of our actions are often determined by contextual factors beyond the control of the individual. Honour and blame are only coherent concepts where the subject is responsible for what they have done. In all appeals to consequences, the locus of responsibility must necessarily be displaced to a broad array of factors, only one part of which is the agency of the individual in question. Moral responsibility for consequence, therefore, is incoherent. Ethics must be a matter of intentions, these being the only things we can evaluate without extrinsic influence. The right action therefore is that which is done in conformity with our moral duty, regardless of consequence.

In the *Groundwork for the Metaphysics of Morals*, Kant argued that one ought to “act only according to that maxim whereby one can, at the same time, will that it should become a universal law”¹⁶. In other words, our own conduct is only ever just if we can in all conscience will that every other person acted the same way. In the same work, he also professed that one should “treat humanity, never merely as a means to an end, but always at the same time as an end”¹⁷. Similarly, our conduct is only just if, in acting, we do not use any other person as a tool to achieve our own objectives. In common way, our moral duty is to only act where our actions satisfy the two tests outlined - universalizability and the ends/means requirement.

Third, this is Laski’s Theory of Rights. Harold Laski, an influential figure and creative writer of political science, who authored about 20 books, has expounded the theory of rights and it is in many respects a classic representation. He describes rights as “those conditions of social life without which no man can seek, in general, to be himself at his best”¹⁸. Laski calls rights as conditions of social life. Rights are social concept and deeply linked with social life. The essentiality of rights is established by the fact that individuals claim them for the development of their best self. He places rights, individuals and state on the same board in the

sense that they cannot be separated from each other and there is no antagonism between them. Laski recommends the long-cherished view that the state has a very important role to play in the realization and, before that, recognition of human rights. On legal theories of rights, Laski examines the legal theory of state¹⁸. The central principle of the legal theory of rights is that they completely depend upon the institutions and recognition of state. An individual cannot claim rights if those are not recognised by the state. Mere recognition, moreover, is not sufficient for the exercise of rights. The state must, through law and institutions, implement the rights¹⁶.

Legal Rights are important parts of rights. Legal rights are those rights which are accepted and enforced by the state. Any defilement of any legal right is punished by law. Law courts of the state enforce legal rights. These rights can be enforced against individuals and also against the government. In this way, legal rights are different from moral rights¹⁷. Legal rights are equally available to all the citizens. All citizens follow legal rights without any discrimination. They can go to the courts for getting their legal rights enforced.

Legal Rights are of three types: a) Civil Rights: civil rights are those rights which provide opportunity to each person to lead a civilized social life. These fulfil basic needs of human life in society. Right to life, liberty and equality are civil rights. Civil rights are protected by the state; b) Political Rights: Political rights are those rights by virtue of which inhabitants get a share in the political process. These allow them to take an active part in the political process. These rights include right to vote, right to get elected, right to hold public office and right to criticise and oppose the government. Political rights are really available to the people in a democratic state; and c) Economic Rights: Economic rights are those rights which provide economic security to the people. These empower all citizens to make proper use of their civil and political rights. The basic needs of every person are related to his food, clothing, shelter,

and medical treatment¹⁸. Without the fulfilment of these no person can really enjoy his civil and political rights. It is therefore essential, that every person must get the right to work, right to adequate wages, right to leisure and rest, and right to social security in case of illness, physical disability and old age.

There is some difference between moral or human rights and legal rights. Legal rights require for their justification an existing system of law. Legal rights are, roughly, what the law says they are, at least insofar as the law is enforced. Legal rights gain their force first of all through legislation or decree by a legally authorized authority¹⁹. Those who support adoption of laws establishing legal rights often appeal to a notion of human rights. Laws against theft might appeal to notions of a moral right to own property. But human or moral rights must gain their validity through some other source other than legal rights, since people can appeal to human or moral rights to criticize the law or advocate changes in the law (or legal rights), and people could not do this if moral rights were based upon the law.

Other rights are the Contractual Rights. Contractual rights originated from the practice of promise-keeping²⁰. They apply to particular individuals to whom contractual promises have been made. Contractual rights ascend from specific acts of contract making. They normally come into being when the contract is made, and they reflect the contractual duty that another party has acquired at the same time. As a result of a contract, party A has a contractual duty, say, to deliver some good or service to party B, who has a contractual right to the good or service. Contractual rights may be upheld by the law, and in that sense can rest upon legal rights, but it is possible to conceive of contracts made outside of a legal framework and to rest purely upon moral principles. However, such contracts are less secure than contracts made within a legal framework, for obvious reasons. There are numerous examples of contractual rights such as: rights to purchase a particular product or service, rights to be sell a

product or service, rights to be the only seller or buyer, rights to delivery and timely payment, rights to refunds or repairs, and various rights according to the specific intentions of each party²¹.

2.1.2 Human Rights

Human rights are an inescapable fact in the world. They bring together the North and the South, the left and right, church and state. Street activists look to them while armed forces adopt codes of conduct ostensibly on their basis. They are the ideology after ‘the end of ideologies’, the only set of values left now that we have arrived at ‘the end of history’. Of course, such pervasiveness comes at a price of intellectual promiscuity. Human rights are used as a symbol or synonym for liberalism, capitalism or individualism by some and for development, social justice and/or peace by others. In the South, rights are seen as primarily collective rather than individual, social and economic rather than civil, associated with equality rather than with liberty. In the North, they can reflect commitments to solidarity and social justice as well as to political freedom – but they have also been used to underpin invasion and military brutality.

Who would not agree today with Hannah Arendt’s famous dictum that there is and always has been an inalienable “right to have rights” as part of the human condition? Human rights are the *doxa* of our time, belonging among those convictions of our society that are tacitly presumed to be self-evident truths and that define the space of the conceivable and utterable. Anyone who voices doubt about human rights apparently moves beyond the accepted bounds of universal morality in a time of humanitarian and military interventions. The only issue still contested today is how human rights might be implemented on a global scale and how to reconcile, for example, sovereignty and human rights. Whether human rights in themselves

represent a meaningful legal or moral category for political action in the first place appears to be beyond question.

Human rights are those rights to which all human beings, *per se*, are entitled and can lay claims upon in society. The conceptualization of the content of human rights is a development of the 20th century, which continues into the new millennium. The central theme concentrates around the provision, protection and promotion of these rights. Major players in international politics have had an impact on the process of realization of these rights. Today, human rights have become a hugely contested domain. The politics of human rights intervention globally has also re-opened many debates on the legitimacy of the pursuit of collective ideals and the limits of sovereignty in our post-globalized world today.

In the study of human rights, one encounters relevant legal acts, constitutions, statutes and international instruments, various terms and notions other than human rights. These include fundamental human rights, fundamental freedoms, civil liberties and civil rights, individual and collective human rights as well as people's rights. Amongst these various terms, human rights seem to be the most general notion encompassing rights attributable to individuals, groups of individuals, peoples and even mankind.

The term "human rights" has become so popular that there is hardly political, moral and legal discourse without the term being mentioned. It is used in political speeches, in law, in media, in workplaces and even in market places. Individuals, groups and nations claim a variety of rights ranging from right to life, right to work and strike, right to privacy, the rights of women and children, the right of the accused, etc. All these rights have at one time or the other been asserted and denied, exercised and waived, violated and respected and above all extensively discussed, interpreted and disputed in numerous contemporary societies and within international community.

Human rights are often expressed and guaranteed by law, in the forms of treaties, customary international law, general principles and other sources of international law. International human rights law lays down obligations of governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups. As these human rights are being promoted and protected the world over, it is quintessential to stress that they are rights inherent to all human beings, whatever their nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status¹. They are all equally entitled to human rights without discrimination.

While almost everyone has heard of human rights, few will have reflected in depth on what human rights are, where they originate from and what they mean. Today, the idea of human rights enjoys near-universal support; yet, there is profound disagreement about what human rights actually are – their true source of origin, how to study them, and how best to address their deficits. In spite of all these contemporary conflicts, human rights offer a vision of international justice that today's idealistic millions hold dear.

The notion of “human rights” is widely utilized in politico-moral discussions. The core idea, that all human beings have some inalienable basic rights, is appealing and has an eminently practical function: It allows moral criticism of various wrongs and calls for action in order to prevent them. On the other hand, it is unclear what exactly a human right is. Human rights lack a convincing conceptual foundation that would be able to compel the wrong-doer to accept human rights claims as well-founded²². Hence the practical function faces theoretical doubts.

When people hear the phrase “human rights”, they think of the highest moral precepts and political ideals. And they are right to do so. They have in mind a familiar set of indispensable liberal freedoms, and sometimes more expansive principles of social protection. But they also

mean something more. The phrase implies an agenda for improving the world, and bringing about a new one in which the dignity of each individual will enjoy secured international protection. It is a recognizably utopian programme: for the political standards it champions and the emotional passion it inspires, this programme draws on the image of a place that has not yet been called into being. It promises to penetrate the impregnability of state borders, slowly replacing them with the authority of international law. It prides itself on offering victims the world over the possibility of a better life. It pledges to do so by working in alliance with states, when possible, but naming and shaming them when they violate the most basic norms. Human rights in this sense have come to define the most elevated aspirations of both social movements and political entities – state and interstate. They evoke hope and provoke action.

A human right is an entitlement to treatment that a person enjoys simply by virtue of being a human being. The concept of human rights is based on the belief that every human being is entitled to enjoy her/his rights without discrimination. Human rights are universal, meaning that possession of such rights is not contingent on belonging to a particular state or culture. Human rights differ from other rights in two respects. Firstly, they are characterized by being: Inherent in all human beings by virtue of their humanity alone (they do not have, *e.g.*, to be purchased or to be granted); Inalienable (within qualified legal boundaries); and equally applicable to all.

Secondly, the main duties deriving from human rights fall on states and their authorities or agents, not on individuals.

The term ‘human rights’ is used to denote a broad spectrum of rights ranging from the right to life to the right to a cultural identity. The specific nature of human rights, as an essential precondition for human development, implies that they can have a bearing on relations both

between the individual and the state, and between individuals themselves. The individual-state relationship is known as the 'vertical effect' of human rights. While the primary purpose of human rights is to establish fundamental rules for relations between the individual and the state, several of these rights can also have implications for relations among individuals. This so-called 'horizontal effect' implies, among other things, that a government not only has an obligation to refrain from violating human rights, but also has a duty to protect the individual from infringements by other individuals. The right to life thus means that the government must strive assiduously to protect people against homicide by their fellow human beings. Similarly, Article 17(1) and (2) of the International Covenant on Civil and Political Rights (ICCPR) obliges governments to protect individuals against unlawful interference with their privacy. Another typical example is the Convention of the Elimination of All Forms of Racial Discrimination (CERD), which obliges states to prevent racial discrimination between human beings. State obligations regarding human rights may involve desisting from certain activities (*e.g.*, torture) or acting in certain ways (*e.g.*, organizing free elections).

Although the concept of human rights can be traced back to the eighteenth-century Enlightenment - the 'rights of man' - it is only in the twentieth century that a human right became a major concept in political discourse. Following the Universal Declaration of Human Rights (UDHR), which was adopted by the Third United Nations General Assembly in December 1948 and which became a model for the constitutions of many countries and domestic and international nongovernmental organizations (NGOs), the concept of human rights slowly entered international law through, among others, the European (1950) and American (1969) Conventions and the International Covenants (1966).

Although individuals are frequently denied their human rights, even by states purporting to respect them, the fact of the existence of human rights has shifted international politics from being based simply on nation-states' interest to one based on the recognition that individuals

have claims against their own state²³. Human rights are open to the criticism that they are the product of a particular time and place – post-eighteenth-century Europe, or the West – and their ‘imposition’ is a form of imperialism²⁴. They can also be criticized for elevating individualism above collectivism, and ‘negative’ rights (to be left alone) above ‘positive’ rights (to a particular level of resources).

The world over and for a long time, all normal human beings aspire for freedom and good governance and frown at the infringement upon their human rights²⁵. The cultural discourse of human rights has become increasingly globalized and now serves as the basis for legal and normative frameworks and social relations in a variety of geographical, social and cultural settings⁵. In similar vein there exists the idea that human beings anywhere in the world have certain definite political, civil, economic and social rights, which regardless of their positive enactment by a particular state, are to be respected. This seems to be central in the modern world today⁶. It is the responsibility of governments to protect and enforce these rights since the major reason for individuals coming together to form a government is to give it legitimacy as spelt out in the philosophy of the social contract, and for the protection and fostering of these rights⁷. It is for this reason that some scholars and writers say that the West is rationalizing human rights violations under the guise of fighting terror⁸.

The idea of rights held by all in virtue of their humanity can be found long before 1948. In the guise of ‘natural rights’ – rights held by people as a matter of natural law – the idea can be found in the influential seventeenth- and eighteenth-century work of Hugo Grotius, Samuel Pufendorf, John Locke, and Immanuel Kant⁹. Indeed, recent scholarship claims that this idea of natural rights first originated much earlier, either in early medieval thought or before¹⁰. However, it is worth noticing that whether contemporary human rights are the same as, or are at least a modernized, secularized form of natural rights, is highly controversial.

The specific phrase ‘human rights’ only became common in English usage in the 1970s¹¹. The concept has grown in institutional and rhetorical importance during the last two and half decades – witness, for example, the embedding of the European Convention on Human Rights in UK law (1998) and the frequent framing of measures to resist terrorism as involving a ‘balancing’ of the human rights of suspects and potential victims²⁶. The concept’s centrality has been matched by a significant volume of important empirically oriented sociological work and doctrinally oriented legal work¹². By contrast, with some exceptions (notably, the work of Maurice Cranston and James Nickel), philosophers in the past were slow to examine the concept of human rights as they are conceived in international law and politics¹³. There was growing philosophical work on basic moral or natural rights, and also on the very nature of rights, but much less on the human rights of the emerging human rights movement¹⁴.

When ordinary rights are reinterpreted in the light of human rights, they enter the ever-expanding domain of human welfare¹⁵. For instance, the right to life in this context may be interpreted to include the right to live on uncontaminated land, to breathe in clean air and to consume clean water; and government may be held responsible to satisfy these conditions. Nevertheless, human rights can only be realized as ‘rights’¹⁶. In other words, human rights, like any other rights, have to be forced by a state or an international tribunal who should be capable of enforcing them. Anybody who claims any human rights must prove himself to be law-abiding and must submit himself to law for appropriate justice. In order to understand the true character of human rights it would be worthwhile to understand the nature of rights as such¹⁷.

The idea of rights provides for an essential tool of analysis of the relations between individual and the state²⁷. The state claims authority over individual, but when the state is viewed as an instrument of society, it is essential that authority of the state is made to depend on the

function it performs¹⁸. In other words, when the state is regarded as a means, and the individual as the end, the state cannot be armed with absolute authority over individual. If the state claims authority, individual must claim rights. Individual owes allegiance to the state and obeys its commands because the state serves his interests. What does individual claim from the state? An answer to this question will elucidate the concept of rights.

Rights essentially belong to the sphere of conflicting claims between individual and the state¹⁹. Any political theory which holds that an individual cannot have rights 'against the state' is no theory of rights¹⁹. It is important to note that the benefits which flow automatically from the existence of the state do not constitute rights²⁰. Rights come into the picture only when authority of the state is sought to be limited, or when individuals and their groups demand a positive role of the state.

The word 'right' is derived from the Latin word *rectus* which means that to which a person has a just and valid claim, whether it be land, a thing or the privilege of doing something or saying something²¹. Different people have viewed the concept of human rights differently at different times, a reason why it has no precise and widely accepted meaning. A learned scholar and author alluded to this definitional problem when he said:

If we attempt to probe human rights in the political and legal culture of Nigeria without a clear idea of rights, a clear theory of rights in general, and of human rights in particular, we shall not be right about human rights²².

To define it, certain scholars begin by defining what right is as legally applied. When considered in its abstract terms 'right' means justice, ethical correctness, or consonance with the rule of law or the principles of morals²³. However, if the term is taken in its concrete sense it means 'power,' 'privilege,' 'faculty' or 'demand' that is inherent in one person and incident upon another. It refers to the ability to control the acts of another with the help of the state force. A right is an entitlement to act or be treated in a particular way. As such, rights

entail duties: the claim to have a right imposes obligations on others to act, or, perhaps, to refrain from acting in a particular way²⁴. Rights are “wide concepts of claims”, that is wants, desires or aspirations people have and express²⁵. Those claims which are also supported by, or in accord with some objective standards, (or some general theory); whether those of a code of morality or ethical theory, or those of legal system, are usually and aptly called “rights”. A claim may, thus, be legal, political or moral, any of the two or all three. It is legal when it can be legally implemented. Accordingly, rights are claims that have achieved a special kind of endorsement of success: legal rights by legal system, human rights by widespread sentiment or an international order²⁶. Further, some rights could be singled out as social ideals, as goals to strive towards. But even as such, they cannot be divorced from the social content and context, and as a scholar and writer would argue, human rights are always connected with ideology²⁷.

The concept of rights or ‘human rights’ originates from the voice of protest against oppression perpetrated by the dominant groups in society²⁸. Rights are meant to safeguard the individual from the irresponsible and arbitrary use of power by the ruling class. As a renowned author has significantly observed:

Over most parts of the earth and throughout the major range of recorded history the masses of men have lived in a condition of misery and oppression. Nearly everywhere small dominating groups acquired the techniques of power and used them to keep in subjection their fellowmen. In every age the voice of protest has been heard. In every age the vision of human liberation has been glimpsed²⁹.

In modern times this vision of human liberation has been developed into the concept of human rights. These rights are no longer expressed merely as certain demands. On the other hand, they are sought to be enshrined in the structure of the government so as to prevent it from using its power in an arbitrary and irresponsible manner. As the renowned author has further noted: “The cry for human rights now becomes more than exhortation or protest. It

becomes the precise demand for the legal and constitutional embodiment of specific claims to liberties, and then to opportunities”³⁰.

Indeed, rights consist in claims of individuals which seek to restrict arbitrary power of the state and which are required to be secured through legal and constitutional mechanisms. In addition, these may include some benefits which the state may extend to its citizens to improve the quality of their life.

The concept of rights is a dynamic concept. With the development of social consciousness, rights are subjected to continual review and redefinition³¹. It is interesting to note that rights are always demanded and even granted as the ‘rights of man’. But their beneficiaries are usually those classes which articulate this demand because they formulate the demands of rights in a manner best suited and calculated to serve their own interests³².

Over the past decade or so, philosophical speculation about the concept of human rights has tended to fall into two streams. On the one hand, there are “Orthodox” theorists, who think of human rights as natural rights: moral rights that we have simply in virtue of being human. On the other hand, there are “Political” theorists, who think of human rights as rights that play a distinctive role, or set of roles, in modern international politics: setting universal standards of political legitimacy, serving as norms of international concern, and/or imposing limits on the exercise of national sovereignty³³.

Human rights take concrete form on material paradigm and their legal guarantees. This is why it is asserted that “...at any given time and place, human rights are super-structural entities determined by and based on a sub-structural entity called economic relations”³⁴. The African Charter on Human and Peoples’ Rights for instance spells the third category of rights, that is, the rights of peoples (which are new) based on the African economic and

developmental reality because of the relevance of economic power in realizing human potential.

Rights are a correlative of duty³⁵. Right could be said to be equivalent to the Latin word *just* from whence such English words as justice, just, justify, jurist, judicial and so on came about³⁶. This gives rise to the following meaning: that which is just, a just law, just deeds, a just debt, a just claim, and so on. Rights are seen as some sacred items, which include, for instance, right to life, property, association, and creed, and more importantly and specifically to speedy/fair, public hearing, and right to bail, lawyer and interpreter where needed³⁷.

Human Rights that have been guaranteed by a positive law are the enforceable human rights, while those not yet guaranteed are so bound on the ground of morality and remain as aspiration yet to be attained³⁸. It has been argued that where the human rights are entrenched in a written constitution, they are called Fundamental Rights. In addition, Fundamental Rights are those species of human rights which have been recognized and incorporated into the constitution of any nation³⁹. Due to the development of Constitutional Law, distinct difference has emerged between 'Fundamental Rights' and 'Human Rights'⁴⁰. It may be recalled that human rights were derived from and out of the wider concept of natural rights⁴¹. They are rights which every civilized society must accept as belonging to each person as a human being. These were termed human rights.

When the United Nations made its declaration, it was in respect of 'human rights' as it was envisaged that certain rights belong to all human beings irrespective of citizenship, race, religion and so on. This has now formed part of International Law⁴². Fundamental Rights remain in the realm of domestic law. They are fundamental because they have been guaranteed by the fundamental law of the country. A legal pundit has opined that human right is more of an international concept while fundamental right is more of a municipal or

domestic concept. It should be noted that the International Bills of Rights – the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR) – use the expression “Fundamental Human Rights” so also the Charter⁴³.

Human rights are indivisible: you cannot be denied a right because it is "less important" or "non-essential"⁴⁴. Human rights are interdependent: all human rights are part of a complementary framework⁴⁵. For example, your ability to participate in your government is directly affected by your right to express yourself, to get an education, and even to obtain the necessities of life. Another definition for human rights is those basic standards without which people cannot live in dignity⁴⁶. To violate someone's human rights is to treat that person as though she or he were not a human being. To advocate human rights is to demand that the human dignity of all people be respected. In claiming these human rights, everyone also accepts the responsibility not to infringe on the rights of others and to support those whose rights are abused or denied.

Some dyed-in-the-wool human rights advocates and teachers see human rights as inspiration and empowerment: they are both inspirational and practical⁴⁷. Human rights principles hold up the vision of a free, just, and peaceful world and set minimum standards for how individuals and institutions everywhere should treat people. Human rights also empower people with a framework for action when those minimum standards are not met, for people still have human rights even if the laws or those in power do not recognize or protect them.

We experience our human rights every day when we worship according to our belief, or choose not to worship at all; when we debate and criticize government policies; when we join a trade union; when we travel to other parts of our own country or overseas. Although we sometimes take these actions for granted, not all people enjoy all these liberties equally.

Human rights violations also occur every day when a parent abuses a child, when a family is homeless, when a school provides inadequate education, when women are paid less than men, or when one person steals from another.

Human rights are the rights, liberties, immunities, and benefits that all human beings should be able to claim as a matter of right on the society in which they live, according to accepted modern values⁴⁸. Human rights are essentially moral claims or philosophical assertions⁴⁹. They have gained, since 1948, a measure of legal substance⁵⁰. Human rights, most basically, are rights to which people are entitled by virtue of being human (possession of human dignity). They are therefore ‘universal’ rights, in the sense that they belong to all human beings rather than to members of any particular nation, race, religion, gender, social class or whatever.

Human rights are what every human being needs to live a dignified and fulfilled life and to participate fully in the society. Human rights are the most fundamental rights of human beings. They define relationships between individuals and power structures, especially the State. Human rights delimit State power and, at the same time, require States to take positive measures ensuring an environment that enables all people to enjoy their human rights⁵¹.

The Universal Declaration of Human Rights (UDHR) of 1948, one of the world’s best-known and most translated documents, defines human rights as “rights derived from the inherent dignity of the human person”⁵². Rights for all members of the human family were first articulated in 1948 in the United Nations’ Universal Declaration of Human Rights (UDHR). Following the horrific experiences of the Holocaust and World War II, and amid the grinding poverty of much of the world’s population, many people sought to create a document that would capture the hopes, aspirations, and protections to which every person in the world is entitled and ensure that the future of humankind would be different⁵³.

Human rights, when they are guaranteed by a written constitution, are known as “Fundamental Rights” because a written constitution is the fundamental law of the state⁵⁴.

We are all equally entitled to our human rights without discrimination. As such, human rights are universal, interrelated, interdependent and indivisible and constitute the basis of the concepts of peace, security and development. These civil, political, economic, social and cultural rights are all interrelated, interdependent and indivisible. They are expressed in treaties and other sources of law at the national, regional and international levels⁵⁵.

From a legal standpoint, human rights can be defined as the sum of individual and collective rights recognized by sovereign States and enshrined in their constitutions and in international law. Governments and other duty bearers are under an obligation to respect, protect and fulfil human rights, which form the basis for legal entitlements and remedies in case of non-fulfilment⁵⁶. In fact, the possibility to press claims and demand redress differentiates human rights from the precepts of ethical or religious value systems. Human rights are claims we all have against everyone else; that is, they are not restricted to the relationship between state and individual. Human rights claims are universal in that, if they are valid at all, they are valid for everyone, since they are based on general assumptions about human needs and capacities⁵⁷.

The concept of human rights is very elusive and slippery. It has been conceptualized variously by different scholars. It means one thing for the natural law theorists and another for the positivists. Its conceptualization is always coloured with the ideological orientation of an individual behind the conceptualization⁵⁸. Hence, the history of human rights is replete with attempts to conceptualize its real meaning, leaving mankind with critical debates as what is meant by human rights. To start with, there is an imperative need to clarify the meaning of the word “right”. Rights are due entitlements that individuals lay claims to. They are mostly natural endowment⁵⁹.

Today 'human rights' has become a hugely contested domain. Its multi-dimensional nature has made its invocation very popular in national and international politics, among the academia, sociologists, political scientists and others. Indeed, human rights are conceived and practiced, contested and reshaped, beaten back and reasserted. The politics of human rights intervention globally has also re-opened many debates on the legitimacy of the pursuit of collective ideals and the limits of sovereignty in our post-globalized world today⁶⁰.

The concept of human rights is the result of a long and continuing process of development that has not yet reached its conclusion⁶¹. It has its roots in the philosophy of the ancient Greeks and in the religious concept that "all men are equal in the eyes of God". Together with the secular tradition of natural rights – human rights have their roots in human nature and the inherent dignity of humanity – the concept of human rights has progressively developed as an ethical standard through the ages⁶². Human beings are born equal in dignity and rights. These are moral claims which are inalienable and inherent in all individuals by virtue of their humanity alone, irrespective of caste, colour, creed, and place of birth, sex, cultural difference or any other consideration. These claims are articulated and formulated in what is today known as human rights. Human rights are sometimes referred to as fundamental rights, basic rights, inherent rights, natural rights and birth rights⁶³.

Human rights are not just abstract values such as liberty, equality, and security⁶⁴. They are rights, entitlements that ground particular social practices to realize those values. Human rights' claims express not mere aspirations, suggestions, requests, or laudable ideas but rights-based demands. And in contrast to other grounds on which goods, services, and opportunities might be demanded - for example, justice, utility, divine donation, contract, or beneficence - human rights are owed to every human being, as a human being⁶⁵.

The opinion of a renowned scholar and author on human rights is divided into two:

- i. That the phrase universal human rights are used to assert that universal norms or standards are applicable to all human societies; and
- ii. The idea of human rights is used to affirm that all individuals, solely by virtue of being human, have moral rights which no society or state should deny⁶⁶.

Therefore, it would be profoundly misleading to develop a framework for the study of human rights without including as a major ingredient the international legal political aspects of the field which, include law, legal processes, justice institutions, and so on. Even though human rights violation as they relate to the issue of suspects on remand is an internal state affair, problems such as this are characteristically imagined in the modern world as an international movement whose study necessarily involves international law and institutions⁶⁷.

Similarly, there is what is called legal right, which is said to be “an interest recognized and protected by the law; an interest the violation of which would be a legal wrong done to him whose interest it is, and respect for which by others, including the state, is a duty”⁶⁸. This scholar similarly sees it as

...a claim recognized or secured by law...and it is not a claim upon love or grace or brotherhood and charity...thus one does not have to earn or deserve a legal right nor are legal rights mere aspirations or moral assertions; they are and must be claims under some applicable law⁶⁹.

This is why the framers of the Nigerian Constitutions enshrined these rights into the Constitution thereby recognizing the universal importance to human and individual rights.

As pointed out, human right:

...is a right which stand above the ordinary laws of the land and which in fact is antecedent to the political society itself. It is a primary condition to a civilized existence and what has been done by our constitutions since independence is, ...to have these rights enshrined in the constitution, so that the rights could be “immutable” to the extent of “non-immutability” of the constitution itself⁷⁰.

Legal right is viewed as the capacity residing in one man of controlling with the assent and the assistance of the state, the action of the other. But for traditional legal theory, legal right is an interest recognized and protected by a rule of law indicating that human right is no longer limited to the original notions of natural rights⁷¹. Thus, understanding the roots of human rights will assist in how best to protect and enforce them.

To some theologians' provisions on human rights are not anything new or particularly Western. In the opinion of some scholars for instance: a) human rights are inseparable part of the belief and the general look to the relations between man and God, man and himself, man and the other people, and man and the universe, b) human rights in Islam are divine gift from God to all people, and not as a result of urgent circumstances or some people's demand, and c) The Islamic human rights are general and universal to all the children of Adam, not limited to a nation, race, color, group or city⁷². They further assert that the right to privacy, as an example is guaranteed in the Holy Quran and the right of free thought and speech are allowed through Science of Dialogue and discussion⁷³. This enables and allows man to freely defend and support his view with reasonable and quoted evidence.

In the Christian religion human right is an equally important issue. There are two contenting schools of thought on the issue of human rights. While the first advocates a clear separation of the church from the political realm, thus divorcing it from the politics of human rights, the second believes in ministering on the material as well as the spiritual lives of the followers⁷⁴. After all, the salvation brought by Jesus Christ is a total liberation from whatever that oppresses them on earth. Even though the Church is not of this world, its mission *is* and to the world.

It is as a result of the position of the last school of thought that Liberation theology emerged in 3rd World nations as popularized by the Church. The Catholic Church's stance on human

rights for instance, became more advertised and consolidated with the second Vatican Council. In the *Gaudium et Spes Church's* positions on human rights becomes clearer when it stated that:

The joys and hopes, the grief and anxieties of the men of this age, especially those who are poor or in any way afflicted, these too are the joys and hopes, the grief and anxieties of the followers of Christ⁷⁵.

Examples of human rights enjoyed by all human beings the world over, whatever their nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status, are: right to life, freedom from torture and cruel, inhuman or degrading treatment or punishment, freedom from slavery, servitude and forced labour, right to liberty and security of person, right of detained persons to be treated with humanity, freedom of movement, right to a fair trial, prohibition of retroactive criminal laws. right to recognition as a person before the law, right to privacy, freedom of thought, conscience and religion, freedom of opinion and expression, prohibition of propaganda for war and of incitement to national, racial or religious hatred, freedom of assembly, freedom of association, right to marry and found a family, right to take part in the conduct of public affairs, vote, be elected and have access to public office, right to equality before the law and non-discrimination. In the area of Economic, Social and Cultural Rights, human rights are right to work, right to just and favourable conditions of work, right to form and join trade unions, right to social security, protection of the family, right to an adequate standard of living, including adequate food, clothing and housing, right to health, right to education. In the area of Collective Rights, human rights are right of peoples to: self-determination, development, free use of their wealth and natural resources, peace, a healthy environment. And other collective rights are rights of national, ethnic, religious and linguistic minorities, rights of indigenous peoples.

Human rights constitute the very source of all rights of human beings. They embody the scheme of ideal rights. They provide for moral foundation of any system of rights. The

concept of human rights is usually anchored on, and identified with such other concepts as justice and equality⁷⁶. Human rights are meaningless without these concepts. This is because they are so vital to human rights. They must control the legal, judicial, social, economic and political aspects of our activities in the society. They are indeed the righteous growth of any society⁷⁷.

As the idea of justice determines the principles on which law should be based, so the idea of human rights sets the standards on which all other rights should be based. The idea of the attainment of justice, as is always attributed to the writing of Solon (638 – 558 BC), a great legislator of the ancient Greece, is that justice could be attained in the society only when those who are not injured by injustice would be as much outraged as those who have been. This saying of the ancient Greek is also true in the contemporary society. Distributive justice can be attained when the “haves” who are not injured by the existing socio-economic order, perceive the injustice associated with it⁷⁸. Human right is also concerned with just distribution in the society.

The Greek philosopher - Aristotle (384 – 322 BC) had also made remarkable contribution to the concept of distributive justice. In dealing with “particular justice” as distinct from “Universal Justice”, he distinguished between ‘distributive’ and “corrective” justice⁷⁹. Distributive justice is based on the principle that there has to be equal distribution among equals, while corrective justice seeks to restore equality, when this has been disturbed for instance by wrong doing. Distributive justice is manifested in the distribution of honour, money and other things which are to be shared amongst those who can partake in them, i.e. equality among those who have to share common goods or honour.

Two variations of equality have also been distinguished, namely, numerical equality and proportional equality⁸⁰. Numerical equality means that identical amounts of goods should be

distributed or identical burden imposed on all members of the society. Proportional equality means equal distribution of goods according to merit or according to need. The principle of numerical equality concedes that human beings, in most respects, are unequal and diverse but that for the purpose of distributing benefits in the society, such diversities are irrelevant. What matters according to this principle is that individuals are members of the society and that characteristic is shared equally by all. The principle of proportional equality, on the other hand, recognizes the disparities among individuals and accepts also the attachable disparities in treatment when it becomes imperative.

A foremost Polish Professor of International Law and Diplomacy made a distinction between the distinct types of relative inequality, namely, inequality of merit and inequality of need⁸¹. He emphasized that achievement or performance is the natural index for measuring merit and benefits if distribution in the society is to be done according to the contribution made by an individual in terms of goods, services or other activities. The method of distribution according to need recognizes that individuals differ in many ways but denies the direct relevance of most of these disparities as the criteria for determining how goods should be distributed in the society, at least in such fundamental areas as human rights⁸².

The theory of human rights highlights one basic concept as being paramount, namely freedom⁸³. This concept is relative in nature because societal values differ from one human community to another. What is just in one society may not be considered as such in another. In some societies, high premium is placed on the values of democracy and freedom enshrined in the modern bills of rights, or covenants of human rights while in other societies, the form of government and legal practices accord such values partial recognition or at times repudiate them outrightly⁸³.

The freedom one enjoys in any society is also a relative one considering the fact that in human societies, minimum constraints on human behaviour are essential in order to avoid anarchy in the society. Consequently, one may engage in such activities that the law does not prohibit⁸⁴. It is in this sense that the freedom under the law must be understood. All human rights and fundamental freedoms are also to be approached in this manner, because rights and freedoms do not exist outside the law. Freedoms are powers conferred by the law and accordingly flow from the legal and social system⁸⁵. The subjects enjoying these freedoms are bound to accept the corresponding burdens. This is because any right is related to certain corresponding duties. The benefit of a right or freedom is the discretion to make a choice and have this protected by law.

For the purpose of understanding human rights, it is important to distinguish between three meanings of the term “freedom”, namely:

- i. Freedom from power (immunity), meaning that a free man is one who is not under any one's power.
- ii. Freedom to act and not to act – liberty, absence of duty to refrain, meaning for example that free speech implies the absence of duty not to speak. Freedom to act may be supported by a claim not to be hindered, it may not be so supported, e.g. attendance at public meetings, the right of assembly.
- iii. Freedom from disability (capacity, the acquisition of powers and liberties), for instance, coming of age. Aspects of this freedom fall under the above two meanings of the term “freedom”⁸⁶.

It is a general saying that the seeds of abusive power are sown in the bed of freedom and manifest in two different ways⁸⁷. First, those who agitate most strongly for freedom from power are usually foremost in insisting, along with complete liberty for themselves, on the

use of the utmost power to prevent others from doing or saying anything contrary to their interests. Secondly, unrestrained freedom of action is the road to chaos and anarchy⁸⁸.

A major breakthrough in the struggle for human rights was observed at the 1993 Vienna Declaration and Programme of Action (VDPA). In this, UN World Conference on Human Rights, a new global action programme was finalized and adopted by the member states for this new century. Followed by a compact series of issue-based programmes, Vienna set the global human rights' agenda into motion. Social integration, sustainable development, environment protection, gender equality are some significant issues in this context.

The UN Declaration of Human Rights (1948) was reiterated again and again by the General Assembly of the UN as 'a common standard of achievement for all peoples and all nations ...' accordingly, the member states pursued and planned human rights promotional policies. In Nigeria, too, major policy decisions were taken in this arena since the 1990s.

The National Human Rights Commission (NHRC) was established by Decree 22 of 1995, and has been contributing towards the provision, protection and promotion of human rights and freedoms in Nigeria⁸⁹. NHRC has helped in the preparation of syllabi and the core curricula of human rights-related teaching material for school, college and universities in Nigeria⁹⁰. Thus, articulation of human rights consciousness has increased among the new generation. Degree courses on human rights have been launched at educational institutes of higher learning to create human rights consciousness through value-based education.

The Western conceptualization of rights and its focus on individualism is not generally acceptable and appreciated by the non-Western world⁹¹. The cultural rejuvenation of nations and a general wave of enlightenment have led to a new perspective on rights and freedoms all over the world. Be it South Asia, South-East Asia or Central Asia, everywhere arguments for 'cultural relativism' are being offered to counter Western perspectives on human rights.

‘Cultural relativism’, in simple words, implies the cultural peculiarities of a country and the values of a specific group of people⁹². This does not imply any disagreement on the significance of human rights, nor on the realization and promotion of the same.

The dilemma of a liberal human rights lawyer is this: one both believes in and doubts human rights⁹³. No wonder, for human rights are ambivalent. As positive legal enactments, they are the result of political bargaining that speak the concrete and verifiable language of rules; yet they also hold an intangible promise of universal good that reaches beyond the text of enacted rules, evoking their cosmopolitan purpose⁹⁴. This dual nature makes human rights strong and accounts for their extraordinary appeal. But it also makes the practice of human rights a fundamentally liberal exercise in irresolution.

2.1.3 Universal Declaration of Human Rights (UDHR) of 1948

The rights and liberties of every human being are enshrined in the Universal Declaration of Human Rights (UDHR), an international agreement. Following the most devastating war in history and the atrocities of the Holocaust, the members of the newly established United Nations Organization accomplished something extraordinary on December 10, 1948⁹⁵. They supported the Universal Declaration of Human Rights, which is a declaration of rights for all people. 48 of the 58 UN members at the time voted in favour, none against, eight abstained, and two did not cast a ballot⁹⁶.

Our most fundamental birthrights are outlined in 30 Articles of the UDHR, which include safeguards against slavery, servitude, brutal punishment, torture, and cruel treatment. The UDHR, the product of Eleanor Roosevelt and a group of gifted international specialists, was a significant advancement in global politics. It declared that "inalienable" rights belonged to people, not only sovereign governments⁹⁷. Today, a government's treatment of its citizens would be subject to justifiable international criticism.

These achievements are in jeopardy seventy-four years later⁸². In addition to widespread violations of international humanitarian law and impunity for war crime perpetrators, repression is on the rise globally, authoritarians are using new digital technologies to stifle dissent at home and spread false information abroad, awaiting-trial detainees are on the increase globally, and violent conflict within and between states has increased³⁷. Current international organizations are having difficulty upholding long-standing rights and adjusting human dignity norms to new threats around the world²⁴. Many erstwhile champions of human rights, not least the United States, have proven to be unreliable defenders of freedom. The best way to commemorate this somber anniversary is for human rights proponents to rededicate themselves to Roosevelt's vision while working to update international mechanisms to contemporary and emerging rights challenges.

U.S. President Franklin D. Roosevelt gave his yearly State of the Union address to a still-neutral but nervous country on January 6, 1941, as the Axis aggressors dominated Europe and Asia. He vowed to strive for a more promising future for the world based on the "four essential freedoms": freedom of religion, freedom of speech and expression, freedom from fear, and freedom from want. As the inaugural head of the (then) eighteen-member UN Human Rights Commission, which was founded in late 1946, Eleanor Roosevelt, Franklin D. Roosevelt's lifelong wife and service partner, would further that positive vision even though Roosevelt would not survive to witness the defeat of fascism⁹⁸.

In order to create the first comprehensive statement of human rights in history, Roosevelt and a number of outstanding colleagues steered these difficult and divisive deliberations for two years. The broad makeup and viewpoints of the team disprove the widely held belief that the declaration is a Western imposition that disregards cultural and civilizational distinctions, rather than what it truly is: a statement with global applicability⁹⁹. Its drafters acted on the

belief that all people have intrinsic dignity that ought to be upheld and that there is only one human nature and condition.

Early on, the commission confronted the quandary of whether to draft a legally binding covenant or a nonbinding statement of principles to be endorsed by the UN General Assembly (UNGA). Roosevelt ultimately persuaded her peers to adopt the latter course, confident that a joint declaration grounded in a shared morality would provide the foundation for later formal international treaties¹⁰⁰. History would vindicate her optimism.

The negotiators' most impressive achievement was producing a document that could bridge international fault lines and attract global support. This outcome was hardly preordained, at a moment when capitalist democracies and communist countries were consolidating into Cold War blocs and colonial movements were demanding emancipation from their imperial overlords.

A question that is still relevant today was one of the primary diplomatic hot spots: how much importance should be given to civil and political rights compared to economic, social, and cultural rights? In order to ensure that the document that UN member states eventually approved supported both the removal of limitations on individual liberties (often referred to as "negative rights") and the provision of capabilities that allow humans to live in dignity (also known as "positive rights"), Roosevelt herself carved out a practical middle ground^{101,106}.

The Universal Declaration of Human Rights consists of the following:

- The preamble sets out the historical and social causes that led to the necessity of drafting the Declaration.
- Articles 1–2 establish the basic concepts of dignity, liberty, and equality.
- Articles 3–5 establish other individual rights, such as the right to life and the prohibition of slavery and torture.

- Articles 6–11 refer to the fundamental legality of human rights with specific remedies cited for their defence when violated.
- Articles 12–17 set forth the rights of the individual towards the community, including freedom of movement and residence within each state, the right of property, the right to a nationality and right to asylum.
- Articles 18–21 sanction the so-called "constitutional liberties" and spiritual, public, and political freedoms, such as freedom of thought, opinion, expression, religion and conscience, word, peaceful association of the individual, and receiving and imparting information and ideas through any media.
- Articles 22–27 sanction an individual's economic, social and cultural rights, including healthcare. It upholds an expansive right to an adequate standard of living, and makes special mention of care given to those in motherhood or childhood.
- Articles 28–30 establish the general means of exercising these rights, the areas in which the rights of the individual cannot be applied, the duty of the individual to society, and the prohibition of the use of rights in contravention of the purposes of the United Nations Organization.

Rene Cassin of France, one of the team members, is renowned for comparing the proclamation to the portico of a Greek temple, complete with a pediment, four pillars, steps, and a foundation¹⁰². The foundational articles of the temple, Articles 1–2, affirm the inherent equality, liberty, and dignity of every human being as well as the "spirit of brotherhood" that ought to unite them. Asserting that "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family" is the "foundation of freedom, justice, and peace in the world," the preamble (the stages) justifies the necessity of the declaration¹⁰³. The four pillars of the temple are Articles 3–27¹⁰³. In addition to freedom from slavery, servitude, torture, and arbitrary arrest or detention, the first pillar (Articles 3–11) lists

fundamental individual rights such as life, liberty, equality before the law, and access to impartial justice. Civil and political rights, such as the right to privacy, freedom of movement, refuge, nationality, and marriage, are listed in the second pillar (Articles 12–17). Among the constitutional liberties established by the third (Articles 18–21) are the rights to peaceful assembly, universal suffrage, opinion and expression, and thought and religion. The fourth (Articles 22–27) lists a wide range of economic, social, and cultural rights, such as the right to social security, equitable work, education, leisure, and a living standard sufficient to cover the costs of housing, food, healthcare, and social services. The pediment holding the whole structure together, Articles 28–30, states that the realization of these human rights will rely on a favorable domestic and international order as well as people's willingness to assume reciprocal obligations to work together to further this goal¹⁰⁴.

Some relevant provisions of the UDHR to this research study are: Article 3 (everyone has the right to life, liberty and the security of person), Article 4 (no one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms), Article 5 (no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment), Article 6 (everyone has the right to recognition as a person before the law), Article 7 (all are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination), Article 8 (everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted by the constitution or by the law), Article 9 (no one shall be subjected to arbitrary arrest, detention or exile), Article 10 (everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him), Article 11 (i. everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a

public trial at which he has had all the guarantees necessary for his defence, and ii. no one shall be held guilty of any penal offence or account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed), Article 12 (no one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks), Article 13 (i. everyone has the right to freedom of movement and residence within the borders of each State, ii. Everyone has the right to leave any country, including his own, and to return to his country), Article 18 (everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance), Article 19 (everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers), Article 20 (i. everyone has the right to freedom of peaceful assembly and association, and ii. no one may be compelled *to belong to an association*), and Article 21 (i. everyone has the right to take part in the government of his country, directly or through freely chosen representatives)¹⁰⁵.

It would be incorrect for hard-nosed realists to reject the UDHR as a lofty declaration of noble intent with no real-world application¹⁰⁶. The statement upended history by establishing benchmarks for evaluating governments and a rallying cry for human rights activists. It has been used by oppressed peoples all over the world to fight against totalitarian governments, inhuman, degrading and dehumanizing treatment of prisoners, delegitimize racial institutions and speech (even in the US), and demand independence from colonial overlords¹⁰⁷.

Numerous tenets of the statement were incorporated into national constitutions and local laws. In addition to several other international and regional legal documents, courts, and authorities, the statement established the foundation for nine fundamental UN human rights treaties, ranging from the 1966 International Covenant on Civil and Political Rights to the 1989 Convention on the Rights of the Child.

2.1.4 Fundamental Principles of Human Rights

Fundamental rights stand above the ordinary laws of the land and was antecedent to political society itself⁹⁵. It is a primary condition for civilized existence and all civilized societies use it as a standard by which the moral content of any law must be assessed⁹⁶. There is hardly any government today that does not, at least, profess human rights. The acid test of good government is the level of response to the human rights requirements of the citizens. The protection and promotion of human rights have become the fundamental purpose of government. The level of a state's development can be determined by the extent to which its citizens enjoy human rights in all their ramifications. Peace, progress and stability are predicated at both national and international levels with respect to human rights⁹⁷.

Human rights have become a potent instrument of diplomacy to which has been added democracy. Both have become the yardstick for the grant of aid by the developed countries to the developing ones. The concern for human rights does not, however, nullify the principle of non-interference in domestic affairs. Rather, breaches of human rights, especially gross breaches are taken out of domestic jurisdiction⁹⁸.

Even though some human rights organizations have exposed several human rights violations to victims of various human rights violations, we still live in an age where every good and ill are committed in the name of human rights. Both the oppressor and the oppressed claim sanctuary in human rights⁹⁹. Human rights are however associated with the freedom of man and rights which only could be special and above all other rights¹⁰⁰.

Human rights are rights that people are born with and to which everyone has equal entitlement regardless of gender, ethnic origin or beliefs¹⁰⁸. They are an essential principle in the organization of modern society, and the very basis of peaceful cohabitation at the national and international levels, in the community and in the family¹⁰¹. Talking about human rights is not always easy. Understanding how they work in practice can be harder still. There is a lot of information about human rights available from many different sources – from the government and the law courts to the media and voluntary organizations – but such information can often be contradictory, confusing, legalistic or simply not complete enough to give us what we need to make sense of what human rights are and how they work in action¹⁰².

Many international fora have elaborated on the indivisibility and interdependency of human rights. As stated in the 1993 Vienna Declaration and Programme of Action: ‘All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis’²³⁶. The European Union (EU) and its member states have also made it clear on numerous occasions that they subscribe to the view that both categories of human rights are of equal importance, in the sense that an existence worthy of human dignity is only possible if both civil and political rights and economic, social and cultural rights are enjoyed. In their Declaration of 21st July 1986, they affirmed that ‘the promotion of economic, social and cultural rights as well as of civil and political rights is of paramount importance for the full realization of human dignity and for the attainment of the legitimate aspirations of every individual’¹⁰³.

The so-called Limburg Principles on the Implementation of the ICESCR also indicate that a sharp distinction between civil and political rights on the one hand and economic, social and cultural rights on the other is not accurate¹⁰⁴. These principles were drawn up in 1986 by a

group of independent experts, and followed in 1997 by the Maastricht Guidelines on Violations of Economic, Social and Cultural Rights. Together, these documents provide a clear explanation of the nature of the state party obligations under the ICESCR. The same can be said of the 1990 General Comment 3 of the UN Committee on Economic, Social and Cultural Rights on the nature of state parties' obligations in relation to the ICESCR.

Human rights are foreign to no culture and native to all nations; they are universal¹⁰⁵. Human rights are held by all persons equally, universally and forever. Human rights are universal: they are always the same for all human beings everywhere in the world. You do not have human rights because you are a citizen of any country but because you are a member of the human family. This means children have human rights as well as adults. Human rights are universal because they are based on every human being's dignity, irrespective of race, colour, sex, ethnic or social origin, religion, language, nationality, age, sexual orientation, disability or any other distinguishing characteristic. Since they are accepted by all States and peoples, they apply equally and indiscriminately to every person and are the same for everyone everywhere¹⁰⁶.

In the last fifty years the principle of universality has become central to the interpretation of human rights law¹⁰⁷. The recognition and protection of fundamental rights had already to some extent been codified before Second World War, albeit primarily in national law, and especially in national constitutions. It was, however, only after the Second World War that politicians and civil society alike came to realize that national schemes for the protection of human rights did not suffice.

The entry into force of the UN Charter on 24th October 1945 marked the formal recognition of human rights as a universal principle, and compliance with human rights was mentioned in the Preamble and in Articles 55 and 56 as a principle to be upheld by all states¹⁰⁸. In 1948, it

was followed by the adoption of the UDHR, and in 1966 by the ICESCR and the ICCPR and its First Optional Protocol.

The UDHR specifies over thirty rights¹⁰⁹. It regards the protection of these rights as a common standard to be ultimately achieved. Several governments and scholars maintain that a number of human rights in the UDHR have the character of *jus cogens* (a peremptory norm, which states are not allowed to derogate from; a rule which is considered universally valid)¹⁰⁹. Its universality is underlined by the fact that in 1948 it was formulated and agreed upon not only by Western states, but also by representatives from countries such as China, the Soviet Union, Chile, and Lebanon. It was moreover adopted without any objection: no votes against and only eight abstentions.

As noted above, during the 1950s and 1960s, more and more countries became independent and joined the UN. In doing so they endorsed the principles and ideals laid down in the UDHR. This commitment was underlined in the Proclamation of Teheran of 1968. The Proclamation was adopted by 85 states, of which more than 60 countries did not belong to the Western Group¹¹⁰. The Proclamation stated: 'The Universal Declaration of Human Rights states a common understanding of the peoples of the world concerning the inalienable and inviolable rights of all members of the human family and constitutes an obligation for the members of the international community'¹¹⁰.

The Vienna Declaration and Programme of Action, the results of the 1993 Second World Conference on Human Rights (which was attended by 171 states), once more endorsed and underlined the importance of the UDHR¹¹¹. It stated that the UDHR 'constitutes a common standard of achievement for all peoples and all nations', using the language of the Declaration itself¹¹¹.

The universality of human rights has been, and still is, a subject of intense debate, including in anticipation of, during and after the 1993 World Conference on Human Rights¹¹¹. The Vienna document itself states that the universal nature of human rights is ‘beyond question’¹¹¹. It also says: ‘all human rights are universal’; adding, however, that ‘the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind’¹¹¹. This national ‘margin of appreciation’, as it is called, does not, however, according to the Vienna document, relieve states of their duty to promote and protect all human rights, ‘regardless of their political, economic and cultural systems’¹¹¹.

Also, relevant when considering the universality of human rights is the increasing number of ratifications of international human rights conventions¹¹². In March 2010, the ICESCR had been ratified by 160 states and the ICCPR by 165 states¹¹². Several other UN conventions, as well as conventions of the International Labour Organization (ILO), have also been ratified by many states; indeed, in some cases by nearly all states¹¹². Most strikingly, the Convention on the Rights of the Child (CRC), adopted in 1989, has been ratified by 193 states as at March 2010¹¹³.

Human rights are inalienable: you cannot lose these rights any more than you can cease to be a human being¹¹⁴. Human rights are inalienable insofar as no person may be divested of his or her human rights save under clearly defined legal circumstances¹¹⁵. A person’s right to liberty may be restricted if he or she is found guilty of a crime by a court of law¹¹⁶.

Human rights are indivisible: no-one can take away a right because it is ‘less important’ or ‘non-essential’¹¹⁷. Human rights are interdependent: together human rights form a complementary framework¹¹⁷. For instance, your ability to participate in local decision making is directly affected by your right to express yourself, to associate with others, to get

an education and even to obtain the necessities of life¹¹⁸. Human rights are indivisible and interdependent¹¹⁹. Because each human right entails and depends on other human rights, violating one such right affects the exercise of other human rights¹²⁰. The right to life presupposes respect for the right to food and to an adequate standard of living¹²⁰. The right to be elected to public office implies access to basic education¹²¹. The defence of economic and social rights presupposes freedom of expression, of assembly and of association¹²². Accordingly, civil and political rights and economic, social and cultural rights are equally essential to the dignity and integrity of every person¹²³. Respect for all rights is a prerequisite to sustainable peace and development¹²⁴.

Some of the worst human rights violations have resulted from discrimination against specific groups¹²⁵. The right to equality and the principle of non-discrimination, explicitly set out in international and regional human rights treaties, are therefore central to human rights¹²⁶. The right to equality obliges States to ensure observance of human rights without discrimination on any grounds¹²⁷. This includes sex, race, colour, language, religion, political or other opinion, national, ethnic or social origin, membership of a national minority, property, birth, age, disability, sexual orientation and social or other status¹²⁸. More often than not, the discriminatory criteria used by States and non-State actors to prevent specific groups from fully enjoying all or some human rights are based on such characteristics¹²⁹.

Human rights reflect basic human needs¹³⁰. They establish basic standards without which people cannot live in dignity¹³¹. To violate someone's human rights is to treat that person as though he or she were not a human being. To advocate human rights is to demand that the human dignity of all people be respected¹³². In claiming these human rights, everyone also accepts responsibilities: to respect the rights of others and to protect and support people whose rights are abused or denied. Meeting these responsibilities means claiming solidarity with all other human beings¹³³. All people everywhere have the same human rights which no

one can take away¹³⁴. This is the basis of freedom, justice and peace in the world¹³⁵. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis¹³⁶. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms¹³⁷.

The principles of equality, universality and non-discrimination do not preclude recognizing that specific groups whose members need particular protection should enjoy special rights¹³⁸. This accounts for the numerous human rights instruments specifically designed to protect the rights of groups with special needs, such as women, aliens, stateless persons, refugees, displaced persons, minorities, indigenous peoples, children, persons with disabilities, migrant workers and detainees¹³⁹. Group-specific human rights, however, are compatible with the principle of universality only if they are justified by special (objective) reasons, such as the group's vulnerability or a history of discrimination against it¹⁴⁰. Otherwise, special rights could amount to privileges equivalent to discrimination against other groups¹⁴¹.

2.1.5 Generations of Human Rights

Like all normative traditions, the human rights tradition is a product of its time¹⁴². Therefore, to apprehend and comprehend better the debate over the content and legitimate scope of human rights and the priorities claimed among them, it is useful to note the dominant schools of thought and action that have informed the human rights tradition since the beginning of modern times. The concept of human rights is not static but dynamic¹⁴². There are so far three marked stages in the development of human rights. These stages have been called "generations" (see Table 2.1 below). Correspondingly, we have three generations of human

rights¹⁴³. This classification was advanced by the French Jurist, Karel Vasak. He suggested three generations of rights based on the French trichotomy between Liberty, Equality, and Fraternity. Political Scientist, David Forsythe, referred to the trichotomy respectively as Negative Rights, Positive Rights, and Synthetic Rights.

However, the French Revolution (1789) lit the torch of freedom and generated an irresistible momentum with its slogan, ‘Liberty, Equality and Fraternity’¹⁴⁴. Its remarkable contribution towards the development of human rights was realized by future generations. It also set an order of priority in case of rights consistent with the requirements of human kind. This scale of priority was universalized under the intense and widespread support of the United Nations as international standards to be followed by member states. The very first part of the French Revolutionary slogan, that is, ‘Liberty’ was considered crucial in the understanding of human rights and their proper growth. Accordingly, civil and political rights are now universally recognized as first-generation rights, reflected in the International Covenant on Civil and Political Rights (ICCPR), 1966.

Table 2.1 Human Rights Generations

Type of Rights	First Recognized
Constitutional Rights	13 th – 18 th Century
Civil Liberties	18 th Century
Political Rights	19 th Century
Minority Rights	19 th Century
Women’s Rights	19 th Century
Rights of Persons in Wartime	19 th Century

Economic, Social, and Cultural Rights	20 th Century
Rights of Self-Determination	20 th Century
Group Rights	20 th Century
Right to Peace	20 th Century
Right to Development	20 th Century
Right to a Healthy Environment	20 th Century
Gay Rights	20 th Century
Responsibility to Protect from Genocide	21 st Century

Source: Researcher's Construct, 2022

Another content of the French Revolution's slogan was 'Equality', which symbolizes all types of economic, social and cultural rights. These rights are essential for the overall development of human beings. These are second-generation rights, adopted by the UN General Assembly in 1966 as International Covenant on Economic, Social and Cultural Rights (ICESCR). As innumerable groups constitute the human kind, group or collective rights generate fraternity and brotherhood among varieties of human population¹⁴⁵. So, the third part of the French Revolution slogan, that is, 'Fraternity', reflects the third-generation rights. The Third World or the developing states are asking for these rights from their developed counterparts. In the context of international relations, these three generations of rights are being taken up by diplomats and foreign policy makers for debate and discussion in the international fora.

Indeed, thinking about the content of human rights has developed significantly over time, enabling the three different types, or 'generations' of human rights to be identified. This is, of course, a simplified expression of an extremely complex historical record, and it is not intended to suggest a linear process in which each generation gives birth to the next and then dies away¹⁴⁶. Nor is it to imply that one generation is more important than another, or that the

generations (and their categories of rights) are ultimately separable. The three generations of human rights are understood to be cumulative, overlapping, and, it is important to emphasize, interdependent and interpenetrating¹⁴⁷. These are: Civil and political rights (first-generation human rights); Economic, social and cultural rights (second-generation human rights); and Solidarity rights or Group rights (third-generation human rights).

The earliest manifestation of natural or human rights was civil and political rights. They deal primarily with liberty and political engagement, and are sometimes referred to as "blue" rights. Their essence and character are fundamentally civil and political (protect individuals from excesses of the state). They were advanced primarily through the English Revolution of the seventeenth century and the French and American Revolutions of the eighteenth century¹⁴⁸. Civil and political rights were pioneered by the American Bill of Rights and the French Declaration of the Rights of Man and of the Citizen in the eighteenth century, although some of these rights and the right to due process date back to the Magna Carta of 1215 and the English Bill of Rights of 1689¹⁴⁹.

Belonging to the first-generation (civil and political rights), thus, are rights such as those set forth in Articles 2-21 of the Universal Declaration of Human Rights (UDHR) of 1948. Also belonging to this category are all the rights guaranteed under Chapter IV of the 1999 Constitution of Nigeria. The core civil and political rights are the rights to life, liberty and property, although they have been expanded to include, for example, freedom from discrimination, freedom from slavery, freedom from torture or other inhuman forms of punishment, freedom from arbitrary arrest, and so on. Civil and political rights are often typically seen as negative rights, or 'forbearance' rights: they can be enjoyed only if constraints are placed on others. Negative rights therefore define a private sphere within which the individual can enjoy independence from the encroachments of other individuals and, more particularly, from the interference of the state¹⁵⁰. Negative human rights thus

correspond closely to classic civil liberties, such as the rights to freedom of speech, freedom of the press, freedom of religion and conscience, freedom of movement, and freedom of association.

However, it would be misleading to suggest that all civil and political rights are ‘negative’ in this respect. The right to non-discrimination, for instance, can only be upheld through legislation and a framework of enforcement on the part of government, while the right to a free and fair trial requires the existence of a police force and a court system. Civil liberties are therefore often distinguished from civil rights, the latter involving positive action on the part of government rather than simply forbearance. The dual character of civil and political rights is evident in the complex relationship between human rights and democracy¹⁵¹.

What is constant in the first-generation conception is the notion of liberty, a shield that safeguards the individual – alone and in association with others – against the abuse of political authority. Featured in the constitution of almost every country in the world and dominating the majority of international declarations and covenants adopted since World War II, this essentially Western liberal conception of human rights is sometimes romanticized as a triumph of the individualism of Thomas Hobbes and John Locke over Hegel’s glorification of the state¹⁵².

Related to equality and gained recognition by governments the world over after World War II, the second-generation human rights are fundamentally economic, social and cultural in nature, character and finality (they guarantee different members of the political community equal conditions and treatment). The struggle for second-generation human rights (economic, social and cultural rights) gained greater prominence during the twentieth century, especially in the post-1945 period. By contrast with traditional ‘liberal’ rights, these so-called ‘second-generation’ rights often drew on socialist assumptions about the tendencies of capitalist development towards social injustice and unequal class power¹⁵³. Socio-economic rights –

including the right to social security, the right to work, the right to paid holidays, the right to healthcare, the right to education and so on – were designed to counter-balance inequalities of market capitalism, protecting the working classes and colonial peoples from exploitation¹⁵⁴. These rights are positive rights, in that they imply a significant level of state intervention, usually in the form of welfare provision (welfare rights), the regulation of the labour market (workers' rights) and economic management generally.

The second-generation human rights are sometimes referred to as “red” rights. They impose upon the government the duty to respect and promote and fulfil them, but this depends on the availability of resources – the duty is imposed on the state because it controls its own resources. Illustrative are some of the rights set forth in Articles 22-27 of the Universal Declaration of Human Rights (UDHR) of 1948 and Chapter II of the 1999 Constitution of Nigeria (Fundamental Objectives and Directive Principles of State Policy). The African Charter on Human and Peoples' Rights also guarantees some second-generation human rights. And the International Covenant on Economics, Social and Cultural Rights is essentially concerned with this category of rights. Second-generation human rights are, fundamentally, claims to social equality.

However, deep controversy has surrounded economic and social rights. Supporters have argued that economic and social rights are, in a sense, the most basic of human rights, as their maintenance constitutes a precondition for the enjoyment of all other rights. In this view, human dignity is more severely threatened by poverty, disease, ignorance and other forms of social disadvantage than it is by the denial of ‘liberal’ rights¹⁵⁵. Nevertheless, economic and social rights have often been thought of, especially in the USA and other western states, as at best second-class human rights, if not as entirely bogus moral claims¹⁵⁶. Critics have alleged, first, that the maintenance of such rights requires material resources and political capabilities that many states simply do not possess¹⁵⁷. Economic and social rights can therefore only be

viewed as aspirations rather than entitlements. Second, it is unclear who or what is responsible for upholding economic and social rights. If, through a lack of resources or capabilities, a national government cannot deliver economic and social rights, do these obligations then fall on other states (if so, which ones?), international organizations or, somehow, on the peoples of the world? Third, from the perspective of economic liberalism, economic and social rights may be counter-productive, in that higher level of (albeit well-intentioned) state intervention may simply undermine the vigour and efficiency of capitalist economies¹⁵⁸.

Since 1945 a further set of rights have emerged in the form of solidarity rights, or so-called 'third-generation' rights. These encompass a broad spectrum of rights whose main characteristic is that they are attached to social groups or whole societies, as opposed to separate individuals¹⁵⁹. They are sometimes, therefore, seen as collective rights or people's rights. The third-generation human rights, also known as "green" rights, are those rights that go beyond the mere civil and social rights, as vividly enunciated in many fundamental and progressive documents of international law, including the 1972 Stockholm Declaration of the United Nations Conference on the Human Environment, the 1992 Rio Declaration on Environment and Development, and other pieces of generally aspirational "soft law"¹⁶⁰.

The third-generation human rights, as foreshadowed in Article 28 of the Universal Declaration of Human Rights (UDHR) of 1948, appear to encompass six claimed rights so far¹⁶¹. The rights to political, economic, social, and cultural self-determination; the right to economic and social development; and the right to participate in and benefit from "the common heritage of mankind"¹⁶² are three of the claimed rights that reflect the emergence of nationalism in the developing world in the 1960s and 1970s and the "revolution of rising expectations"¹⁶³. The three remaining claimed solidarity or group rights – the right to peace,

the right to a clean and healthy environment, and the right to humanitarian disaster relief – suggest the impotence or inefficiency of the state in certain critical respects¹⁶⁴.

Whereas ‘first-generation’ rights were shaped by liberalism and ‘second-generation’ rights were shaped by socialism, ‘third-generation’ rights have been formed by the concerns of the global south¹⁶⁵. The right to self-determination was thus linked to the post-1945 process of decolonization and the rise of national liberation movements¹⁶⁶. Other such rights include the right to development, the right to peace, the right to environmental protection and multicultural rights¹⁶⁷. Solidarity rights have therefore been used to give issues such as development, environmental sustainability and cultural preservation a moral dimension¹⁶⁸. Nevertheless, critics of ‘third-generation’ rights have highlighted their inherent vagueness and, more seriously, questioned whether human rights can actually belong to peoples or groups as opposed to individuals¹⁶⁹. From this perspective, the very idea of human rights is based on a model of individual self-worth, which is in danger of being weakened whenever people are thought of in terms of group membership¹⁷⁰.

2.1.6 Evolution and Development of Human Rights in Nigeria

Human rights are the bedrock principles which underpin all societies where there is rule of law and democracy¹⁷¹. Since the end of World War II, the core importance of human rights has been universally acknowledged¹⁷². Today, against a backdrop of multiple conflicts, humanitarian emergencies and severe violations of international law, it is all the more essential that policy responses be firmly grounded in human rights, and that States comply with the binding obligations they have contracted when ratifying international human rights treaties¹⁷³.

It is elementary knowledge that human rights have become a global subject, with global appeal¹⁷⁴. The fact that human rights have gained remarkable attention, prominence, and

significance in our world of pluralism, diversity, and interdependence stems from their very nature¹⁷⁵. Human rights are rights which all human beings have by virtue of their humanity¹⁷⁶. They provide a common standard of behavior among the international community. To demonstrate the important character of human rights, a learned author insightfully declared that: “the issue of human rights in the recent past, has penetrated the international dialogue, become an active ingredient in interstate relations and has burst the sacred bounds of national sovereignty”¹⁷⁷.

It is for the foregoing reason that virtually all nations of the world, including Nigeria, have subscribed to the major international human rights instruments, such as the Universal Declaration of Human Rights (UDHR) of 1948; the International Covenant on Civil and Political Rights (ICCPR), 1966; the International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966; and other regional human rights instruments. However, it must be remembered - as perceptibly noted by an astute author - that “human rights are more than a collection of formal norms, they are dynamic political, social, economic, juridical, as well as moral, cultural and philosophical conditions which define the intrinsic value of man and his inherent dignity”¹⁷⁸.

The practical implication of this is that international human rights promotion, protection, and enforcement transcend mere formal subscription to their ideals or - more poignantly put - mere domestication. As a renowned scholar and author has noted,

The language of human rights carries great rhetorical force of uncertain practical significance. At the level of rhetoric, human rights have an image which is both morally compelling and attractively uncompromising. But what is necessary is that the highly general statements of human rights which ideally use the language of universality, inalienability and indefeasibility should be transformed into more particular formulations, if the rhetoric of human rights is to have major impact on the resolution of social and economic problems in a country¹⁷⁹.

Indeed, the concept of human rights has become a global issue. The principle that all men and women are created equal has become the foundation of all democratic societies¹⁸⁰. It has been observed that opinions of people based on race, personal belief, or social standing form the structure of prejudice and bigotry¹⁸¹. This has made the attainment of equal rights to remain a constant struggle. The existence, validity and content of human rights continue to be the subject of debate in philosophy and politics. However, human rights are defined in both domestic and international laws. Since the adoption of the Universal Declaration of Human Rights in 1948, human rights have not only acquired global status and importance but have grown tremendously both in conception and content. While the internationalization of human rights was energized and strengthened by a number of developments, the present status of human rights in Nigeria is also not without any historical antecedents¹⁸².

Before the advent of the British colonialists, the present-day Nigeria consisted of different tribes which ruled themselves separately in fragmentary communities without a central political union. These included principalities and ancient kingdoms like Benin Empire, the powerful sultanates of Sokoto, the Emirate systems of Kano and Katsina among others. In the West, the Obas and Chiefs ruled over their kingdoms. In the East, where there was no centralized system of government comparable with what obtained in the West and North, governance was essentially a collective responsibility of the Chiefs and elders. Consequently, reference to human rights in pre-colonial Nigeria refers to the state of human rights in the various socio-political formations which existed in the present-day Nigeria before 1914¹⁸⁰.

The pertinent question to ask is: Did the pre-colonial Nigeria know of a system of human rights? Put differently, is the notion of human rights alien to the traditional societies which made up the present-day Nigeria? To what extent were human rights recognized and protected in that epoch? Some writers, particularly Western writers have doubted the existence of laws in societies which had a level of development comparable to African's. On

this premise, they concluded that the notion of human rights was foreign to traditional African societies. To provide justification for their thesis, it was contended that Africa was a land of paganism, fetishism and ignorance which knew neither the notion of state nor written words, two institutions to which the existence and definition of law have tended to be linked¹⁸¹.

In 1949 for instance, the right of trade unions to strike was denied the miners in the Nigerian coal mine. The exercise of power of political detention of the natives also constituted a significant infraction on the rights of the natives. In certain situations, the checks and balances surrounding the powers of the traditional rulers were destroyed by converting the ruler into a single native authority reinforcing thereby the authoritarian aspect of the powers of the Chiefs. Consequently, the powers of traditional rulers were frequently abused beyond the limits that would ordinarily have been tolerated in the traditional legal order¹⁷⁰. It was equally a common practice by the colonialists to exert forced and cheap labour from the local populace to minimize the cost of colonial administration. Perhaps the most serious infraction on human rights in the colonial period was the denial of the right to self-determination as espoused in the various international instruments on human rights, particularly the Universal Declaration of Human Rights of 1948. The subjugation of people to alien domination and exploitation constituted a very serious denial of human rights. All these denials of human rights were experienced by Nigerians during the colonial period¹⁷⁹.

The dismal record of the colonial masters on human rights promotion and protection is not to be construed to mean that colonialism had no positive impact on human rights. On the contrary, colonialism also had a profound, admirable and positive influence on human rights. Consequently, the advent of colonialism in Nigeria was not a total curse. In terms of contemporary notions of human rights, colonialism produced some positive impact^{180,182}. The British, like the French and the Belgians recognized and provided for the preservation and

application of customary law and institutions in so far as they were not repugnant to natural justice, equity and good conscience. On the basis of this repugnancy rule, many customary practices which were considered objectionable as being inconsistent with civilized standards were abolished. Such customary practices included slave trading and slavery, trial by ordeal, human sacrifices, the custom of killing twins, the *osu* system and witchcraft¹⁷². There is no doubt that by abolishing certain objectionable practices prevalent in African traditional societies – slavery, human sacrifice, etc., - the colonialists have contributed to a progressive development of human rights.

Nigeria's emergence as a state in 1960, legally thrust her into the web of recognized and member states of the United Nations, which had over a decade earlier, adopted a universal framework for observance and protection of human rights as a fundamental precept of statehood. As implicit in the Declaration by the then Prime Minister of Nigeria "...we are committed to the principle upon which the United Nations is founded, there is a tacit acceptance of the Universal Declaration of Human Rights" as an essential corollary in the country's subscription to the ideals of the United Nations, and also essential nature of its statehood¹⁸³.

The promotion and protection of human rights have engaged the attention of the world community, and though Nigeria has subscribed to major international human rights instruments, violations continue to occur with disturbing frequency and regularity in the nation¹⁸⁴. Indeed, the history of human rights in Nigeria predates the advent of colonial rule. Human rights and fundamental freedoms were recognized in the traditional Nigerian societies. The idea of rights was not however conceived in the modern notion. Such values as right to family, kin and clan membership, freedom of thought, speech, belief and association, right to enjoy private property and right to participate in governance of the affairs of the society were jealously guarded.

Concern for human rights dates back to the dawn of time¹⁸⁵. In fact, while the word 'human rights' as a term or work of art is relatively new, the concept of man's inalienable rights predates the political structure that creates the law-making institutions as we know them today. Human Rights have enjoyed tremendous attention and expansion at the global level. To concretize and energize human rights protection at national level, virtually all national constitutions embody human rights either in their preamble or substantive provisions.

Advocates of the various conceptions of human rights are in agreement that the state should guarantee such rights to the individual¹⁸⁶. Therefore, following the American and the French examples most countries now recognize individual rights in their constitutions. Bills of Rights have become parts of the constitutions of practically all European States.

Though in unwritten form, customary law recognized and protected human rights in Nigeria¹⁸⁷. Even before the British, the local communities accepted the protection and recognition of human rights as the guiding principle of inter-personal relationship. But when Nigeria became a colony there have been a lot of modifications of the position of human rights under the customary law of the people. Judicial decisions have frowned at any customary law that violates the human rights of the people¹⁸⁸.

Paradoxically, most nationalists suffered unlawful detentions and also have their rights to freedom of expression, fair hearing, peaceful assembly and association, freedom of thought and conscience and the right to freedom from discrimination violated under the same British rule¹⁸⁹.

It was therefore not surprising that all the constitutions of Nigeria since independence had all the basic tenets of human rights entrenched in them. In Nigeria, human rights are embodied in two separate chapters, encapsulating both the civil and political rights and the economic, social and cultural rights. In Nigerian Constitutions, beginning from the post-independence

constitution, due attention has always been given to the issue of human rights. In the 1960 independence Constitution, 1963 Republican Constitution and 1979 Constitution, provisions were made for human rights protection. Further, in the 1999 Constitution (as Amended) two Chapters, spanning 26 (twenty-six) sections are devoted to human rights subject. The need for constitutional provisions for human rights cannot be over-emphasized because, it is the state, with its various institutions which is primarily responsible for guaranteeing the implementation and enforcement of these rights in respect of its citizens and all those coming under its jurisdiction. The disparities in size, resource endowment, socio-economic development, particularly education, which is generally regarded as the access to, and actual holders of state power, representation in the bureaucracy, armed forces, cabinet, and other government institutions, and the struggles to address them, make control of government institutions a central concern to the constituent groups¹⁹⁰.

As a result, in order to guarantee and safeguard rights, historical imbalances and inequalities between and among various groups in a plural and divided society like Nigeria, having fair and equal opportunities in all sectors of public life is not only a matter of peace and tranquility, but also a "human right." In essence, this insight influenced multi-ethnic countries like Nigeria and Canada, as well as India, to write affirmative action measures into their constitutions. The Constitutions operated in Nigeria prior to independence were designed to achieve specific political objectives of the colonialists without any formal or conscious attempt by the colonial government to safeguard human rights in its entirety. This could not have been otherwise as colonialism was antithetical to human rights protection. Colonialism largely eroded traditional values and denied Nigeria's political and economic rights¹⁹¹.

Although pre-independence Constitutions did not specifically guarantee human rights promotion and protection, it is significant to note that successive pre-independence constitutional conferences dating back to 1953 recognized and advocated the need for the

inclusion of certain fundamental rights in the future constitution¹⁹². Yet, the eventual adoption of a bill of right by Nigeria in its Independence Constitution in 1960 was informed by and predicated on the need to allay the fear of domination of the over 100 ethnic nationalities by the three major tribes.

It is significant to note that, since the introduction of a bill of right in the Independence Constitution in 1960, subsequent Constitutions, starting with the Republican Constitution, 1963 to the 1979 (even up to 1999) Constitution, have not failed to incorporate these rights in their provisions. Hence, in spite of the traumatic experiences of the political crises, including the period of civil war of 1967 to 1970, the rights have remained the same, i.e., they have not been extinguished by any regime be it military or civilian. That does not mean that they have not been assaulted and threatened; the truth is that they have remained in our statute books ever since even if for cosmetic purposes. The entrenchment of human rights provisions in our Constitutions was aimed at creating a society which protects political freedom as well as the social and economic well-being of Nigerians.

A learned author, giving us a clearer insight into the evolution and development of human rights in Nigeria further revealed that: it can be rightly asserted that one of the greatest objectives of the post-independence Nigerian Constitutions is the protection and promotion of human rights¹⁹³. The preamble to the 1999 Constitution unmistakably set the tone by dedicating itself to promote “good government and welfare of all persons on the principles of freedom, equality and justice”¹⁹⁴. Apart from the preamble, chapters two and four of the Constitution extensively deal with human rights issues. While chapter two is captioned, Fundamental Objectives and Directive Principles of State Policy, chapter four is entitled, “Fundamental Rights”. Under the Fundamental Objectives and Directive Principles of State Policy, the second-generation rights, consisting of economic, social and cultural rights are extensively set out in Sections 13 to 21. These rights are predicated on the necessity for the

material well-being of the citizenry with the state playing a pivotal role. These rights which are essentially equalitarian and egalitarian in character are rooted on the belief that the attainment of certain level of social and economic standard is a necessary condition for the enjoyment of the civil and political rights.

In the 1999 Nigeria Constitution, some of the rights generally recognized as fundamental are: Right to life; Right to marry; Right to procreate; Right to raise children free from unnecessary governmental interference; Right to freedom of association; of expression; Right to equality of treatment before the law (fair legal procedures); Right to freedom of thought; Right to religious belief; Right to choose when and where to acquire formal education; Right to pursue happiness; Right to vote; Right to freedom of contract; Right to privacy; Right to interstate travel.

The constitution is a major protection of man's rights in all regions and climates¹⁹⁵. The inventory of citizens' essential rights is usually mentioned in constitutions. The Nigerian Constitution of 1999 guarantees the following civil and political rights: The right to human dignity (Section 24); right to life (Section 33); the right to personal liberty (Section 35); the right to a fair hearing (Section 36); the right to family life (Section 37); the right to freedom of thought, conscience, and religion (Section 38); the right to freedom of expression and of the press (Section 39); the right to peaceful assembly and association (Section 40); the right to freedom of movement (Section 41); the right to freedom from discrimination (Section 42); and the right to buy and own immovable property anywhere in Nigeria (Section 43). Any restrictions on these rights on the basis of race or religion are unacceptable. If they are denied to everyone, it is an issue of substantive due process. If they are denied to some individuals but not others, it is an issue of equal protection.

In terms of international human rights instruments, Nigeria has ratified, among others, the following Conventions:

- i. Convention on Civil and Political Rights (CCPR, 1993) - though not its protocol on individual complaints and abolishing the death penalty
- ii. Convention on Economic, Social and Cultural Rights (CESCR, 1993)
- iii. International Convention on the Elimination of All Forms of Racial Discrimination (CERD, 1969)
- iv. UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1984) and the Optional (optional) Additional Protocol on individual complaints (2004)
- v. The Convention on the Rights of the Child (CRC, 1991), its protocol on children in armed conflict and on the sale of children, child prostitution and child pornography (2000)
- vi. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT, 2001)
- vii. Convention on the Status of Refugees (CSR, 1995)
- viii. African Charter on Human and Peoples' Rights (ACHPR, 1981)⁸⁴

Civil and Political Rights cannot be dissociated from economic, social and cultural rights in today's world in general and Nigeria in particular¹⁹⁶. The satisfaction of economic, social and cultural rights is a guarantee for the enjoyment of civil and political rights¹⁹⁷. The essential elements of the Nigerian Jurist (Adebukola Banjoko) concept of development greatly influenced the report of the Secretary General of the United Nations on the essential elements of that concept which was briefly summarized by a scholar to include the fact that¹⁹⁸:

The realization of the potentials of the human person in harmony with the community should be seen as the central purpose of development. The human person should be regarded as the active subject, not the passive object of development processes.

- i. Development requires the satisfaction of both material and non-material basic needs as a basic priority.
- ii. Respect for human rights and redress of historic discriminations are fundamental to the development process.
- iii. People must be able to participate fully in shaping change in their social and physical environments; they have a basic right to do so.
- iv. The achievement of individual and collective self-reliance must be an integral part of these processes.

The United Nations Commission on Human Rights, after considering the above report, affirmed that the right to development is a human right¹⁹⁹.

The proclamation of Teheran declared that since human rights in 1968 and fundamental freedom is indivisible, the full realization of civil and political rights without the enjoyment of economics, social and cultural rights, is impossible²⁰⁰.

The United Nations General Assembly also affirmed in 1977 that the full realization of Civil and Political Right without the enjoyment of economics, social and cultural rights is impossible. The achievement of the lasting progress in the implementation of human rights is dependent upon sound and effective national and international policies of economic and social development²⁰¹.

The actual measure of sustainable development is the well-being of the individual. An interpretation of human rights that does not accommodate the problems posed by human poverty, want and ignorance must be anemic. The right to life includes the right to live with

human dignity and all that goes along with it, namely; the bare necessities of life, such as adequate nutrition, clothing and shelter over the head and facilities for reading, freely moving about, and mixing with fellow human beings²⁰². It is therefore no surprise that the agencies of the United Nations have utilized every opportunity at their disposal to underscore the indivisibility of the rights²⁰³.

Social opportunities and rights are not inherent in the nature of man and do not constitute some sort of natural attributes. Rights and freedoms of individuals in any state are materially stipulated and depend on the socio-economic, political and other conditions of the development of society, its achievements and progress²⁰⁴.

The concept of national development has now become a major source of insight and inspiration for the reassured developmental perspective. There is a growing global understanding that development must meet the demands of the current generation without jeopardizing future generations' ability to meet their own needs²⁰⁵. A renowned scholar stresses that “the moral test of government is how it treats those who are in the dawn of life, the twilight of life, the aged; and those who are in the shadows of life – the sick, the needy and the handicapped”²⁰⁶.

Good governance would in our circumstances, be directed to poverty alleviation and providing a reasonable living standard for the populace; guaranteeing the security of life and property of the people, the maintenance of law and order and the provision of an accepted level of infrastructural development of the democratic process under the rule of law. For good governance metamorphoses into national development²⁰⁷.

In recent years, there has been an upsurge of international attention on the role of National Human Rights Institutions (NHRIs) in the promotion and protection of human rights. This growing interest is explained by an increased understanding and recognition among states,

international and non-governmental organizations of the important role NHRIs play in promoting and protecting human rights. A National Human Rights Institution is founded on the belief that laws alone are insufficient to protect an individual's rights within a society framework.

The National Human Rights Commission of Nigeria was established in 1995. It monitors human rights in Nigeria, assists victims of human rights violations, and helps in the formulation of the Nigerian Government's policies on human rights. The Commission has been active in investigation and monitoring of numerous Human Rights situations since its founding. The establishment of National Human Rights Institutions is seen as a critical governmental step in the country's quest to become a genuine member of the international community. Knowing this, governments may take this step without a genuine commitment to the cause in order to earn this recognition, then attempt to undo the Institution's efforts. There are several methods for a government to achieve this; one of the most prevalent is for the government to just disregard the Institution's recommendations. This is hazardous not only because it allows human rights violations to go unpunished, but it also contributes to human rights violators' impunity and lack of accountability²⁰⁸.

The following are some of the civil society organizations responsible for the promotion and protection of human rights in Nigeria: Civil Liberties Organization (CLO), Human Rights Lawyer, Project Alert, Shelter Rights Initiative, Institute for Human Rights and Humanitarian Law, Human Rights Monitor, Child Foundation Organization, Community Action for Popular Participation (CAPP), and so on²⁰⁹. Currently, there are approximately 80 registered independent organizations working for human rights in Nigeria, including Amnesty International, the Centre for Democracy and Development, Action Aid and Global Rights Nigeria²¹⁰. Many of those working for human rights are doing so in the broader sense, such as

coverage of individual legal interests, the situation of women, the rehabilitation of prisoners and research in order to develop democratic institutions.

Although Nigeria is a signatory to many international human rights instruments and has laudable and inspiring constitutional provisions for their protection, there are varying degrees of human rights violations in the nation, and governance is characterized by acute disregard for, and sadistic undermining of, these basic rights and fundamental freedoms²¹¹. Indeed, today, as in the inglorious days of military rule, frequent cases of extra-judicial killings, unjustifiable torture of detainees by security agents, unbridled curtailment of freedom of the press, and objectionable discrimination against women, are still witnessed. Also, politically motivated arrests and detentions have continued unabated, and lengthy pre-trial detentions of awaiting-trial inmates have continued with impunity.

There are multifarious and multi-dimensional impediments to the full realization of human rights in Nigeria. Academia, political scientists, legal experts, sociologists and others have opined that the impediments to human rights promotion and protection in Nigeria can be classified as constitutional, social, and political, among others²¹². Many constitutional provisions on human rights, rather than energize and galvanize human rights goals, obviously limit and undermine them. For instance, there are numerous derogation clauses which are not only too wide but ill-defined and nebulous. This constitutes a formidable weakness which can gravely undermine human rights promotion. Similarly, the socio-political environment in Nigeria is not sufficiently clement or conducive to meaningful human rights regime. Often, government exhibits regrettable autocratic tendencies and erects a culture of impunity by regular disobedience to court orders. The result is that those who have the material means to seek legal redress are often left with no remedy.

Section 12 of the 1999 Constitution of Nigeria concerns treaties and their implementation. Since international human rights instruments are, essentially, multilateral treaties, a careful examination of the provisions of Section 12 becomes not only relevant but imperative. The Section provides that:

- i. No treaty between the Federation and any other country shall have force of law except to the extent to which any such treaty has been enacted into law by the National Assembly.
- ii. The National Assembly may make laws for the Federation or any part thereof with respect to matters not included in the Exclusive Legislative List for the purpose of implementing a treaty.

What therefore is the implication of the foregoing in light of the well-known principle of international law of treaties that a state cannot be bound by any agreement to which it has not given its consent - either by signing, ratification, accession or any other means of declaration of intent to be bound?²¹³ Besides, most treaties are not self-executing and as such, parties to them are usually enjoined to institute municipal measures to guarantee the application of such treaties within their domestic systems²¹⁴.

The implication of the provisions of Section 12 of the 1999 Constitution is simply that human rights treaties entered into by Nigeria will not become binding until the same have been passed into law by the National Assembly. In *General Sani Abacha v. Gain Fawehinmi*,²¹⁵ the Supreme Court held that by Section 12(1) of the 1979 Constitution (the *ipissimaverbis* of Section 12(1) of the 1999 Constitution), “an international treaty entered into by the government of Nigeria does not become *ipso facto* binding until enacted into law by the National Assembly and before its enactment, an international treaty has no force of law as to make its provisions actionable in Nigerian law courts”²¹⁶. Further, the court unanimously held that unincorporated treaties cannot change any aspect of Nigerian law even though Nigeria is

a party to those treaties but that they may however indirectly affect the rightful expectation by the citizen that governmental acts affecting them would observe the terms of the unincorporated treaties²¹⁷.

The practical significance of the provisions of Section 12 of the 1999 Constitution in the context of human rights promotion and protection, therefore, is that international human rights treaties are not *ipso facto* applicable and enforceable in Nigeria unless they are domesticated as in the case of the African Charter on Human and Peoples' Rights²¹⁸. Accordingly, the effectiveness of ratified human rights treaties is predicated on their being domesticated. This is so because the provision of the constitution is supreme. The Supreme Court unequivocally made the foregoing point as follows:

Constitution is the supreme law of the land; it is the grundnorm. Its supremacy has never been called to question in ordinary circumstance. Thus, any treaty enacted into law in Nigeria by virtue of Section 12(1) of the 1979 Constitution (now Section 12(1) 1999 Constitution) is circumscribed in its operational scope and extent as may be prescribed by the legislature²¹⁹.

International agreements — particularly those relating to human rights — employ two approaches, namely the 'treaty' method and the 'non-treaty' method. Whereas the treaty method creates legally binding obligations on state parties, the non-treaty method establishes non-legal commitments to guide signatory states²²⁰. Nigeria's international obligations, primarily those concerning human rights, are treaty-based. For instance, the National Assembly in March, 1983 incorporated *holus bolus*, the text of the African Charter on Human and Peoples' Rights, into the corpus of domestic legislation. The wholesale incorporation of the Charter raises certain fundamental issues which appertain to any domesticated human rights treaty. For instance, the 1999 Constitution draws a distinction between justiceable and non-justiceable human rights²²¹. The Charter, on the other hand, makes no distinction between economic, social, and cultural rights, on the one hand and civil and political rights on the other. One important question which arises therefore is the implication of the

wholesale domestication. Again, in the event of conflict between the Nigerian Constitution, Nigerian statutes, and the Charter, as incorporated, which one prevails? This last question raises the issue of primacy between international human rights norms and domestic legislation.

On the relationship between international human rights instruments and domestic law—which includes the Constitution - two principal schools of thought have emerged, viz. monism and dualism. In addition to these dominant theories, a lesser theory that has also been propounded is the harmonization theory²²². Monism asserts that international law and municipal law form part of a universal legal order serving the needs of the human community one way or another. By this theory, any international treaty, including those concerned with human rights, ratified or assented to by a state is directly enforceable within the municipal system. On the other hand, dualism holds that international law and municipal law are two distinct legal orders²²³.

In Nigeria, the dualist or indirect system applies by virtue of the provision of Section 12 of the 1999 Constitution. It is for this reason that the Supreme Court unequivocally held that no treaty applies unless it is ratified. Further, the court held that the Constitution, by virtue of its supremacy, has primacy over international law in the event of conflict between the two²²³. In the words of the court, any treaty enacted into law in Nigeria by virtue of Section 12(1) of the 1999 Constitution, is circumscribed in its operational scope and extent as may be prescribed by the legislature²²³.

As relating to the conflict between international law and other national law, the Supreme Court unfortunately did not make an unequivocal pronouncement. However, the court noted that in incorporating African Charter, this country (Nigeria) provided that the treaty shall rank

at *par* with other ordinary municipal laws²²⁴. On the other hand, an acclaimed legal scholar and author held that:

[The African Charter on Human and Peoples' Rights (Notification and Enforcement Act, Cap 10 Laws of the Federation of Nigeria, 1990] is a statute with international flavor. Therefore, if there is a conflict between it and another statute, its provisions will prevail over those of that other status for the reason that it is presumed that the legislature does not intend to breach an international obligation. Thus, it possesses a greater vigor and strength than any other domestic statute²²⁵.

The view that international instruments, including human rights instruments, should take precedence over domestic legislation, it is submitted is a better and preferred view. The subscription of Nigeria to those norms by ratification of the treaties means that the Nigerian governments and their judicial agencies are not legally permitted to derogate from those norms. Accordingly, international human rights norms should be interpreted and enforced in such a manner as to confer primacy on international human rights instruments over domestic Legislation²²⁶.

A meticulous and painstaking analysis of the various international human rights instruments reveals that there are many ill-defined instances of permissible derogations inherent in them. In other words, many of the human rights guaranteed in international human rights instruments are not sacrosanct or granted in absolute terms. Rather, the various instruments create instances where it is legitimate and legally sustainable for the rights to be violated. Although virtually all the rights granted by the Universal Declaration of Human Rights, 1948 are not qualified, the same thing cannot be said of the two Covenants which elaborated on the provisions of the Declaration¹¹¹. For instance, Article 4 of the International Covenant on Civil and Political Rights recognizes and provides for permissible derogations in the following terms¹¹¹. In time of public emergency which threatens the life of the nation, and the existence of which is officially proclaimed, the state parties may take measures derogating from their obligations under the present covenant¹¹¹. Similarly, Article 4 of the International Covenant

on Economic, Social and Cultural Right allows restrictions and limitations on the rights it guarantees. The Article provides that:

The states parties to the present covenant recognize that, in the enjoyment of those rights provided by the State in conformity with the present Covenant, the State may subject such rights only to limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society²²⁷.

The African Charter also contains derogation clauses. For instance, Article 6 provides *inter alia* that “no one may be deprived of his freedom except for reasons and conditions previously laid down by law...” while Article 11, in limiting the right to assemble freely, permits “necessary restrictions provided for by law”²²⁸.

A formidable impediment to optimal enjoyment, protection, and promotion of human rights in Nigeria is located in the various constitutional limitations and qualifications imposed on these rights. Section 45(1) of the 1999 Constitution, like its predecessor the 1979 Constitution, provides a veritable foundation upon which any law invalidating fundamental rights may be justified²²⁹. The Section provides, *inter-alia* that:

Nothing in Sections 37, 38, 39, 40 and 41 of [this] constitution shall invalidate any law that is reasonably justifiable in a democratic society: (a) in the interest of defence, public safety, public order, public morality or public health; or (b) for the purpose of protecting the rights and freedom of other persons²²⁹.

By the foregoing provision, the right to private and family life, freedom of thought, conscience and religion, freedom of expression and the press, right to peaceful assembly and association and right to freedom of movement may be circumscribed or limited. Also, other human rights constitutionally guaranteed are not sacrosanct or absolute but are expressly and specifically limited. Admittedly, there may be no absolute right without qualifications, but the constitutional provisions limiting the rights guaranteed are somewhat imprecise, indeed nebulous, and as such, constitute a real drawback in the effort to promote human rights²³⁰. For instance, what law is “reasonably justifiable in a democratic society” does not enjoy any

definition and neither is it capable of any precise articulation²³¹. This undoubtedly poses a very grave danger to optimal realization of human rights.

To demonstrate the amplitude and plenitude of the dangers posed by nebulous constitutional derogations, reference may be made to the provision of Section 33(1) of the 1999 Constitution which guarantees the right to life. The Section permits derogation from this right, in execution of a sentence of a court with respect to a criminal offense, and goes on to provide that:

a person shall not be regarded as having been deprived of his life ...if he dies as a result of the use, to such extent and in such circumstances as are permitted by law, of such force as is reasonably necessary - (a) for the defense of any person from unlawful violence or for the defense of property; (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained; or (c) for the purpose of suppressing a riot, insurrection or mutiny²³¹.

With the characteristic overzealousness of Nigerian security agents - especially the police, many of whom are ill-trained and ill-motivated - this provision is often abused²³². This derogation explains the worrisome cases of extra-judicial killings which have been witnessed in Nigeria, and is particularly disturbing because of its wide amplitude²³³. For instance, death resulting from the use of force is permitted in order to effect lawful arrest or to prevent escape from lawful custody, irrespective of the nature or gravity of the offense for which the arrest is to be made or for which the person was incarcerated. With this type of provision, the police can be said to have been unwittingly licensed to kill²³⁴.

Nigeria, with its long history of military rule, has witnessed monumental infractions of human rights²³⁵. There are various dimensions of military rule which are antithetical to the protection and promotion of human rights. A scholar has incisively and elaborately identified these dimensions which are: exclusion of courts' jurisdiction, lack of provisions for appeal in military decrees and edicts, use of Special Military Tribunals to try cases, and detention without trial²³⁶. Other ways identified by the learned author in which military rule has

negatively impacted human rights are: the passing of retrospective penal legislation, placement of the burden of proof in criminal cases on the accused, and executive lawlessness and disobedience of lawful orders of the court²³⁶.

Exclusion of courts' jurisdiction by successive military administrations constituted a formidable problem to meaningful enjoyment of human rights in Nigeria during the military era. Military governments characteristically promulgated decrees which ousted the jurisdiction of the court. For instance, The Federal Military Government (Supremacy and Enforcement Powers) Decree 51 provided that:

No civil proceedings shall be or be instituted in any court on account of or in respect of any act, matter or thing done or purported to be done under or pursuant to any Decree or Edict and if such proceedings are instituted before or on or later than the commencement of this Decree, the proceedings shall abate or be discharged and made void²³⁷.

Specifically dealing with the human rights constitutionally guaranteed, the Decree provided in clear and unequivocal language that:

the question whether any provision of Chapter IV of the Constitution has been or is being or would be contravened by anything done or proposed to be done in pursuance of any Decree or an Edict shall not be inquired into by any court of law and accordingly, no provisions of the constitution shall apply in respect of any such question²³⁸.

By this ouster clause, the courts are precluded from inquiring into the legality or otherwise of any power exercised pursuant thereto, even if an infraction of the human rights of the citizen has occurred. Provisions such as the foregoing gravely reduced the "ambit of human rights to vanishing point"²³⁸.

Ouster clauses in decrees and edicts have effectively circumscribed access to court by aggrieved persons. In limited cases where right of access existed and the judiciary was willing to demonstrate judicial activism, enjoyment, protection, and promotion of human rights were further hampered by incidences of disobedience to court orders²³⁹. Undoubtedly,

it is one thing for a court to grant a remedy sought by an individual, but quite another for the successful party to reap the fruits of his judgment. This is because the court cannot enforce its own order as it does not have the necessary machinery to do so²⁴⁰. Consequently, apart from undermining the authority and integrity of the court, disobedience to court orders is a grave assault on human rights promotion and protection. The frustration of the judiciary on account of disobedience of court orders was beautifully captured by a scholar when he lamented that:

During World War 11 Lord Atkin was still able to say, “In this country amid the clash of arms, the laws are not silent. They be changed but they speak the same language in war as in peace...Judges are no respecters of persons and stand between the subject and ...any attempted encroachment on his liberty by the Executive alert to see that any coercive action is justified in law.” I can safely say in Nigeria (that) even under a military government, the law is no respecter of persons, principalities, governments or powers and the courts stand between the citizens and the government alert to see that the state or government is bound by the law and respects the law²⁴¹.

The use of Special Military Tribunals also gravely impacted the promotion and protection of human rights during military rule²⁴². Although complete independence of the judiciary in democratic dispensation may be debatable, the courts are created in such a manner as to ensure a reasonable measure of independence and impartiality of judges so that proceedings are free from bias and extraneous considerations. This is not so of military tribunals which are characteristically composed of soldiers with little or no knowledge of law and no regard for human rights, due process, or judicial precedent. What is more, cases are heard and determined in camera, with the decisions hardly open to judicial review or appeal²⁴³. Thus, the limitations suffered by human rights in the military era are as obvious as they are enormous. A particularly worrisome and monstrous curtailment of human rights during military regimes is located in the consistent use of retroactive legislation²⁴³. During military regimes, many retroactive decrees with penal implications were promulgated. A notable example was the State Security (Detention of Persons) Decree, from 1984 which empowered

the Chief of Staff, Supreme Headquarters to detain persons who have contributed to the economic adversity of the nation²⁴⁴.

Although Nigeria is presently under democratic governance, the poor attitude and behaviour of the current leaders in the areas of human rights are influenced by the reprehensible attitude of the military rulers demonstrated above²⁴⁴.

One of the enduring and indeed imperishable attributes of the common law is the notion of judicial independence²⁴⁵. So important is this notion that it has become entrenched not only in the English judicial system, but in most judicial systems across the globe²⁴⁶. The term judicial independence, otherwise referred to as the independence of the judiciary, does not lend itself to a generally accepted definition. Consequently, an examination of some attempts which have been made to define it will suffice for the present purpose.

A scholar of International Law and Jurisprudence stresses that

Judicial independence postulates that no judicial officer should directly or indirectly, however remote be put to pressure by any person whatsoever, be it government, corporate body or an individual to decide any case in a particular way. He should be free to make binding orders which must be respected by the legislature, the executive and the citizens, whatever their status²⁴⁷.

From the above premise, it can be safely concluded that judicial independence is not yet a reality but a mere aspiration in Nigeria today. The appointment and removal of judges are not insulated or isolated from politics, ethnicity favoritism, and other primordial considerations. Lamenting on the constraint against judicial independence in Nigeria, a scholar insightfully declared that there were instances in the past where appointing bodies by sheer acts of favoritism and nepotism overturned the Advisory Judicial Committee (AJC) list and planted their own by way of replacement²⁴⁸. Other scholars have also categorically noted that the appointment of judges cannot through the institutional mechanism of National Judicial Council (NJC) be insulated from political consideration and control²⁴⁹.

Apart from the problem of appointment and removal, the judiciary is faced with other formidable problems which inevitably compromise its independence and impartiality. The Nigerian Judiciary lacks financial autonomy in the real sense of the word, even though under the present constitutional dispensation, a measure of financial autonomy is sought to be enthroned²⁵⁰. Besides, the remuneration of judicial officers is not only inadequate but laughable. The implication of this is that judicial officers are exposed to avoidable temptations of being corrupt such that their judgments are not the result of legal rule, forensic argument of counsel, precedent, and cold facts of the case, but are rather dictated by extraneous considerations. The plight of many judges is worsened by environmental challenges of absence of social security and bloated extended family²⁵¹.

From the above, the challenge posed by the absence of true judicial independence is formidable. Similarly, its implications for human rights promotion and protection are no less daunting. Without doubt, accessibility to court by litigants is one thing, while the impartiality of the judge is another. Respect and obedience to the judgment and orders of the court is yet another important consideration. It is a notorious fact that judgments and orders of courts are not self-executing and the judiciary does not have its own body or institution charged with the responsibility of enforcing its judgments²⁵². The implication of this fact is that the judiciary inevitably depends on the executive for the enforcement of its judgments. The executive branch, without doubt, is the greatest violator of human rights²⁵². It is the major “predator” from which judicial protection is often sought²⁵³. This being the case, there is little guarantee that when an order is made against the executive branch, the same will be treated as sacrosanct. On the contrary, the unfortunate and regrettable experience has been regular disobedience of the executive to lawful and subsisting court orders²⁵³. Often, government chooses the orders to obey. It obeys those it is comfortable with and disobeys those which are in conflict with its interest, ignoring the consequences to the individuals whose rights have

been violated. This is true both under military rule as well as democratic dispensation. For instance, the Federal Government refused to obey the Supreme Court judgment which declared illegal the withholding of revenue to the Lagos state local government²⁵⁴. The inevitable question therefore is: what is the value of a judgment and order which is disobeyed? Disobedience to court orders undoubtedly undermines the authority, dignity, and integrity of the court and can promote anarchy. But much more, it constitutes a remarkable challenge to the development and realization of human rights²⁵⁵.

Without doubt, the impact of the political system and of underdevelopment—economic, social, political, and cultural - has a profound influence on the promotion and protection of human rights²⁵⁶. Nigeria, like most African countries, suffers convoluted political crisis and remarkable underdevelopment. The manifestations of these twin problems can be seen in the high level of illiteracy and poverty, the virtual collapse of social infrastructure, political instability, and constant military intervention.

A notable scholar of Politics and International Relations identified some of the dimensions of our political system and underdevelopment which have negative impacts on human rights promotion and protection in Africa: the scarcity of those material means needed for the advancement and preservation of human rights, the insecurity occasioned by political instability, the long years of military rule with its characteristic authoritarianism and desecration of human rights, the pretentious virtue of Western democracies, conflicting cultural and institutional patterns, as well as the low level of consciousness of a majority of African peoples²⁵⁷. Other indices of underdevelopment include lack of basic infrastructure, unemployment, illiteracy, and poverty.

Nigeria is buffeted in grave proportion by the above dimensions of underdevelopment. Many Nigerians live in want, abject poverty and penury, and are devastated by preventable diseases.

Many wallows in seemingly irredeemable ignorance. Commenting on underdevelopment of Nigeria and its impact on human rights, a renowned political economist observed that “freedom of speech and freedom of the press do not mean much for a largely illiterate rural community completely absorbed in the daily rigors of the struggle for survival”²⁵⁸. Lending his opinion on this problem, a legal pundit lamented that:

The practical actualization of most of the fundamental rights cannot be achieved in a country like ours where millions are living below starvation level... In the circumstances of this nature, fundamental rights provisions enshrined in the constitution are nothing but meaningless jargon to all those of our people living below or just at starvation level²⁵⁹.

A scholar, in recognizing the problem which the condition of our underdevelopment poses to the realization of human rights, noted that:

One of the best tests of the efficacy of the fundamental rights provisions of our constitution should ...be whether the rights enshrined therein are accorded to the poor, the unemployed, the weak, the oppressed and the defenseless. In theory, our Constitution in its preamble talks nobly of “promoting the good government and welfare of all persons in our country on the principles of freedom, equality and justice” ...But in actual practice one sees that it is the powerful, the rich and the dominant class that seem to have all the rights, while the only right left to the poor, the weak and the down-trodden seems to be their rights to suffer in silence, to be patient and wait for their reward in heaven (if they are believers)²⁶⁰.

Indeed, it is our faulty political system and underdevelopment which is partly responsible for the grave neglect which the social, economic and cultural rights have suffered in Nigeria. Concomitantly, because human rights are interdependent and interrelated, the civil and political rights cannot be meaningfully realized.

Human rights promotion and protection in Nigeria is too often hamstrung by the doctrine of *locus standi*. *Locus standi* means “legal standing” or the capacity - based on sufficient interest in a subject-matter - to institute legal proceedings in the pursuit of a certain cause²⁶¹. The courts have always insisted that unless a person has the *locus standi*, he is a meddlesome interloper and as such, a suit at his instance will be incompetent and unmaintainable²⁶².

Locus Standi is inextricably interwoven with the issue of jurisdiction. Accordingly, where there is want of *locus standi*, the court will have no jurisdiction to entertain the matter²⁶³. Criminal Justice experts succinctly articulated the *raison d'être* for this doctrine as follows: "The legal concept of standing or locus is predicated on the assumption that no court is obliged to provide a remedy for a claim in which the applicant has a remote, hypothetical or no interest"²⁶⁴.

Consequently, in human rights litigations the issue of *locus standi* or sufficient interest is not only relevant but paramount. Thus, for a person to sustainably activate the judicial process to redress an infraction of human rights, he must show that he is an interested person—one whose right has been, is being, or is in imminent danger of being violated or invaded. Where a public injury or public wrong or infraction of a fundamental right affecting an indeterminate number of people is involved, to be competent to sue, a plaintiff must show that he has suffered more, or is likely to suffer more, than the multitude of individuals who have been collectively wronged. Thus, although there is now a commendable relaxation of the rigid, restrictive and constrictive interpretation of the doctrine of *locus standi*, the doctrine remains a formidable albatross in human rights litigation in Nigeria²⁶⁵.

A major deficiency in the development of human rights is one of enforcement. Since the enforcement of human rights largely depends on the domestic machinery of national governments, Nigeria has erected seemingly firm institutional infrastructure to safeguard human rights in the country²⁶⁶. The institutional infrastructure includes the judiciary, the National Human Rights Commission, the Public Complaints Commission, and the Legal Aid Council²⁶⁶. Regrettably, the various institutional mechanisms are not strong enough or capable of providing adequate and effective platforms for meaningful human rights promotion and protection. This is especially so because many of these institutional mechanisms are not independent and do not have the financial and logistical capability to

meaningfully function as they ought to. The extra-judicial bodies are in a more precarious position. Being controlled, directly or indirectly, by the government through funding, composition of membership, and provision of operational guidelines, among others, government interference or influence becomes not a mere possibility but a reality²⁶⁶.

It is the state, with its various institutions, which is primarily responsible for guaranteeing the implementation and enforcement of human rights. This mandate is explicitly stated in the Charter of the United Nations as follows: “All members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of ‘universal’ respect for, and observance of human rights and fundamental freedom”²⁶⁷.

Human rights can no longer be meaningfully discussed outside a democratic environment. Indeed, it is axiomatic that the more democratic a state is, the less violation of human rights the citizens of that state experience²⁶⁸. The current democratic environment, with all its imperfections, is undoubtedly more clement for the protection and development of human rights than military rule, which is characteristically associated with autocracy and totalitarianism. As the Vienna Declaration succinctly states, “democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing”²⁶⁹. Accordingly, the current culture of violence and impunity must be halted. Those in public offices, especially in the legislative and executive branch, must be more transparent in the way the affairs of government are conducted just as they owe a duty to abide by the mandate of Section 15(5) of the 1999 Constitution (as amended) to “abolish all corrupt practices and abuse of power”²⁷⁰. Further, to sustain our current democracy, the political class must remember the injunction of Section 13 of the 1999 Constitution that “it is the duty and responsibility of all organs of government, and all the authorities and persons exercising legislative, executive and judicial powers to conform to, observe and apply the provisions of the fundamental objectives and directives of state policy”²⁷⁰. This is an

unmistakable agenda for good governance. It is in keeping faith with this agenda that democracy will be sustained, and concomitantly, human rights will be better protected and promoted in Nigeria²⁷¹.

2.2 Theoretical Review

2.2.1 Meaning and Value of Theory

We can all watch the news and see what is happening in the world. One state may have gone to war with another state. Perhaps there is a territorial dispute or a change of government has led to a change in a state's foreign policy. May be the United Nations Security Council has imposed sanctions on a rogue state. All of these are not uncommon. However, what differs is the way in which different people react to and view these developments. What I see as a sensible decision by a particular state might seem to you to be reckless and dangerous.

Why do we see these things differently? The reason is because our world view is influenced by our thoughts, prejudices and assumptions. We may see the same events taking place but we view them in different ways. This goes some way to beginning to explain what we mean by a theory. It is a lens; a way of viewing the world that is shaped by the assumptions we make.

Indubitably, facts never interpret themselves. To make sense out of life, we utilize our commonsense. That is, to apprehend, comprehend and rationalize our experiences (our “facts”), we place them into a framework of more-or-less related ideas. Social scientists do this, too, but they place their observations into a conceptual framework, called a theory.

Scholars have interpreted the term ‘theory’ in different ways²⁷². Indeed, the concept has been used so indiscriminately and imprecisely by social scientists in general that it is virtually in danger of losing any meaningful content. What is central, however, is that a theory should

always have scientific propositions which, when tested, is certified to be valid⁴⁰⁴. Its predictive value should be rated high.

A theory is a general statement about how some parts of the world fit together and how they work. It is an explanation of how two or more “facts” are related to one another²⁷³. A theory is an effort to make sense of an experience. Every event, situation, or condition must be described and explained if one is to theorize why the event, situation, or condition occurred. This is why a social scientist asserts that ‘a theory is a statement that organizes a set of concepts in a meaningful way by explaining the nexus between them’²⁷³.

Theory, in general, has had various meanings in the social sciences²⁷³. Some of the definitions that the term has elicited include the following:

- i. Deductive system in which propositions are set forth, which purportedly contain internal logical consistency;
- ii. A taxonomy, classificatory scheme, or conceptual framework which provides for the orderly arrangement and examination of data;
- iii. A set of assertions regarding political behavior derived inductively from empirical investigations or comparative assessment of historical case data;
- iv. The development of a series of statements about rational behaviour based upon a dominant motive such as power. Such a theory provides a description of the political behaviour of rational actors;
- v. A set of norms or values indicating how political actors ought to behave; and
- vi. A set of proposals of action for the statesman.

Scholars in the field of social sciences have argued that the theory must necessarily cover all aspects of the field²⁷⁴. It should be informative; it should reveal which facts of social life are of interest and how the facts are related to one another (enabling us to determine cause and effect), and what conclusions – explanations and predictions can be made from them. A

theory should, according to them, be expressed in generalized propositions in a very clear and accurate manner; and as few as possible. This, in essence, means that the theory should be parsimonious, and not as diffused and complicated as to be confusing.

Other ideal requirements that a theory should fulfill include the following:

- i. Every part of the theory should, as a matter of necessity, be logically consistent with every other part;
- ii. The theory should be formulated in a style that is conducive to continual improvement and updating;
- iii. Instead of being purely speculative, its theses should be capable of consistent verification on the basis of available evidence;
- iv. It should contribute to an objective understanding of international reality, rather than one distorted by national perspective;
- v. It should enable us to predict at least some things; and, lastly,
- vi. It should also help us to arrive at value judgments.

As scholars and writers concede, there is no doubt that it would be extremely difficult and perhaps impossible to achieve a perfect theory that could fulfill all the ideal requirements enumerated above²⁷⁵.

A theoretical review is a frame of reference for looking at many features of the world – an orientation of methods for studying events, experiences and offering explanations for them²⁷⁶. In social sciences, social scientists are guided in their work by divergent theoretical perspectives.

2.2.2 Classical Marxian Theory

Classicism, positivism, conservatism, strain theory, new deviancy theory, and Marxism are the six criminological paradigms now in use²⁷⁷. The drive to criminal behaviour is firmly

located in the individual as a result of a process of leakage or deficiencies in the social order, according to classicism, positivism, and conservatism's perspectives to crime. On the one hand, strain theory asserts that crimes are the result of an individual's fundamental impulses or instincts, and that the inclination to commit crime is both natural and socially generated; on the other hand, new deviancy theory asserts that human behavior must be defined by the persons involved. As a result, human beings are born free but lose their volitional capacity as a result of the systems that society constructs to govern their behaviour.

Consensus is a ruse, a deception perpetrated on the people by the wealthy and powerful. On the one hand, they achieve this through their control over society's key ideological machinery (e.g., the mass media and education), and on the other, by their control and employment of the repressive apparatus (e.g. police and courts). To summarize, while positivism and strain theories focus on the individual and structural antecedents of criminal behaviour, classicism on the act itself, and conservatism on the actor, new deviancy theory focuses on the reaction.

The conditions of the criminal justice system, as well as the suffering of justice seekers, particularly suspects on detention, and their human rights, have been investigated in Nigeria, which is also a capitalist country²⁷⁷. The classical Marxian school of thinking is used as a frame of reference in this research investigation. This is due to its preference for economic determinism over behavioral voluntarism. To put it another way, classical Marxian criminology holds that an individual held for an alleged crime, as well as the resulting human rights breaches, is influenced and propelled by forces beyond his or her control.

There is extensive literature on legal systems in capitalist countries like Britain, France, Germany and America and their problems²⁷⁸. One of the main features of modern law is the lack of official legal privileges and legal distinction between the classes²⁷⁹. "Equality of all citizens before the law" is one of the basic principles of our social order²⁷⁹. However, practices differ considerably from the ideal. Is Marxist criminology capable of offering an

answer? It has been argued by a renowned scholar that Marxist criminology is possible and desirable especially if one starts from the proposition that Marxist theory was still incomplete when Marx and Engels died. Hence, it is surely legitimate to extend and develop the theory to deal with new phenomena.

Furthermore, a political economist says that Marxism is resorted to in academic discourses because it embodies, in a powerful and coherent way the 'conflict' approach to social phenomena²⁸⁰. A social scientist concurs with this view when he said "Marxism is part of a wider theoretical framework in sociology known as conflict theory"²⁸¹. He asserts that it developed in Europe in the 18th century primarily to analyze the capitalist order which emerged as a result of the collapse of the feudal mode of production.

Additionally, Marxists "...theoretically have over the great masses of the proletariat the advantage of clearly understanding the line of march, the conditions, and the ultimate general results of the proletariat movement"²⁸². Engels says Marxian analysis of phenomena is required because "economic, political and other reflections are just like those in the human eye: they pass through a convex lens and therefore appear upside down, standing on their heads. But the nervous apparatus to put them on their feet again in our imagination is lacking"²⁸².

The Marxian school of thought is commonly referred to as Marxism because it was founded by Karl Marx (1818-1883). According to Marx, society is made up of a shifting balance of opposing forces that cause social change through their conflict and struggle²⁸³. Special bodies of armed men, jails, and other forms of state power are used to coerce such a capitalist society, and the standing army and police are the primary tools of state authority.

Marxist criminologists believe that crime can be said to be endemic in the social order²⁸⁴. Furthermore, legal institutions in capitalist setting represent the interests of the ruling class.

Competitive capitalism gives rise to selfish individualism, which manifests itself in egoistic acts, including crime²⁸⁴. In capitalist mode of production, law itself may not only punish crime, but improvise it²⁸⁴. Thus, bourgeois laws arise in order to safeguard, contract and protect property: that is to maintain equality in the realm of exchange while perpetrating and allowing for increasing accumulation at the level of production resulting in differential access to justice. This view is in harmony with many scholars who believe that the laws in Nigeria are against poor people who form the bulk of the awaiting trial population²⁸⁵.

Hence, the laws are passed which judge people as equal individuals, obscuring the fact that their inequitable class position makes them differently vulnerable to commit crime in the first place. Consequently, the state in acting against the criminal serves to legitimize itself as the protector of universal interest in society. Under extreme conditions of state inequality, the working man is brutalized and demoralized, and "...at certain point all freedom ceases"²⁸⁶. This may be why Marx and Engels said in *Communist Manifesto* that capitalism created the proletariat that would eventually overthrow it.

It is believed that the capitalist economy allows for the over concentration of societal resources in the hands of a few advantaged groups, which usually manifest through the exploitation of the vast majority of the population materially and otherwise. Others who are disadvantaged in the social set up become alienated and marginalized, the consequence of which is involvement in crime and other deviant activities. They are the ones usually incarcerated in correctional institutions resulting in the violation of their human rights. A legal scholar posits that:

The formal equality of protection which law gives in the defence of the property of individuals, however, in the right of one class to extend and perpetuate its ownership of the means of production, thus rendering the working class both properties less and unequal.... Law legitimize ruling class domination²⁸⁷.

When employed conceptually, the category of people that suffer from inequality are called the oppressed. The working definition of the oppressed is viewed by scholars as, "...a social group or groups who find themselves, or may be objectively determined to be, disadvantaged or accorded unequal, differential treatment, either because of deliberate policies or structural arrangements in (a) family, community, country, region or the world they live in and/or (b) the position they occupy in the prevailing relations of production or arrangements and, as a consequence, become specially exposed to human rights denials and abuses"²⁸⁸.

The theory is rested on the premise that as a matter of practical necessity man must enter into social relations with others. When put together it is the combination of the forces of production and social relations of production that form the economic base or infrastructure of the society, which is called the mode of production. The superstructure (all other aspects of life) is essentially determined by the infrastructure. Consequently, the legal, artistic, political, educational institutions and the belief and value system are all shaped by the economic factors²⁸⁸.

Marxism represents Marx interpretation of capitalism, how society works, how it developed, and where it is tending²⁸⁹. He believes that it is men that fight on both sides of the class struggle, men who sell their labour, men who buy it, and so on. Any analysis of justice administration vis-à-vis awaiting trial must consider the socio-economic features of the people²⁹⁰. As people enter into social relations, subjective issue(s) regarding life and its worth manifests itself²⁹¹. A scholar asserts, for instance, that the criminal moreover produces the whole of the police and of the criminal justice, constables, judges, hangmen, juries, etc²⁹¹. Man, also produces an impression, partly moral and partly tragic, and in this way renders 'service' by producing not only the penal codes but also art, novels and even tragedies. It is maintained that:

Man, himself is offered the vantage point from which to view his own relations, actual and potential, to society and nature. His condition becomes an extension of who he is and what he does²⁹².

Two criminal justice scholars and writers believe that being a criminal is hinged on criminal law, which they view as a body of rules distinguished from other rules by specific characteristics²⁹³. In capitalist societies, it is the political and economic power elite that control the state via the top positions in government, which they or their protégés occupy. This is what empowers them to "...control the process of criminalizing, policing, judging and punishing those who engage in acts detrimental to their interests and to the laws and social order that protects their super-ordinate position in society"²⁹³.

The state:

- i. enacts the criminal laws which specify which conducts and actions are criminal or not;
- ii. determines the content, procedures, beneficiaries and victims of criminal justice and injustice;
- iii. establishes, organizes, funds, deploys and control the police;
- iv. creates, empowers and disempowers the courts in connection with the interpretation of the criminal laws and disposition of criminal complaints;
- v. builds and manages the correctional institutions (prisons) and the overall penal–correctional system, for the punishment and ‘treatment’ of convicted persons²⁹⁴.

Correction in America has taken a critical turn and is in crises²⁹⁵. This is because there are no limits on the amount of prison pain the public is willing to inflict in the name of crime control in a decadent capitalist set up. It is in this connection that a criminologist says the "...prison industrial complex" has in recent years become quite similar to the "...military industrial complex" since it contains a pattern of interrelationships known variously as "policy networks," "sub-government" or the "iron triangle"²⁹⁶. This is because it now entails a

"...multitude of businesses, ranging from small security businesses to huge corporations listed on the New York Exchange, who have found it profitable to invest in crime. While arrests and convictions are steadily on the rise, profits are to be made: profits from crime"²⁹⁷.

Corrections in capitalist societies have become appreciated for its economic benefits and opportunities for big business, private industry, and government²⁹⁸. This is why the conservative view has for long dominated the criminal justice policy and practice, so that "...while relying on "law and order" rhetoric, conservatives have made changes in the way government allocates funding: most notably, the transfer of financial resources from social services to criminal justice. Greater investment in the criminal justice is consistent with a political economy devoted to increasing capital for the wealthy while subjecting the lower classes to coercive measures of social control and rights violation"²⁹⁹. Since the lower classes in capitalist societies are unemployed their marginalization becomes easy and complete. Due to this marginalization, legitimate means of survival are eliminated resulting in the dependence on state assistance and other forms of welfare. This creates dependency, and it is contended that "not only is such dependency degrading, but the unemployed also face humiliation and hostility from those who are employed and paying taxes and their rights cannot be guaranteed"³⁰⁰. Relevantly, many reports have shown that the victims of human rights abuse in Nigeria are poor. Hence the need to employ classical Marxism in explaining the situation³⁰¹.

Capitalism is beset with numerous problems including crime. Its correlates and attributes have to be understood. Many scholars advocate the use of ideology in explaining crises in justice administration³⁰². It is the great demand on men's ideological belief, philosophical, culture and scientific thinking that makes Marxist-Leninist philosophy worth studying³⁰². The philosophy is based on dialectical and historical materialism developed by Marx and Engels gaining more ground through the efforts of Lenin in his analysis of the new period in history.

Historical and dialectical materialism are the philosophical bedrock of the Marxist philosophy, which is seen as:

...The world outlook for the working class, whose historical mission is to build the new, classless communist society. Marxist philosophy not only gives strictly scientific explanation of the world, but also serves as the theoretical instrument for its transformation³⁰³.

Marxian scholars argue that determining what is right is the exclusive preserve of the ruling class, which is usually lopsided, exploitative and subjective. They believe that social problems like prison congestion resulting in human rights violation, alcoholism, prostitution and other criminal behaviors exist due “...to illegitimate social control, alienation and exploitation”³⁰³. Thus, it has been argued that classical Marxism is relevant because of its emphasis on socio-economic correlates in explaining crime. In tune with this philosophy some scholars believe that any discussion of detainees’ rights must centre on economic and social rights³⁰⁴.

It is argued that available sociological literature on the legal system in general, and policing in particular is dominated by the theoretical assumptions of the modernization theorists owing to the capitalist nature of Nigeria³⁰⁵. This is premised in functionalist social science that characterizes the police as the beneficent order that keeps the peace, fight crime, protect property, individual freedom and ensure a democratic society. But this bourgeois conception is incongruent with the Nigeria's reality. In the opinion of a learned author who argues in similar vein “... one of the cardinal accusations against the old law and development movement was that it tried to impose an ethnocentric bias for Western law in the guise of academic knowledge”³⁰⁶. As we approach the task of constructing the new law and development, we have to be careful to void that trap³⁰⁶. It is very tempting to see the legal institutions of Western society as a model for emulation in developing nations, albeit with a lag to allow for evolution to do its work. It is in this vein that the modernization theory, being a capitalist viewpoint, defines a specific role for the state, law and over all general policing in

the modernization set up. The state is usually seen as the sole director of development efforts. It is argued that "... since the process of modernization ushers in universalistic role descriptions based on contract and merit to replace ascriptive criteria, there is the need for a transcending body of authority. A third party that can hold together the new contractual social order and ensure the continuity of economic relations"³⁰⁷. The problem with the third party however, is its selfishness, which hinders it from formulating and applying good laws in the society. The disparity in the application of laws to the disadvantage of detainees awaiting trial has been documented³⁰⁷.

A scholar of International Human Rights Law agrees with this view when he said that the colonial system of justice was patriarchal because efforts were made to bind people to the community to facilitate more exploitation³⁰⁸. In addition, the system was strongly class-based in that leaders made laws; the burden fell mostly on the lower orders: servants, slaves and the young.

Deducing from the above assertion, it can be said that the process of modernization necessitates the establishment of centralized territorial entity (the state) and law enforcement organ. A scholar disputes this position where he argues that the police in Nigeria was created by the foreign, illegitimate and authoritarian colonial state and they played a definite role in extending and consolidating colonial authority by perpetual repression of the local people³⁰⁹. People evidence has shown to have developed and made adequate use of informal law enforcement agencies which met the basic needs of crime prevention, detection and punishment resulting into high level of public safety and security³¹⁰.

Also, the police, during Nigeria's capitalist plundering, assisted in repressing local people especially during artificially induced geo-politically-demarcated boundaries. This view is shared by a prominent author believing that the police is organized by the state as a

paramilitary force with the sole purpose of maintaining the *status quo*³¹⁰. They are meant to enforce laws, values and ideologies that justify, legitimize and defend the prevailing distribution of power and wealth in society. This is why for instance the police played an active role in establishing both the internal and external boundaries of the colonial state to facilitate proper and effective capitalist exploitation. Arguing in a similar vein, though more concerned with punishment, writers contend that every system of production tends to discover punishments that correspond to its productive relationships³¹¹.

It is thus, necessary to investigate the origins and fate of the penal systems, the use or avoidance of specific punishments, and the intensity of penal practices as they are determined by social forces, above all by economic and then fiscal forces. It is their view also that modes of production determine the character of labour markets, which in turn influence the adoption of a dominant penal strategy. Furthermore, if a penal strategy fails to perform reforms away from its current status (capitalistic) is needed³¹¹. It is further contended for instance that enslavement, as a form of punishment is impossible without a slave economy, prison labour is impossible without manufacture or industry and monetary fines for all classes of society are impossible without a monetary economy³¹². They conclude their thesis with the proposition that a rise in unemployment among other things will lead to a rise in prison commitments and human rights violations, because the policy of deterrence dictates an intensification of punishment in order to combat the increased temptation to commit crime.

It is furthermore noted by scholars that:

- i. rising unemployment results in perceived increases in criminal motivations, leading to increased judicial use of imprisonment.
- ii. rising levels of unemployment could result in generalized 'moral panics' which some judges seek to allay with more frequent uses of imprisonment.

- iii. increased unemployment decreases conditional release by parole officials.
- iv. regardless of levels of unemployment, judges are more likely to send the unemployed to correctional institution (prison) than their employed counterparts³¹².

Law in capitalist societies displays and invoke an array of ideologically significant terms like “rights”, “duties”, “equality”, “justice”, etc. Thus, law and justice have significant political dimension. The argument is that law must be regarded as an arena of struggle in which different classes and political positions engage. This is why law is not neutral, equally available to all political and social forces. It is contended that: “the social and political limits to intervention in law are a pressing concern and they are determined in each historical period as the outcome of struggle, whether that struggle is waged consciously or not”³¹³. Marxian theorists believe that the process of the legalization and legitimation gives both direct advantage and encouragement to some social forces and the delegitimation of criminalization hampers, penalizes or discourage other social forces. Thus, due to the exploitative relationship between the class of the bourgeoisie and the proletariat, due to the marginalization and alienation of the majority by a few individuals, coupled with reducing almost everything into commodity, the capitalist society is crises and crime ridden. However, the crises will be fueled by the privileged class to enable them maintain their privileges of power and resources.

The under-privileged are left with low or no education and as a result are unemployed. This makes the Nigerian masses criminogenic, which invariably explains their high numbers in the correction centres (prisons); they are incapable of obtaining bail, purchasing the services of a lawyer, bribing their ways or using any influence due to their debilitating economic positions occasioned by capitalist exploitation, class struggle and class antagonism. It is believed that the situation is the same around the world today³¹⁴. Later theoreticians in this school of

thought say that problems like awaiting trials, prison congestion and human rights violation are disguised political issues³¹⁴. This is because everyone recognizes them and considers them to be so, and wants them corrected, but because those in power do not actually want to solve them, they remain so. They believe that crime is caused by the socio-economic and political structures that deprive people of decent living. Crime is an escape route some people resort to instead of confronting their real enemies, which are their exploiters, and capitalist alienation and exploitation.

The result of this is the incessant arrest and detention of the under-privileged population engaged in crime, and who enjoy nothing from the balance of power because they wield no power. This exploitative situation will continue unabated as the upper class will never surrender any of their powers and privileges willingly and peacefully. This is what will escalate class antagonism and class conflict, which in the final analysis will lead to the destruction of the bourgeoisie class paving way for the dictatorship of the proletariat or the common ruin of the contending classes. A learned writer says “struggle rather than peaceful growth was the engine of progress; strife was the father of all things, and social conflict the core of historical process”⁴⁹. The supposition being made here is that for people to be equal before the law, especially in Nigeria where crude capitalism is being practiced, the *status quo* has to change. The change should be in form of radical and drastic overhaul of the capitalist system through a proletariat revolution that would give greater concession to the working class and the underprivileged that are usually at a disadvantage when it comes to crime commission, arrest, conviction, human rights violation and rehabilitation. Herein lies the benefit of classical Marxism and political economy which allows for class analysis. Hence its deployment in this research. It is in view of this that an author opines that “The state and government exercise considerable and most significant influence on the nature, scope and dynamics of criminology, criminal justice and policing in any nation. The criminal law and

the police are political tools of enormous significance to any regime”³¹⁵. The criminal laws are coercive rules which:

- i. Identify and prohibit some harmful conducts (out of a broad spectrum of similar, more or less injurious behaviour);
- ii. Define proscribed behaviours as crimes;
- iii. Label those convicted of committing prohibited acts as criminals; and
- iv. Prescribe punishment or "correctional sanctions" for those detected, apprehended, prosecuted and convicted for commission of crime who are mainly poor, uneducated and powerless, they cannot change or challenge the system as it is presently “organized”³¹⁶.

Marxism has been criticized in the past. It is accused of believing that matter takes precedence over thoughts. To put it another way, critics contend that Marxism's adamant defence of economic variables as the bedrock of social order is not always valid. In his *Protestant Ethic and the Spirit of Capitalism*, a renowned scholar and writer, for example, maintains that ideas (Protestantism) can help in the promotion, sustenance and spread of capitalism³¹⁶. Hence, there is the belief that much as the economy is vital in social transformation, so are ideas. Furthermore, Marxism fails to recognize the philosophy of relative autonomy which connotes that rather than criminal justice agencies being pawns in the hands of the bourgeoisie class, the agencies are expected to be accountable for their actions in the society³¹⁷. Thus, they may not necessarily be used by the capitalist class in the discharge of their responsibilities due to internal checks and controls. Moreover, they could be interested in their protecting their image and integrity.

Even though classical Marxism is criticized for its economic reductionism and its neglect of the philosophy of relative autonomy, indifferent institutions and agencies, it offers the most

cogent, plausible and empirical explanation for crime commission, differential access to justice and the human rights violation of awaiting trial inmates in Nigeria. The classical Marxian theory scrutinizes the character of capitalist society in relation to the mode of production and the outcome of these relations which promote the initiation of unbalanced, unequal and unjust laws for the sole protection of the bourgeoisie class. In fact, this class was the initiator, producer and implementer of the laws. The laws will naturally be against the poor people who did not or *could* not take part in making them owing to marginalization and alienation. A lasting solution lies in the general overhaul of the present social order that produces non-people-oriented laws.

Needless to say, therefore, the central thesis of the theory is that lopsided legal systems have historically been operated to the benefit of the rich and powerful. The rich and powerful have and will do whatever is necessary to maintain that advantage. This explains the over-representation of the poor people in correctional institutions culminating into their rights violation. However, as society changes and progresses, societal transformation becomes inevitable such that justice for the majority becomes feasible. It will come with the change of the capitalist order permeating Nigeria's institutions including the judiciary.

2.3 Review of Empirical Studies

As said earlier, Awaiting-Trial Inmates (ATIs) are persons who have not been sentenced to imprisonment but are held in custody pending determination of guilt or innocence or determination of sentence after conviction. They are an important group as far as human rights are concerned. The issue of Awaiting-Trial Inmates and violations of their rights is not a recent phenomenon. Detention (i.e. keeping offenders in custody in order to determine their fate) and imprisonment existed in Africa centuries before the birth of the modern form of

imprisonment where a suspect is tried to establish the person's innocence or guilt before imprisonment.

It has been asserted that, each year, millions of people across the world find themselves in jail without being convicted of anything – often for months at a time – as they await trial²⁶⁸. Alarming, although the rights to liberty, security and equal justice under the law are cornerstones of justice systems throughout the world, pre-trial detention is being employed at rates two to five times greater than the international average, its use continues to grow unabated. Pre-trial detention serves an important purpose in the judicial process, but in practice its excessive and arbitrary use traps innocent people in a legal limbo, stretching the capacity of already-overcrowded prisons and undermining respect for the criminal justice system²⁹⁶.

The role of the Brazilian judicial power in the protection of human rights in correction centres in the light of the actions of the Supremo Tribunal Federal (STF) and the National Council of Justice (CNJ) has been assessed in a research study. Initially, from the division of powers in the Brazilian State, it conducted a survey of the competences in the Brazilian State on the management of correction centres and the protection of human rights in correction centres. Subsequently, it studied the role of the Judiciary in protecting these rights, based on the analysis of the STF and the CNJ actions. As a result, initially, it was found that the violation of human rights in correction centres is not something new in Brazil and it reflected other structural problems in Brazilian society, such as the great social inequality and the systemic racism. This violence is worst to women and to sexual minorities due to either action or omission from the State institutions. In the end, it was found that the STF has important decisions in favor of the protection of the human rights in correction centres; however, some decisions of the same court, which toughen incarceration measures, have had an impact on the worsening chaotic situation of the Brazilian prison system. Additionally, the

CNJ played an important role in monitoring and promoting the protection of human rights in correction centres. The method applied in the conduct of the research as the inductive method, which tried to reach a general conclusion from particular data³¹⁸.

For some time now, Nigeria has been facing a crisis of human rights with the resultant effect on the country being rated as having very poor human rights records with series of human rights violation. This is why in their study, some scholars posit that “The government’s human rights record remained poor....because national police use excessive force to apprehend criminal suspects...security forces sometimes beat protesters, criminal suspects, detainees... there were considerable delays, often stretching to several years, in bringing suspects to trial and the litigants could not rely on the courts to render impartial judgments”²⁶⁸. Importantly too, the study shows that “Criminal suspects died of unnatural causes while in official custody, usually as the result of neglect and harsh treatment”²⁶⁸.

Studies concerning the deteriorated conditions of Nigerian correctional facilities are a common feature in the media. A study shows that “Prison conditions were harsh and life threatening and the lack of sufficient food and adequate medical treatment contributed to the death of numerous inmates. Most correctional facilities were built 70 to 80 years ago and lack basic functioning facilities. Some correctional facilities hold 20 to 300 percent more persons than their designed capacity”³¹⁹. Detainees on remand are a special category of inmates found in police cells and prisons. This is because they are not classified and no provision is made to cater for their needs. Hence, violation of their rights can be said to be a common occurrence and wide-spread.

In Nigeria violation of awaiting-trial inmates’ rights has been richly studied. A study stresses that “the Police and members of other security forces, military and anti-crime squads committed serious human rights abuses”³¹⁸. In general, the violations affecting detainees can

be gleaned at the pre-trial and trial levels. Pre-trial violations were catalogue in the annual report of a civil society organization. Among the violations they gave were the following: shooting suspects at sight; burning a suspect with acid; shooting a canister of tear gas into the anus of a suspect; extorting money from the suspects; and cramming detainees in poor accommodation.

A non-governmental organization discovered in a study that while 63% of all awaiting-trial inmates were not told of the charges against them, 45% were not cautioned, another 65% experienced torture³¹⁹. Furthermore, over 78% were denied bail and 73% were not given fair hearing. In their study on the administration of justice in Nigeria, some legal scholars found out that 22.6% of the police surveyed said where an arrested person refuses to make a statement, he/she is kept in custody and/or compelled to make a statement²⁶⁸. Also, they discovered that more than 75% of their respondents believed that the police do not observe fundamental rights of suspects, with a large number asserting that unlawful detention was the most recurring breach committed by the police. Relatedly, a learned scholar and author discovered in a survey on Nigerian detainees that over 45% of them were not cautioned³²⁰. Another 42% was tortured and 68% did not have lawyers and were denied bail. The conclusion of his research study is that violations in these areas will continue to manifest in the Nigeria's criminal justice system due to bad governance and poor funding of the system.

If there is any one thing that epitomizes the tragedy of the Nigerian correction centre, it is the figure of the awaiting-trial inmates. In his study of 62 correctional facilities across Nigeria, a scholar abstracted a physical profile of the detainee that remains true today: weak and unhealthy; unfed and poorly accommodated; untrained and uncared for³²¹. While on remand, food is a crucial matter. In a narration given by a Nigerian citizen on his experience as a detainee, he averred that though he was given food three times daily the 'meals' did not in

substance add up to one complete meal. Furthermore, the health conditions of detainees in Nigerian correctional institutions remain a matter for concern.

A civil society organization has also conducted a study on many human rights violations in Nigeria: political violence, arrest and harassment; crackdown on peaceful protests; arrest and torture; disappearances, etc. Their study asserts that "...the impression given to the outside world is misleading, as the basic right to freedom of expression is still not guaranteed"³¹⁹. The study documents a number of violations relating to arrests, detention, ill-treatment, harassment and intimidation which are seen as breaches of Nigeria's national and international obligations.

The paradox of democratic governance and the challenges of human rights violations in Nigeria's Fourth Republic, and how it impacted on the principle of international human rights law has been another key area of study. Using qualitative research methodology through an extensive desk review of several extant studies, the findings of the study suggested that despite the non-interruption of the democratic and civil space in Nigeria, entrenching true democratic ideals and their tenets in Nigeria remains problematic³²². This is due to the prevalence of human rights violations across various sectors of the Nigerian polity. It further revealed that the inability of international actors like the United Nations to checkmate and sanctioning acts of human rights abuse by the Nigerian authority negatively affects the strengthening of democratic governance and its ideals within the Nigerian state. This, therefore, addressed these challenges to strengthen and deepen democratic governance in Nigeria, suggesting that appropriate agencies and actors at the global, regional, and national levels should ensure that the rights and privileges of all Nigerians are not only respected but also protected as expressly stated in the constitution. The study has suggested that there is a need for a responsive, responsible, and dedicated government and the need for good citizenry too, as one compliments the other and Human rights and civic education should be introduced

in schools. Also, there is also the need for the present civilian government, given its pro-human rights stance to embark on human rights education campaign. This will bring about awareness in people and make them conscious of their rights³¹⁹.

Police brutality and violation of human rights in Nigeria – causes and its implications had also been other scrutiny. The objectives of the study were to establish some cases of police brutality in Nigeria; to investigate the causes of police brutality and violation of human rights in Nigeria; to ascertain the implications of police brutality in Nigeria; and to recommend ways to prevent police violence in Nigeria. The study made use of descriptive analytical method to analyze data gotten from secondary source such as academic journals, Newspaper publications, television documentaries, Internet, relevant textbooks etc. Albert Bandura Social learning theory was adopted in this study, which explains that police, violates people's right with impunity because they watch as other officers who violate people's rights are not well sanctioned. The study revealed that police brutality in Nigeria has led to loss of lives, torture of detainees and extortion of suspects. Some of the recommendations are; The Nigerian police commission should strictly investigate and sanction erring officers, there should be a proper police reform, men of the Nigerian police should be subjected to a thorough mental examination before engaging them in service³²⁰.

A philosophical disquisition on human right violations and Coronavirus disease (Covid-19) Pandemic in Nigeria was another fundamental study carried out. It has examined human right violations and coronavirus disease (Covid-19) pandemic in Nigeria and also looked at the philosophical conception of human rights³²². The study was guided by three objectives which are to: analyse the concept of human right, examine human right violations in Nigeria during coronavirus disease pandemic and lastly to recommend how issues of human rights violation should be handled by government. The study exposed some recorded cases of human right

violations at the break of the pandemic in Nigeria and concluded that the Nigerian government have handled issues of human rights violations with kid glove, consequently, failing to address the issues properly. Furthermore, the study recommended amongst others that the Nigerian government should prosecute perpetrators of these violations swiftly when evidences are presented and also human rights should be taught at primary, secondary and tertiary level to enlighten the upcoming generation and society at large³²¹.

The challenges of human rights and how it has been violated in Nigeria was brought into sharp focus in a research study conducted. It explained how the Nigeria Police Force violate the people's rights in Nigeria, how they went about arresting people who do them no wrong. It also explored some conceptual clarifications and further examined various threats to human rights in Nigeria with particular reference to persons in conflict with law who happened to be in the custody of the security agencies in Nigeria. The study further employed empirical method by going to some correctional institutions in Jigawa State where inmates were examined. On the process it was found that the institutions were grossly inadequate in term of facilities and there are a lot of non-compliance with the minimum standard on the rights of inmates as well as cases of human rights violations. The study concluded by recommending among others, the strengthening of independence of the judiciary, press freedom, democratic rules or principles, human rights education and public vigilance to curtail human rights abuses and promote good governance in Nigeria. The primary and secondary sources were used for the data collection in this study, questionnaires were also distributed and interviews were carried out by the researcher. According to the findings of this study and its recommendations, government should make a policy that will guide the people and also higher authority that will be handling the issue of human rights and the institution that will protect the peoples right from been violated by the Nigerian Police or the rich- men in town³²².

A theological appraisal on human rights and social justice abuses in contemporary Nigeria society is another area in which research has been conducted. The authors noted that we are living in an age of growing threat to peace, of tragic escalation of poverty, and humanly imposed sufferings driven by expanding coast of corruption, oppression and violence. This scenario no doubt has made the issue of human rights a global struggle. However, the Nigerian situation which has made it to be ranked one of the world capitals of poverty-driven nations in terms of human rights abuse globally. This raise a serious issue that should be of great concern to her citizenry. The research therefore sought to examine human rights and social justice abuse in Nigeria and their theological challenges. The study recommended that the church community should serve as vanguard of human right and social justice advocacy in the country and should champion the integration of fundamental human rights as measurable indices which should form part of our statutory laws and for which those in political leadership can be held accountable. Also, the citizenry must insist through pressure groups to put in place a restructured Nigerian state that ensures that political ineptitude that subjugates the majority of the population economically, politically and otherwise through institutionalized structural injustices are dislodged totally³²³.

Human rights abuses and sustainability of democracy in Nigeria's Fourth Republic, with a case study of the EndSARS protests in Nigeria in 2020 has been an area that has come under scrutiny recently. Nigeria is one of the countries where human right abuses are recorded daily and virtually in all human endeavors. These human right violations are mostly found in the areas of torture, extra-judicial killings by government security operatives, kidnapping, arbitrary arrests, unlawful detention and extortion etc. The study reviewed relevant related literature and adopted social conflict theory by Karl Marx as its theoretical framework while its methods of research were primary and secondary data. And it adopted the mixed methods of quantitative and qualitative research approach, sample of hundred (100) respondents

(comprising members of twenty local governments in Lagos State) were drawn, with five respondents from each local government. Quantitative data collected through questionnaire administration was analyzed using descriptive statistics of frequencies, percentages and chi-square. The study formulated two hypotheses. And found out, first, that democratic rule has failed to promote and protect the rights of individuals in Nigeria. Second, the inability of democratic rule to safeguard human rights portends danger for democratic sustainability in Nigeria. This is particularly evident in the violence that occurred in the country during the EndSARS protests led by youths to demand for protection of their rights. It also emphasized the nature of human rights violations in Nigeria and inferred that there were lots of loopholes in the contemporary observance of human rights, most especially in the present euphoria of the nascent democracy. The study, therefore, recommended that government should have policy of recruiting members of Nigerian security agencies both locally and internally to make them active and professionally in discharging their duties of maintaining law and order in the society. Government should enlighten and educate young people and adults on the importance of democratic governance and respect for human rights, and every hindrance or obstacle to educational, economic and cultural development should be removed. There should be in existence an adequate political will to ensure democratic governance and respect for human rights. Also, government leaders should be knowledgeable, sensitive and proactive to the issue of human rights; knowledgeability can relatively guarantee citizen-oriented policy. They should also have respect for human dignity³²⁴.

How the utilization of Special Courts can provide succor to the plight of awaiting trial inmates in Ebonyi state, Nigeria has been an area of research study. The study adopted quantitative and qualitative research methods, with a sample of 1,498 respondents comprising 617 police officers, 623 awaiting-trial inmates, 113 court staff, and 145 prison officers drawn from Ebonyi State. Purposive and Multi-stage sampling techniques were used to reach the

respondents. The quantitative data was descriptively analyzed using percentages and charts, while a thematic method of analysis was employed in the qualitative data. The findings revealed that, while there has been an uptick in awaiting trial problems, there is no meaningful provision to address them despite the existence of provisions within the Nigerian legal framework. The study advocated for the creation of Special Courts that would be well equipped to address peculiar crime cases in a more effective and faster manner. These courts are better poised to address the peculiarities of special cases and pass better and faster judgments³²⁵.

The problems in the criminal justice system around the world is scarring because as at December 2022 there were an estimated over 9 million men, women and children in the world's correctional institutions³²⁴. Due to poor investment in the justice system and attitudinal problems facing the justice implementers, the human rights of these people may be violated with impunity the world over. The picture becomes more disturbing when it is noted that those taken to correction centre may not be a real threat to societal security because they are in the main petty offenders and suspects.

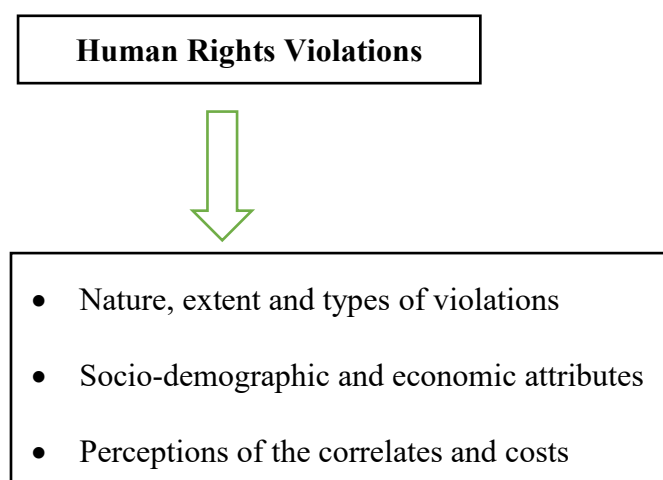
2.4 Conceptual Framework

The principal variables covered/examined in this research study were in three categories: The Independent, the Dependent and the Intervening Variables. The independent variables comprised socio-demographic and economic characteristics of the detainees. These include their age, educational level, employment status, gender, religious affiliation and economic power. These variables were expected to determine the kind of treatment an awaiting-trial inmate is likely to get. The dependent variables comprised various events of human rights violation with bias on prolonged detention awaiting trial. These include failure to caution a detainee, denial of bail for bailable offences, neglect of right to speedy and fair trial, right to a

lawyer and torture. They also include verbal abuse, shouting, severe beating and other forms of bullying. Other components of this variable include denial of nutritious food, medical care, accommodation, counseling, re-entry training and sporting facilities. In general, the dependent variable covered those rights guaranteed each human being and citizen as spelt out in the United Nations Conventions and Declarations (to which Nigeria is a signatory), contents of the African Union Charter on Human and Peoples' Rights, and as provided for in the Constitution of the Federal Republic of Nigeria. The violation of human rights as a variable is, in the context of this study, assumed to happen when these guaranteed rights are denied or violated. It should be noted that even though it is only human rights violations that pertain to awaiting-trial inmates that form a component part of this variable, certain situations applicable to convicts would also apply to them, especially those that have spent long time in detention, e.g., religious services.

Criminal justice system characteristics/processes were the intervening variables. From the empirical viewpoint, criminal justice administration refers to the processes employed in the dispensation of criminal justice³²⁵. Thus, it involves the role and powers of the police to arrest when the need arises and the limits to these powers. It also involves how cases are presented and heard in the law courts with particular respect to the suspect's rights in the hearings, and to reasons for delay in deciding cases. Additionally, it involves the role of the correctional institutions in the criminal justice administration, being the place where the suspects are sent for custody.

Figure 2.1: Analysis of Human Rights Violations of Awaiting-Trial Inmates in Nigeria





Awaiting-Trial Inmates in Nigeria

Source: Researcher's Construct, 2022

The nature of human rights violations refers to the character and essential traits of human rights violations awaiting-trial inmates experienced while in detention at police stations, courts and the correctional institutions covered. The extent of human rights violations covers the volume, range and magnitude of the violations awaiting-trial inmates experienced. Types of violations refer to policy and practice vis-à-vis respect for or violation of human rights.

The nature of human rights violations includes verbal abuse, physical abuse and deprivations that resulted in some effects on the awaiting-trial inmates while being processed in the criminal justice system. It should be pointed out that extent of human rights violations means the incidence or prevalence of human rights violations. In this research study focus is on arrest, interrogation, cautioning of suspects, court appearance and adjournment and granting of bail for bailable offences. Other areas include food provision, medical care, prison sanitation, accommodation, bed and bedding, personal privacy and visit by family members. Forms of human rights abuses refer to the various types of violations that awaiting-trial detainees face. In the social sciences, there are several approaches to categorize social phenomena. Typically, socio-political and economic challenges are classified into socially related groups. The typologies employed in this research study, which is about human rights violations, are two: policy-related and practice-related forms of violations. While the former is chosen because, in an ideal world, a country's legal provisions aimed at protecting and

promoting human rights should be respected, the latter is chosen because the reality on the ground shows that the legal provisions are not followed in large part by criminal justice personnel, such as police, courts, and correctional institutions.

The demographic attributes include age, sex, marital status, number of children (if any), and religion, while the economic attributes comprise of educational qualification, employment status and income level of the detainees. Perception in this study connotes how victims of human rights violations (i.e., awaiting-trial inmates) and criminal justice system officials see and understand the enabling factors and costs of, and remedies against, human rights violations in Nigeria. The correlates of violations include prolonged military rule, illiteracy, adjournment, shortage of judicial officers and corruption. The costs of violations are in terms of increase in recidivism, deteriorated health and morality, loss of confidence in the judiciary, prison officials' frustration and costs of detention to the children of detained parent. The remedies against human rights violations cover awaiting-trial inmates' and officials' views: provision of more education to citizens, reform of the criminal justice system, employment and training of justice officials, reducing official corruption, punishing erring judicial officials, proper organization of the courts, and proper funding of the criminal justice system.

2.5 Summary of Gaps in Literature Reviewed

The conceptual and empirical reviews revealed that the human rights violations of Awaiting-Trial Inmates on the global stage have been quite alarming over the years. Both reviews also showed that monumental problems exist and still persist in the criminal justice system, which consists of three main parts: Law Enforcement Agencies, usually the Police; Courts and accompanying Prosecution and Defence Lawyers; and Agencies for detaining and supervising offenders, such as Prisons and Probation agencies. In the criminal justice system, these distinct agencies operate together as the principal means of maintaining the rule of law within society^{324,325}.

Sections of the academic and policy community have devoted quite a lot of attention to the various problems besieging the criminal justice system. These problems include inefficiency in the system occasioned by corruption, lack of professionalization, poor training and general government neglect. The problems in the courts are also reflected in lack of independence, unqualified and shortage of staff; they are also hampered by lack of or poor working equipment coupled with their enforcement of an alien legal system that is adversarial in nature. Similarly, the correctional institutions are faced with multi-faceted problems: some are internal while the others are external. The internal ones include over congestion, lack of working equipment, internal corruption, prison insecurity, and so on. The external ones are largely related to corruption and the neglect of the criminal justice agencies by the government.

Despite the large number of studies that have been undertaken by scholars, thinkers, decision-makers and practitioners in developed countries to address all the myriad problems in the criminal justice system as a whole, fewer researches have been conducted in developing countries like Nigeria. For instance, little efforts have been made by scholars and policy-makers in Nigeria to determine whether or not the rights of Awaiting-Trial Inmates are being respected, protected and promoted (that is, extensive studies have not been geared towards interrogating the human rights violations of detainees awaiting trial). Hence, this research study being on suspects on remand examines critically the extent to which Awaiting-Trial Inmates (ATIs) enjoy their rights as spelt out by the international instruments and local laws, where violations occur, the kinds of violation they suffer from, and the trends and motivating factors for the violation. These are the specific issues that form the fulcrum of the study.

The gaps in knowledge revealed by both the conceptual and empirical reviews showed the following rights violations, which are of interest to this research study: arbitrary arrest and detention; denial of bail; torture, cruel, inhuman, and degrading treatment; and rights

violations in correctional facilities, such as indecent housing, poor feeding, lack of medical facilities, inmate mixing, and so on. Over the years, the level of the infractions found in these regions has been reported to be high. A vast number of persons travel through the criminal justice system, and their rights may or may not be safeguarded and promoted in accordance with international conventions and state laws. There are numerous safeguards in place, both internationally and locally. The laws principally focus on inmates receiving a fair hearing and being treated humanely.

The agencies that operate our justice system are supposed to ensure respect for human rights of detainees. When judged against human rights definition, conception and a cursory look at the human rights instruments, it is gleaned that these agencies will not and cannot respect human rights owing to structural shortcomings that were/are endemic. On the whole, efforts will be made to argue for the radicalization of the society especially the judiciary which would address the ugly state of affairs in the criminal justice system. This will ensure the emergence of a responsive and dependable justice system in the interest of the common people not necessarily the economic and power elite in Nigeria.

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Chapter Three

Methodology

It has been widely accepted that research is the process of arriving at dependable solution to problems through the planned and systematic collection, analysis, and interpretation of data. It is a most important tool for advancing knowledge, for promoting progress, and for enabling man to relate more effectively to his environment, to accomplish his purposes, and to resolve his conflicts. Research is oriented towards the discovery of the relationships that exist among the phenomena of the world in which we live. It is devoted to finding the condition under which a certain phenomenon occurs and the conditions under which it does not occur in what might appear to be similar circumstances.

Research does not include the routine activities of applying what is already known or of teaching in the usual sense of the word. It is reserved for activities designed to discover facts and relationships that will make knowledge more effective. Frequently an individual who works up a word in the dictionary or a historical fact in the encyclopedia claims he “researches” it. Other persons who purport to do research are merely engaged in nothing more than fact-finding.

3.1 Research Design

For this research undertaking to be meaningful, there is need to develop an efficient Research Design¹. The need for a research design arose out of the fact that it would facilitate the smooth conduct of the various stages of this research study. The research design developed simply refer to the practical “how” of this research. More specifically, it is about how the Researcher systematically designed the study to ensure valid and reliable results that address the research aims and objectives. The research design explained not just what methodological choices were made, but also explained why they were made. In other words, the research

design showed that the chosen methods and techniques are the best fit for the research aims and objectives, and provided valid and reliable results.

The research study adopted Survey Research Design. This was utilized in collecting relevant data appropriate for answering research problems or questions. The Researcher opted for this design because it is used to study people's feelings and perceptions about social phenomena, such as the human rights violations of Awaiting-Trial Inmates (ATIs) in Nigerian correctional facilities. The design promoted the utilization of questionnaire and interview in gathering data; this made it cheaper as compared to other designs². More so, the design allowed for the selection of samples and drawing of inferences from the sample.

The survey research design contributed to making this research as efficient as possible. It made this research yield maximum information with minimum effort, time and expenditure. The survey research design was prepared with utmost care, so as to avoid any error that may distort the entire research study. The survey research design, indeed, played a crucial role in ascertaining the reliability of study results obtained, which formed the strong foundation of the entire process of the research.

While the geographical location of the research study revolved around Lagos, Plateau, Ebonyi, Katsina and Kano states, its institutional location revolved around Kirikiri, Jos, Abakaliki, Katsina and Kano Correction Centres (see Table 3.1 below). Needless to say, therefore, the study involved five major towns in Nigeria: Kirikiri, Jos, Abakaliki, Kano and Katsina, which are highly urban. Each of the towns has a correction centre (Kirikiri Correction Centre, Jos Correction Centre, Abakaliki Correction Centre, Kano Correction Centre, and Katsina Correction Centre) and police stations where persons awaiting trial are taken.

Table 3.1 History and Description of the Correction Centres Covered

Correction Centre	Location	Profile
Kirikiri Correction Centre	Located in the west of Apapa, Lagos State. Named after the Kirikiri community in which it is situated in. Kirikiri is a densely populated town in Apapa with a lot of residents and some industrial presence. In reality, Kirikiri has two sets of people: those that dwell behind the “prison walls” and those who reside outside.	Nigeria’s most popular detention facility. Built in the year 1955 with an initial capacity of 1,056 inmates but it now houses 1,545 prisoners as at the time of data collection on 2nd November, 2021. It is already infamous for its overcrowding. It is highly congested like the Kano and Katsina Correction Centres. Kirikiri Correction Centre has facilities for religious worship, sporting and other recreational activities. Like the Abakaliki Correction Centre, it has no room for expansion.
Abakaliki Correction Centre	Located in the heart of the capital city, a short distance away from Government House, Abakaliki, the State Police Headquarters and the Federal Teaching Hospital.	It is Nigeria’s most dilapidated, dehumanizing jail. The correctional facility was established in 1946 to hold a maximum of 798 inmates, but as at the time of data gathering on 19th November, 2021 a total of 1,413 inmates were crammed in the facility, making it a congested and volatile correctional facility where the condition of the inmates is pathetic and miserable. The inmates awaiting trial are more than 80% and that has been the situation for years.

Kano Centre	Correction	Located at the centre of Kano City and situated on a level land.	Built in 1903 during the reign of Emir Abbas. In 1910, the correctional facility was moved to its present location near the Emir's Palace. With a staff strength of 122 people and an inmate population of 1,450 as at the time of data collection on 8th November, 2021, the Kano Correction Centre can be said to be grossly understaffed. In the Correction Centre, there are facilities for religious worship. However, sporting and other recreational facilities are grossly inadequate. Also, library services are extremely poor.
Katsina Centre	Correction	The correctional facility is located in Katsina, which was among the most renowned ancient cities in Northern Nigeria and was a famous centre of learning.	The correctional institution has an official capacity of 335 people but 897 people were found as at the time of data collection on 15th November, 2021. The institution is well classified. It has no gallows and condemned cells. With staff strength of 85 people and an inmate population of 897, the correctional institution can be said to be grossly understaffed. Although there are facilities for religious worship, sporting and other recreational facilities, but they are grossly inadequate.

Jos Correction Centre	Located in Jos North Local Government Area. It is located in the centre of the town. It is within the security reach of the state, which assists in safeguarding the correctional facility.	It was first built as a Native Authority Prison in 1930. The change in prison administration in 1953 from the Native Authority to the Federal Government culminated into the Jos Correctional Centre expansion, and its present location. It has a capacity to accommodate 1,149 inmates. There was a total 565 inmates as at the time of data gathering on 25th November, 2021. Like other four correctional institutions above, the Jos Correction Centre has facilities for religious worship. Sporting and other recreational facilities are grossly inadequate. Also, library services are extremely poor. The Sick Bay was abandoned due to wear and tear.
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Source: Researcher's Construct

The Kirikiri, Abakaliki, Kano, Katsina and Jos Correction Centres above are warehouses for inmates brought to them. While they can do something about their environment, they cannot do something in terms of prison population because they are just warehouses. The correctional facilities have been neglected over the years by the successive administration at the expense of the inmates.

Kirikiri, Jos, Abakaliki, Kano and Katsina townships' Correction Centres are under the control of the Nigerian Correctional Service (NCoS). The NCoS is an arm of the Criminal

Justice System domiciled in the Ministry of Interior. It is a federal phenomenon, i.e., there are no State Correctional Service in Nigeria. Every Custodial Centre is a federal facility.

One major vision of the Correctional Service in Nigeria is to promote public protection by providing assistance and due support for offenders in their reformation and rehabilitation under a safe, secure and humane conditions in line with universally accepted standard and to facilitate their social reintegration into society. The Nigerian Correctional Service (a paramilitary outfit) performs functions that are considered as their contribution in crime control and prevention efforts.

Table 3.2 Zonal and State Commands of the Nigerian Correctional Service (NCoS)

Zonal	States	State Capitals
Zone A Lagos	Lagos, Ogun	Ikeja, Abeokuta
Zone B Kaduna	Jigawa, Kano, Kaduna, Katsina	Dutse, Jalingo, Kaduna, Katsina
Zone C Bauchi	Gombe, Taraba, Adamawa, Borno, Yobe, Bauchi	Gombe, Jalingo, Yola, Maiduguri, Damaturu, Ilorin, Birnin-Kebbi, Gusau, Sokoto, Minna
Zone D Minna	Kwara, Kebbi, Zamfara, Sokoto, Niger	Umuahia, Uyo, Owerri, Calabar, Port-Harcourt, Oshogbo, Akure, Ado-Ekiti, Ibadan
Zone E Port-Harcourt	Abia, Akwa-Ibom, Imo, Cross-River, Rivers, Bayelsa	Akwa, Benin, Asaba, Abakaliki, Enugu
Zone F Ibadan	Osun, Ondo, Ekiti, Oyo	Makurdi, Lafiya, Jos, Lokoja
Zone G Benin	Anambra, Edo, Delta, Ebonyi, Enugu	
Zone H Makurdi	Benue, Nassarawa, Plateau, Kogi	

Source: The Nigerian Correctional Service (NCoS) *Annual Report, 2022*

Generally, the structure of the Nigerian Correctional Service is divided into two: Administrative Structure and Command Structure. Starting with the Administrative Structure, at the top of the NCoS sits the Controller-General. He is the Chief Executive Officer and is responsible for the formulation and implementation of prison policies in Nigeria. He is

assisted by six Deputy Controllers-General, who head the six broad administrative divisions called Directorates into which the Service is broken for effective management. Next is the Command Structure. Following the creation of the Zonal/State Command Structure of the NCoS (see Table 3.2 above), the Zone A (Lagos) controls the Kirikiri Correction Centre, Zone B (Kaduna) controls the Katsina and Kano Correction Centres, Zone G (Benin) controls the Abakaliki Correction Centre, and Zone H (Makurdi) controls the Jos Correction Centre. The Zones are headed by Assistant Controllers-General while the State Commands are headed by Controllers. The Prison (Correction Centre) is the last unit of the structure and is headed by a Superintendent or Prison Warden.

Data for the research study were divided into two: primary and secondary. These data were collected from first-hand sources. Primary data were collected from Awaiting-Trial Inmates and criminal justice officials that include the correction centre and police officials, and the judges/magistrates and lawyers. The data generated from these sources were both quantitative and qualitative in nature and character. Secondary data in the form of documents on police stations, courts and prisons activities, and human rights were sought and obtained. The secondary data were obtained from Libraries/Archives and Research Institutes/Information Centres; the data were largely qualitative. These include Libraries/Research Centres like the Nigerian Institute of International Affairs (NIIA), Abuja/Lagos; U.S. Embassy Library (Rosa Parks American Centre), Abuja; U.S. Consulate Library (Whitney M. Young (Jr.) American Centre), Lagos; Sir Kashim Ibrahim Library, Ahmadu Bello University, Zaria; Bayero University Library, Kano; Nigerian Institute of Advanced Legal Studies (NIALS), Abuja/Lagos; University of Ibadan Library, Ibadan; University of Lagos Library, Lagos; Centre for Research and Documentation, Kano; Nigerian Legal Aid Council Library, Abuja; National Institute for Policy and Strategic Studies (NIPSS), Kuru near Jos; National Human Rights Commission, Lagos/Abuja; National Library of Nigeria, Abuja; British Council,

Abuja; The Institute for Human Rights and Humanitarian Law (IHRHL), Abuja; Centre for Democracy and Development (CDD), Abuja; Human Rights Research and Development Centre (HRRDC), Abuja; Centre for Environment, Human Rights and Development (CEHRD), Port Harcourt; and on the Internet. Needless to say, the doctrinal method of research, i.e., books, periodicals, statutes, reports, monographs, journals, encyclopedias, and articles, was adopted to accomplish the desired goal of addressing the pervasive violations of awaiting-trial inmates' rights.

The principal Variables covered/examined in this research study were in three categories: The Dependent, the Independent and the Intervening Variables. The independent variables comprised socio-demographic and economic characteristics of the detainees. These include their age, educational level, employment status, gender, religious affiliation and economic power. These variables were expected to determine the kind of treatment an awaiting-trial inmate is likely to get.

The dependent variables comprised various events of human rights violation with bias on prolonged detention awaiting trial. These include failure to caution a detainee, denial of bail for bailable offences, neglect of right to speedy and fair trial, right to a lawyer and torture. They also include verbal abuse, shouting, severe beating and other forms of bullying. Other components of this variable include denial of nutritious food, medical care, accommodation, counseling, re-entry training and sporting facilities. In general, the dependent variable covered those rights guaranteed each human being and citizen as spelt out in the United Nations Conventions and Declarations (to which Nigeria is a signatory), contents of the African Union Charter on Human and Peoples' Rights, and as provided for in the Constitution of the Federal Republic of Nigeria. The violation of human rights as a variable is, in the context of this study, assumed to happen when these guaranteed rights are denied or violated. It should be noted that even though it is only human rights violations that pertain to

awaiting-trial inmates that form a component part of this variable, certain situations applicable to convicts would also apply to them, especially those that have spent long time in detention, e.g., religious services.

Criminal justice system characteristics/processes were the intervening variables. From the empirical viewpoint, criminal justice administration refers to the processes employed in the dispensation of criminal justice³. Thus, it involves the role and powers of the police to arrest when the need arises and the limits to these powers. It also involves how cases are presented and heard in the law courts with particular respect to the suspect's rights in the hearings, and to reasons for delay in deciding cases. Additionally, it involves the role of the correctional institutions in the criminal justice administration, being the place where the suspects are sent for custody.

3.2 Population of the Study

All studies must have a population on which to garner data, and this research is no exception. Population refers to the group of people research focuses on⁴. The population for this study comprised all Awaiting-Trial Inmates in the Nigeria's criminal justice system. It also includes all prison and police officials involved in the administration of justice in Nigeria. Other categories of the population were judges, magistrates and lawyers. It is from these that a fraction was drawn for intensive study, as the whole population could not, conceivably, be covered with the resources available for a doctoral study.

3.3 Sample Size and Sampling Techniques

This section addresses the where of data gathering. Due to time and financial constraints in covering the entire population and the fact that it is neither possible nor necessary to cover every area of study or each member of the population, samples of the study population (detainees, police, and prison officials, and lawyers/judges/magistrates) were derived using

some acceptable sampling procedures. The names of all the detainees in this study were registered as they were leading a regimented life. In an effort to sample respondents from the prison detainees, disproportionate stratified sampling had to be used. This means that the proportion of the population did not determine the sample because the detainees in prison cells were brought out to the Researcher based on the crimes with which they were accused. Out of a total of Four Thousand, Four Hundred and Eleven (4,411) awaiting-trial inmates in the five correction centres covered, Two Hundred and Sixty (260) were sampled as respondents. This is because being a controlled population, extensive coverage was not feasible and the sample size represented a manageable sample considering time and resources available to the Researcher. Their alleged offences formed the strata from which simple random sampling method was used. The offences were property crimes, person/violent offences, armed robbery and minor offences.

As the study also involved police and prison officials, they were sampled using purposive sampling technique so as to target respondents with the right information. In an attempt to garner data from the police, the Researcher was asked to give the questionnaires to the Police Public Relations Officers (PPROs) in Force Headquarters who in turn distributed them to the Units in charge of prosecution and legal matters, being the Units that could respond to the questions posed in the questionnaire. Prison officials were handed the questionnaires by the respective Welfare Officers (WOs) in the five correction centres covered. That is, the questionnaires were distributed based on the willingness, availability and ability of the prison officials to respond to the questions raised. With this technique, while 40 prison officials were selected, 45 police officers/lawyers/judges/ magistrates were also selected.

With regard to the sampling of lawyers, judges and magistrates, convenience sampling technique was used because the Researcher went to where these professionals were available and distributed the questionnaires based on their immediate availability, as well as their

willingness to assist in completing the questionnaires. In this regard Law Faculties in Bayero University, Kano, Lagos State University, Ojo, and University of Jos, Jos were covered. Also covered were the Fives Fields' and GRA Courts in Katsina, the Magistrate Court along Lugard Road, Jos and the Magistrate Court along Town Planning Road, Abakaliki. Finally, private chambers (Alhaq Chambers) in Katsina, Beracah Chambers in Abakaliki and Liberty Chambers in Kano were covered. With these constraints, 2 judges and 21 lawyers who were willing and available constituted the respondents for this category of the study population.

Table 3.3 Distribution of the Sampled Respondents

Location	Awaiting-Trial Inmates					
	Police Cells	Prison Cells	Judges	Police	Lawyers	Prison Officials
Kano	12	40	-	5	3	8
Katsina	07	42	1	3	4	7
Abakaliki	10	41	-	6	5	9
Jos	11	44	1	3	4	8
Kirikiri	11	42	-	5	5	8
Total	51	209	2	22	21	40

Source: Field Survey, 2021

3.4 Description of the Research Instruments

Research instruments are those tools which were used to collect data for this research study. These instruments are as follows: Questionnaire, In-Depth Interview (IDI), Observation, and Focus Group Interaction (FGI). The choice of these instruments was based on a number of considerations such as the type of data sought, type of research study being carried out, the number of variables involved in the study, purpose of the study, and the size of the sample.

Questionnaire is one of the major instruments used in eliciting information. The questionnaires were of three types (see Appendices I - V for all the Questionnaires). The first

one was used to obtain information from suspects in detention in the police stations and correction centres covered and had a total of fifty-one items. The remaining two set of questionnaires, with eighteen and twenty-five items each, were administered on police, judges, magistrates, as well as prison officials. Attached to each questionnaire was a cover letter or letter of transmittal to explain the purpose of the investigation to the respondents and to encourage high response rate.

The questionnaires contained some questions and/or statements (some with suggested alternative answers) for which the respondent was expected to provide answers to the questions or confirm/disconfirm the statements. The questionnaires consisted of both close-ended and open-ended questions. The questions asked were simple, short and direct, and aroused the interest or curiosity of the respondent. Questions were ordered logically, devoid of ambiguous words or words of vague meaning. The language used in the questionnaires is explicit, understood and it appealed to all categories of respondents. And the identity of respondents was protected by not asking personalized questions.

Another vital research instrument used for data collection is the In-Depth Interview (IDI). This was conducted among prison officials, judges, magistrates and police officers on duty. The interview schedule contained a list of prepared questions used by the Researcher to elicit information from the respondent for the purpose of conducting a robust, painstaking research on the human rights violations of detainees awaiting trial. The interview questions were designed to focus on comprehensive range of issues that border on Nigeria's criminal justice system, especially on the plights of inmates awaiting trial in our correctional institutions and police stations. It should be stressed that conducting the IDI was not an easy task because it required a rare combination of intelligence, initiative and tact on the part of Researcher to enable him get the desired information from the respondents.

Observation, as one of the research tools or instruments, was utilized in gathering the required data for the study. The Researcher visited the police cells and correctional facilities and saw their conditions generally. The purpose is to cover those areas that were not covered by the questionnaire. Observation as a research instrument was utilized to get current information. The Researcher gathered his data by watching and recording information. Data collected by observation depicted the observed phenomena as they occur in their natural settings. The use of observation gave the Researcher better understandings of what happened and lent credence to Researcher's interpretation of the observed situations. An Observation Guide was devised (see Appendix VI), and it focused on toilet facilities, health facilities, sanitary condition, food, sporting facilities, prisoners' uniforms, inter alia.

Focus Group Interaction (FGI) with detainees awaiting trial was also employed as a research instrument, to probe the issues further and obtain in-depth information. The optimal size of each focus group were about six awaiting-trial inmates. Generally, the group selected was a relatively homogeneous one so that meaningful discussion can take place. In FGI, germane and necessary data were collected from a group of people rather than from individuals. This evoked painstaking discussion and gave the respondents a chance to be blunt and to open up, which proved difficult in individual interviews due to the presence of security surveillance. General discussion began with a select group of Awaiting-Trial Inmates (ATIs) at the five correction centres (Abakaliki, Kirikiri, Kano, Katsina, and Jos Correction Centres) for the study. To start a group interview in a reasonably sound manner, the Researcher first explained the subject for discussion in his own words. He then initiated the discussion and allowed the group discussion to proceed spontaneously. Respondents were given considerable liberty in expressing their view of the problem that is presented to them. The whole – group discussion was tape recorded and later transcribed. As the discussion went on other issues came up and appropriate notes were taken. Here, emphasis is on the general

theme of the study keeping into consideration these four key areas (the criminal justice system, Awaiting-Trial Inmates (ATIs), prison congestion and human rights violation). The questions were addressed by the inmates awaiting trial as the main unit of response.

The adoption of Focus Group Interaction (FGI) as an instrument of research helped to minimize information distortion. This is so because the presence of others constrained respondents for fear of contradiction. FGI enabled respondents to stimulate one another. There was an interaction of ideas, attitudes, emotions and belief of the different detainees comprising the group. An idea from one respondent sparked ideas in other minds, which led to development of several alternatives. And FGI was also chosen as a research instrument because of its flexibility. Here, the Researcher listened, thought, probed, explored, framed hunches and ideas as he proceeded.

3.5 Validity of Research Instruments

The previous section on Description of the Research Instruments examined various research instruments at the disposal of the Researcher which he utilized to collect his data, which when analyzed were used to answer research questions. An important way of ensuring that the Researcher has used the right instrument and taken correct measurement is that his outcome must be in consonance with a major criterion for measurement quality known as Validity. If the methods of measurement were not well thought out and executed, this research would not pass the test of validity.

Validity is a basic concept that is quintessential to this research especially the instruments of research. Every research instrument was normally designed to measure one or more variables. Validity, which is also called the 'psychometric property' of measurement scale, is the yardstick against which the adequacy and accuracy of the measurement procedures of this research study were evaluated. In this research, validity is perceived as the degree to which

measuring instruments measure what they were designed to measure. As the instruments were correctly designed and administered, they measured exactly what they set out to measure. If the instruments were faulty, then they would have measured something else which might not be what they were supposed to measure.

The validity of this research study involves two distinct concepts simultaneously. The extent to which it can be accurately interpreted and the extent to which the result can be generalized to a larger population and applied to different setting. The research design could be said to be valid as it enabled the Researcher to elicit the correct responses from the sample subjects. And, it is overly important to stress that there are two main types of validity of findings in this research study: internal and external validity. The internal validity deals with the ability of research design to elicit appropriate information for which it was designed, while the external validity is concerned with the question of representativeness of the sample selected. However, there were some factors that threatened to destroy the internal and external validity of research design. Such factors were controlled as much as possible.

Content validity is adopted in this research study. It is the degree to which the tests measure all that they were designed to measure. The emphasis here is on the adequate coverage by the instruments of the scope implied by the subject of study. The content validity utilized by this study can be viewed from two different perspectives: item validity and sampling validity. The item validity concerns whether the test items measure the content area they are intended to measure. Sampling validity, on the other hand, is concerned with whether the population of the study is adequately sampled by the measuring instrument used. The Researcher achieved content validity by first defining the problem to be solved clearly, identifying the items to be measured, and evolving suitable measurement scales for the purpose.

3.6 Reliability of the Research Instruments

An important way of ensuring that the Researcher has used the right instrument and taken correct measurement is that his outcome must be in consonance with a major criterion for measurement quality known as Reliability. Reliability - which is called the 'psychometric property' of measurement scales – is the yardstick against which the adequacy and accuracy of the measurement procedures of this research were evaluated. It is concerned with the stability and consistency of instruments used in this research. Reliability of the research instruments refers to the degree to which the instruments consistently measure what they intend to measure. Thus, the instruments are reliable as they gave the same results when administered repeatedly under similar condition.

In validity of research instruments above, the Researcher was concerned with the ability of instruments to measure what they were designed. In reliability of the research instruments in this section, the Researcher is concerned with the consistency in the results given by the same instruments. Thus, it is crystal clear that the Researcher is concerned with validity as well as reliability of measuring instruments.

It is important to stress that reliability in this research study was considered when planning the research design, collecting and analyzing the data, and writing up the research. The reliability of measuring instruments in this study was determined through the following methods: parallel forms or multiple forms reliability and internal consistency reliability. The parallel forms or multiple forms reliability involved the administration of two different instruments on the respondents simultaneously. The instruments were identical and they measured the same variables. Not only that, they possessed the same structure, the same difficulty level, and the same direction for administration, scoring, and interpretation.

The first instrument was administered on appropriate respondents. At the same session, or shortly thereafter, the second instrument was applied on that same set of respondents. The scores from the two tests were compared to determine their correlation coefficient. A high correlation coefficient between the two results showed the existence of a high reliability of the instruments. Second, the results obtained from the two instruments enable the Researcher to pick the instrument that is more consistent and appropriate.

The internal consistency reliability of this study estimated reliability by treating different parts of a measuring instrument as a separate scale. It assessed the correlation between multiple items in a test that were intended to measure the same construct. The internal consistency was calculated without repeating the test, so it is a good way of assessing reliability when there was only one data set. In improving the internal consistency, adequate care was taken when devising questions or measures.

By and large, the Researcher tried to avoid unreliable observations in measurement. He tried to be objective in his observations through the usage of quantitative measures, avoidance of imprecise and ambiguous questions, and avoidance of questions about issues that respondents are not very familiar with or do not care about. These strategies have tremendously improved the reliability of the measures.

3.7 Administration of Research Instruments and Method of Data Collection

This section grapples with how of data gathering. There were many different options in terms of how data for the study were collected. However, these options were grouped into the following types:

- i. Interviews
- ii. Focus groups and group interviews
- iii. Surveys (online or physical surveys)

- iv. Observations
- v. Documents and records

The administration of research instruments and choice of which data collection method utilized depend on the overall research aims and objectives, as well as practicalities and resource constraints. As the research study was exploratory in nature, qualitative methods such as interviews and focus groups were likely a good fit. Conversely, as the research aimed to measure specific variables, large-scale surveys that produce large volumes of numerical data were likely a better fit.

For the purposes of collecting the data for this study, a multi-method approach was utilized because the issues being investigated could not be adequately addressed by a single data collection technique. The Researcher utilized Questionnaires, which were completed by the respondents with the help of Research Assistants. The questionnaire was of three types. The first one was used to obtain information from suspects in detention in the police stations and correction centres covered. Ten to fifteen minutes were utilized in administering one questionnaire on each respondent. In this questionnaire, the types, nature and extent of human rights violation Awaiting-Trial Inmates experienced were raised. Furthermore, full socio-demographic and economic characteristics of the respondents were obtained. Respondents were also asked questions relating to the severity of the abuse. In the questionnaire, respondents were asked to suggest both formal and informal mechanisms for minimizing the incidence of human rights violations of detainees awaiting trial. This is to enable us see the link, if any, between the variables under study and these socio-demographic and economic features.

The remaining two set of questionnaires were administered on police, judges, magistrates, as well as prison officials. In these two questionnaires, socio-demographic and economic

questions were also asked to facilitate an understanding of the link between such socio-demographic and economic factors as age, religious affiliation, education, gender, marital status, income level, employment status etc., and the issue of human rights violation concerning Awaiting-Trial Inmates within the framework of criminal justice administration in Nigeria.

All in all, questionnaires administered on the respondents allowed for information gathering from those awaiting trial at the police stations and the correction centres, on the views of prison officials, the police, court judges, magistrates, and lawyers to provide fruitful information concerning the issues under investigation. With the aid of the questionnaires, quantitative/aggregate data and qualitative data were obtained (see Appendices I - V for all the Questionnaires). The fieldwork was conducted in the month of November 2021, and four days each were spent in the five research locales administering the questionnaires and effecting other data-collection-related activities.

In addition, interviews with awaiting-trial inmates who were the key informants and In-Depth Interview (IDI) with special groups (justice system personnel - prison officials, judges, magistrates and police officers) were used. In order to collect supplementary data using interviews, Research Assistants were employed and basic training on how to ask the questions given to them. The interviews were tape-recorded. In each correction centre, four interview sessions were held and two in each of the police stations. Here, questions concerning the socio-demographic characteristics and economic features of the respondents were not asked to avoid confusion during coding and tabulation. However, questions relating to length of stay in detention, kind of treatment given to them, suggestions on both formal and informal ways of solving their problems were raised during the interviews. The interview method facilitated obtaining qualitative data. The Awaiting-Trial Inmates constituted the unit of response while the In-Depth Interview (IDI) was conducted with prison officials. Two in-

Depth Interview sessions were held in each of the correction centres and one in each of the police stations.

Since some aspects of the research problematic required physical Observation, the Researcher visited the police cells and correction centres and saw their conditions generally. The purpose is to cover those areas not covered by the questionnaire, and to physically see those things that may escape the attention of the interviewers. An Observation Guide was devised (see Appendix VI), and it focused on food, health facilities, sanitary condition, sporting facilities, toilet facilities, prisoners' uniforms, bed and bedding and the general condition of the workshop. This method allowed the Researcher to verify or otherwise, certain claims by prison officials or the Awaiting-Trial Inmates.

Focus Group Interaction (FGI) with the Awaiting-Trial Inmates was employed, to probe the issues further and obtain in-depth information. This evoked discussion and gave the respondents a chance to be frank and to open up, which proved insuperably difficult in individual interviews due to tight security surveillance. A general question that formed the basis for discussion was presented to the group. The responses were tape-recorded and later transcribed. Ample opportunity was given to the group members to speak.

The discussion using this method involved all the detainees awaiting trial offered by the prison officials in each of the five correction centres; efforts were made to ensure homogeneity of the discussion groups. A discussion was held with them by bringing them together in a room. The discussions/interactions were held three times each in Kirikiri, Abakaliki and Katsina Correction Centres, and only once in Kano and Jos Correction Centres. In each FGI group there was a minimum of six detainees. FGI was used because it is socially oriented capturing real-life data in social environment⁵. It is flexible, it has high face validity, it has speedy result and it is inexpensive. FGI is important because of the group dynamics

that took place among the detainees, which assisted in bringing out aspects of the topic that would not have been anticipated. This enabled the Researcher to obtain more qualitative data that added flesh to the body of information during data analysis.

The discussion with the Awaiting-Trial Inmates centred on their human rights violation, congestion in the justice system, solutions to prolonged detention without trial and the methods of improving the protection of the human rights of suspects awaiting trial.

3.8 Method of Data Analysis

In all academic undertakings a lot of raw data has to be collected. These raw data will have to be scientifically organized in order to make meaning out of them. In this study the data were gathered, cleaned and analyzed using frequencies, percentages, univariate and bivariate analyses. There were some variables looked at in this research study and the appropriate statistical tool(s) used in their analyses. Thus, besides frequencies and percentages, analysis included the use of bivariate techniques such as chi-square (χ^2), Cramer's V, step-wise regression analysis, gamma and Pearson C as appropriate. For example, to what extent does age, education, occupation, or income determine the incidence, type or severity of human rights abuse during arrest, trial or detention? In doing all these, Statistics Programme for the Social Sciences (SPSS) version 8.0 was used. Furthermore, qualitative data obtained from the open-ended questions were used as supportive quotes in the analysis.

Endnotes

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3. A. Fichtelberg, *Criminal [In] Justice: A Critical Introduction*, SAGE Publications Inc.: California, United States, 2019, 188-190.
4. Gonzalez-Salzberg, D. & Hodson, L. (eds.), *Research Methods for International Human Rights Law*, Routledge Publishing Company: London, United Kingdom, 2021, 195.
5. W. Booth, G. Colomb, J. Williams, J. Bizup & W. Fitzgerald, *The Craft of Research*, University of Chicago Press: Illinois, United States, 2014.

Chapter Four

Results and Discussion of Findings

This chapter is committed to presenting results and discussing findings, of course, including treating the constructed research questions (RQs) itemized in the primary chapter of this thesis, stating corresponding outcomes, with aim to revealing new findings, conformity with or contradiction to previous findings of other Researchers. In order to do so, the chapter grapples with these three fundamental areas: Demographic Data Analysis; Presentation of Research Questions (RQs); and the Discussion of Findings. The data gathered are presented with the aid of frequencies and percentages; and correlating the dependent variables against the independent led to presentation of relevant bivariate analysis that proved to be statistically significant, and from which patterns were observed and inferences made.

4.1 Demographic Data Analysis

This section deals with the demographic characteristics of the awaiting-trial detainees studied as well as that of the criminal justice administration officials. The demographic attributes covered here include age, sex, marital status, number of children (if any), and religion. A presentation on these attributes is important because it serves as a prelude to subsequent subsection which dwells on the nature, extent and types of human rights violations. The background also offers insight on detainees' and officials' perception of the correlates and costs of human rights violations; and the remedies against human rights violation in Nigeria.

This section is divided into two subsections: there is the presentation of the data obtained from the sampled awaiting-trial detainees in the police cells and the five Correction Centres covered; and there is presentation on the attributes of the criminal justice personnel.

4.1.1 Attributes of the Awaiting-Trial Detainees

It can be seen from Table 4.1 below that while nearly half of respondents were 25 years of age or younger, and married, about two-thirds have had children. The respondents were overwhelmingly male and somewhat evenly distributed among the Islamic and Christian faiths, the latter observation reflecting the environment the respondents were detained.

Table 4.1 Demographic Attributes of Respondents

Age	N	%
<20years	47	18.1
21-25years	72	27.7
26-30	46	17.7
31-35	47	18.1
36-40	26	10.0
40+	22	8.5
Total	260	100
Marital Status	N	%
Married	118	45.4
Single	119	45.7
Divorced/Separated/Widowed	23	8.9
Total	260	100.0
Number of Children	N	%
None	89	34.2
1-2	118	45.4
3-4	53	20.4
Total	260	100.0
Sex	N	%
Male	234	90.0

Female	26	10.0
Total	260	100.0
Religion	N	%
Moslem	143	55.0
Christian	115	44.3
Free thinker	2	0.7
Total	260	100.0

Source: Field Survey, 2021

Since the data above showed that majority of the respondents were between ages 20 and 30 (45.4%) compared to other age brackets, it is safe to say that most of those awaiting trial that were studied are youths. Importantly, this finding confirmed established criminology knowledge of ages 20-30 being the “hazardous decade” when people are most likely to come into contact with the criminal justice system. It is important to stress that the younger the age the higher the curiosity and probability to indulge in delinquent and criminal behaviours.

4.1.2 Attributes of the Criminal Justice Administration Personnel

In this subsection, analysis is presented pertaining to the characteristics of police officials, judges/magistrates and lawyers, and correction centre officials in the research areas which, put together, are herein considered as criminal justice administration personnel.

The correction centre officials were given a separate questionnaire to fill-in which is different from the one given to other criminal justice personnel that included the police, judges/magistrates and lawyers. The latter were grouped together and were given the same questionnaire due to the similarity in their work; moreover, their training and practice produces similar or same responses from them, though differences could be expected.

Table 4.2 below represents the demographic attributes of the police officers, judges/magistrates and lawyers in the five research locations covered, namely Kano,

Abakaliki, Katsina, Kirikiri and Jos, while Table 4.3 represents those of the correction centre personnel.

Table 4.2 Demographic Characteristics

Age Bracket	N	%
20-25	6	13.3
26-30	6	13.3
31-35	13	28.9
36-40	9	20.0
41-45	7	15.6
46 +	4	8.9
Total	45	100.0
Gender	N	%
Male	42	93.3
Female	3	6.7
Total	45	100.0
Marital Status	N	%
Married	38	84.5
Single	6	13.3
Widowed	1	2.2
Total	45	100.0
Number of Children	N	%
1-2	14	35.8
3-4	16	41.0
5 and above	9	23.2
Not Applicable	6	13.3

Total	45	100.0
Religious Affiliation	N	%
Moslems	24	53.3
Christians	21	46.7
Total	45	100.0
Educational Level	N	%
Primary level	5	11.1
Secondary level	12	26.7
OND/NCE	9	20.0
University level	19	42.2
Total	45	100.0

Source: Field Survey, 2021

It is evident from Table 4.2 above that the highest percentage of those sampled was young (20-36 years old) and male. In the area under study, there is extremely low involvement of women in law enforcement in general and police duties in particular. Additionally, not a single female lawyer was sampled due to unavailability coupled with little involvement of women in the legal profession in the study areas. The data indicate that the highest percentage of the respondents was married and those with 3 children and over equally constitutes the highest percentage.

Furthermore, the findings showed that there is a somewhat balanced representation of the two dominant religions in the responses obtained, even though more Moslems were represented due to the nature of the areas of study that are predominantly inhabited by more Moslems.

In addition, a high percentage of the sampled respondents possessed more than secondary school education. This is because the judges/magistrates and lawyers must have passed

through the University while those with Secondary school education and OND/NCE were policemen of other ranks and inspectors respectively.

Table 4.3 Demographic Characteristics of Correction Centre Personnel

Age Bracket	N	%
20-29	3	7.5
30-39	23	57.5
40-50	14	35.0
Total	40	100.0
Gender	N	%
Male	35	87.5
Female	5	12.5
Total	40	100.0
Marital Status	N	%
Married	39	97.5
Single	1	2.5
Total	40	100.0
Number of Children	N	%
1-2	8	20.0
3-4	22	55.0
5 and above	10	25.0
Total	40	100.0
Educational Level	N	%
Primary	3	7.5
Secondary	3	7.5
OND/NCE	15	37.5
University	19	47.5
Total	40	100.0
Religious Affiliation	N	%
Moslem	23	57.5
Christian	17	42.5

Total	40	100.0
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Source: Field Survey, 2021

On the age distribution of the correction centre officials shown in Table 4.3 above, it is clear that respondents in the age category 30-39 constitutes the highest percentage showing that the workforce in the correction centres covered as at the time of this research was young. The Table further shows that out of the 40 respondents covered, the highest percentage of them was male and was married with 3 or more children.

Furthermore, it is evident from the Table that many of the respondents in the correction centres (85%) possessed higher education. Furthermore, it indicates that Moslems represented the highest percentage owing to the nature of the areas covered by the study.

By and large, the section on Demographic Data Analysis has presented and discussed the findings on the demographic characteristics of the respondents of the research study: the Awaiting-Trial inmates and the criminal justice personnel. In research undertakings, a look at the demographic characteristics of the respondents is vital because they indicate such things as life style, social status, life chances as well as values, beliefs, opinions and dispositions. Findings indicated that the respondents were predominantly male, in their early and mid-30s with low education; they were mainly self-employed, and were single. The criminal justice personnel were predominantly male, found to be well educated, and married with children.

4.2 Presentation of Research Questions

4.2.1 Nature, Extent and Types of Human Rights Violations

The nature, extent and types of human rights violations experienced by the awaiting-trial inmates are the focus of this subsection. Relevant qualitative data as obtained from the awaiting-trial inmates and criminal justice personnel were employed in order to support the research findings. Operationally, the nature of human rights violations referred to the

character and essential traits of human rights violations awaiting-trial inmates experienced while in detention at police stations, courts and the correctional institutions covered. The extent of human rights violations here was utilized to cover the volume, range and magnitude of the violations awaiting-trial inmates experienced. Types of violations were in reference to policy and practice vis-à-vis respect for or violation of human rights.

As indicated above, the nature of human rights violations referred to the features and essential qualities of human rights violations awaiting-trial inmates experienced while in detention that include verbal abuse, physical abuse and deprivations that resulted in some effects on the awaiting-trial inmates while being processed in the criminal justice system.

Research findings showed that a prelude to all the other abuses was shouting on the detainees. The severity of such human rights abuse as shout, insult, beating/slapping, etc., were observed to be higher in police stations and court cells than in correction centres because these two agencies are in charge of the investigative and interrogative aspects of justice administration.

4.2.1.1 Verbal and Physical Abuses of Awaiting-Trial Inmates

In general terms, the nature of human rights violation was observed to be higher in correctional institutions relative to police stations and courts. This was not far-fetched since correction centre serves as a custodian/banker to court clients¹. Additionally, not much provision was made in police stations and courts for prolonged detention pending the determination of awaiting-trial inmates' cases. This partly explained the Researcher's limitation in monitoring and accurately gauging human rights violations in police stations and courts compared with prison detention where verbal and physical abuses were found as the data in the Table below show.

Table 4.4 Abuses: Verbal and Physical

Shouted at	N	%
Yes	167	64.2%
No	93	35.8%
Total	260	100%
Slapped	N	%
Yes	23	8.8%
No	237	91.2%
Total	260	100%
Beaten	N	%
Yes	28	10.8%
No	232	89.2%
Total	260	100%
Engaged in Hard Labour	N	%
Yes	36	13.8%
No	224	86.2%
Total	260	100%

Source: Field Survey, 2021

The data in Table 4.4 above showed that although more than half of the respondents said that prison officials shouted at them (mainly to scare and threaten, instill fear and enforce discipline among them), an overwhelming majority of the suspects (91.2%) said they were neither slapped, beaten nor engaged in hard labour. Findings further showed that respondents said they were subjected to hard labour while in police custody, e.g. cutting grasses, clearing gutters and moving away old roasted vehicles. This is contrary to the provisions of Section 34 (c) of the Nigeria's 1999 Constitution that says "no person shall be required to perform forced or compulsory labour".

It is realized that the gravity of the offence determined the harshness and severity of abuse awaiting-trial inmates experienced. A notorious armed robbery suspect that was doubly accused of rape was brutally beaten and his leg fractured by the police in Abakaliki; and despite his condition, the police were humiliating and showering abuses on him. Similarly, there were awaiting-trial inmates who were severely beaten in Jos and Kano Criminal Investigation Departments. Not much was noticed on this kind of violation in Katsina, essentially because there were no armed robbery suspects then and the unit was/is relatively less harsh on suspects. This kind of violation can be considered as torture which is contrary to Article 5 of the Universal Declaration of Human Rights of 1948 that says “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”. See also Nigeria’s 1999 Constitution Section 34 (a) that says “no person shall be subjected to torture or to inhuman or degrading treatment”.

4.2.1.2 Feeding Arrangement and Loss of Appetite

Research findings further manifested that there was insufficiency regarding food provision in the police stations covered, and awaiting-trial inmates without money or relations close by to assist them were found starving for days. The quantity and quality of food offered to the awaiting-trial inmates at Katsina Central police station was grossly inadequate as was observed and later confirmed by the awaiting-trial inmates. This is contrary to Section 20, Subsection 1 of the United Nations Standard Minimum Rules (UNSMR) that says “Every Prisoner shall be provided by the administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served”. The feeding arrangement in Kano and Kirikiri police stations was erratic and quantitatively and qualitatively inadequate, too. Awaiting-trial inmates observed were seriously irked that they were losing weight.

Furthermore, findings showed that many of the awaiting-trial inmates (74.2%) did experience loss of appetite. This might have resulted from their uncertain circumstances, concern for their families, friends and the outside world they were denied interacting with. A direct result of losing appetite and other related detention conditions was loss of weight which majority of the respondents (81.4%) said they experienced.

4.2.1.3 Medical Facilities

In the area of medical care, no formal provision existed in police stations. A sick awaiting-trial inmate would have to take care of his medical needs, else he stays like that. Sick detainees that had money could get their medicaments purchased by the police. This contravenes Section 22, Subsection 1 of the UNSMR that says “At every institution there shall be available the services of at least one qualified medical officer who should have some knowledge of psychiatry. The medical services should be organized in close relationship to the community or nation. They shall include a psychiatric service for the diagnosis and, in proper cases, the treatment of states of abnormality”. Findings revealed that if the illness was serious and severe the awaiting-trial inmates were taken to hospital. The police did complain of lack of transportation and money to buy certain prescribed drugs for the awaiting-trial inmates affected.

When the cells in the police stations covered were observed, a general inadequacy was discovered: lack of enough sleeping space, sleeping materials like mats, blankets and bed-sheets; the environment was severely pressurized owing to congestion and unsanitary practices; and the cells smelt badly. As a result of congestion, awaiting-trial inmate personal privacy was absent in all the police stations covered by this research. This is contrary to Article 12 of the Universal Declaration of Human Rights of 1948 that says “No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to

attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks”.

In conformity with Section 38, Subsection 3 of the Standard Minimum Rules on Contact with the Outside World that says “Awaiting-trial prisoners are allowed regular, unlimited visits which are not restricted to any day of the week and can be taken at any time during working hours. Prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits”. It was observed that awaiting-trial inmates were allowed to receive visits by family members, close relations, friends and others because economic rewards and other materially oriented benefits for the officials go with the visits: money, food and other gifts like wrist watches, glasses and so on as was witnessed at Abakaliki police station.

From the foregoing, it can be inferred that human rights violation occurred in the police stations covered due to the practice and attitudinal dispositions of the police towards the awaiting-trial inmates and government neglect of the justice administration agencies (in this case the police) whose problems adversely affect the operation and performance of courts.

4.2.1.4 Physical and Mental Effects of Detention

Additionally, respondents said they suffer deprivations resulting from their detention; and these deprivations culminated in certain physical and mental effects on them. Data showed that the physical and mental effects include (elementarily speaking) depression, sleeplessness, loss of appetite and loss of weight.

The data collected showed that majority of the sampled respondents (82.5%) experienced depression while in prison custody, a condition not unconnected with confinement, boredom, uncertainty and idleness. Furthermore, findings indicated that the depression stemmed from

some of the awaiting-trial inmates' worry that they were detained on trivial or even non-existent charges. In this connection a respondent said:

I was arrested in the night after I had misunderstanding with a friend at a club. I happened to injure him. I was arrested and tortured by the police. I could not bear the suffering, so I falsely confessed. They said since I can stab somebody with a knife, then I must be notorious and among the armed robbers disturbing the area.

Another frustrated respondent said he was not supposed to be in detention because he did nothing at all. He said:

I was just on my way to the hospital. The police arrested me. I know nothing about stealing.

The depressive situation of the awaiting-trial inmates was made worse because they were always under lock and key with only 30 minutes for sunlight to avoid deficiency in vitamin D that may result in eye problems for the suspects.

Findings further revealed that the sampled respondents experienced sleeplessness due to their detention. The sleeplessness was attributable to worries, depression, insecurity, fear, congestion/lack of space, filthy rooms, bed bugs and other inconveniencing insects brought about by dirty and improper environmental conditions.

It should additionally be noted that the above variables (depression, sleeplessness, loss of appetite and loss of weight) are inseparable aspects of one another. Thus, an awaiting-trial inmate can be adversely affected by a combination or all of the mentioned effects; and these effects are bound to engender or enhance existing human rights violation. Being poor and uneducated (in the Western sense), coupled with prison congestion, the awaiting-trial inmates were unable to mitigate the effects mentioned above via reading, writing, watching movies or such other social practices (where possible and available) capable of elevating their spirits. Also, their status as awaiting-trial inmates that have not been classified might have made matters even more difficult for them.

It was pointed out earlier on that extent of human rights violations means the incidence or prevalence of human rights violations. In this research study focus is on arrest, interrogation, cautioning of suspects, court appearance and adjournment and granting of bail for bailable offences. Other areas include food provision, medical care, prison sanitation, accommodation, bed and bedding, personal privacy and visit by family members.

4.2.1.5 Arrest and Interrogation

The first point of contact with the criminal justice system is arrest by the police after which a sequence of events follows based on the type of involvement by the individual having contact with it: suspects, victims or witnesses. The data gathered showed that while 15% of the respondents had contact with the criminal justice system as suspects, very few (1.2%) had contact with it as witnesses. This is because of the problems of being a witness: lack of or failure to give transportation money, feeding and accommodation to those called upon to give evidence; slow trial process and unnecessary/frustrating technicalities; and court adjournments. As shown by the findings, detainees that never had contact with the criminal justice system in whatever capacity represented the majority (79.6%). This further confirms that should these awaiting-trials ever get convicted, they would be mostly first-time offenders.

Table 4.5 Police on Respect for Suspects' Rights: Cautioning and Interrogation

Cautioning	N	%
Yes	42	93.3
No	3	6.7
Total	45	100.0
Respect for Rights	N	%
Not at all	3	6.7
To a minor extent	24	53.3
To a great extent	18	40.0
Total	45	100.0

Source: Field Survey, 2021

Findings showed that majority of police officials (53.3%) said that violations existed only to a minor extent which is not unexpected because the police is known for professional protectionism. However, a few of them said that awaiting-trial inmates' rights were not respected during interrogation because many of the police personnel were ignorant of what the law provides and often use force to obtain confessional statements. A respondent arguing in this connection said:

...violations happen because right from the time of the arrest a suspect will be handled by the investigator in such a way as if verdict has been passed on him

Since any accused person has the right to have the word of caution administered on him to ensure that the interrogation to be done is legal and devoid of duress, it is expected that the police will also caution suspects².

Table 4.6 If Advised to Remain Silent

Advised	Frequency	%
Yes	75	28.8
No	185	71.2
Total	260	100.0

Source: Field Survey, 2021

Findings in Table 4.6 above being on cautioning of awaiting-trial inmates showed that 71.2% of them were not advised about their rights before the commencement of interrogation and this can be considered illegal and an affront to their human rights to receive proper warning.

In this regard a respondent said:

...when cautioning them the implication of what will follow next is left out...and the implication is the most important part of cautioning a suspect... the urge to torture the suspects promotes neglect of administering the word of caution

Data showed that only 20.7% were cautioned by the police immediately after arrest, indicating that a majority of the respondents were not cautioned. Findings further indicated that police officials believed that suspects' rights to cautioning were respected during interrogation due to the level of education and enlightenment of some of the suspects. The word of caution is as follows:

You are not bound to say anything and whatever you say may be used against you in a court of law. You have the right to consult your lawyer.

4.2.1.6 Detention in Correction Centre

Findings from prison officials showed their belief in detaining suspects in correction centres for a number of reasons: the seriousness of the offence; on-going police investigation; fear of suspects' interference with investigation; security reasons; and lack of sureties for bail.

Table 4.7 Correction Centre Officials' View on Necessity for Detention

Necessity for Detention	N	%
Necessary	25	62.5
Not Necessary	15	37.5
Total	40	100.0

Source: Field Survey, 2021

It is in line with the above that one male prison official in Jos said that it is essential to detain suspects:

...because some cases are so complex that they cannot be disposed of immediately, e.g., homicide, robbery, rape, drugs, etc. Some of them are repeaters...so nobody wants to bail them and the authorities cannot trust them... and the nation has its laws and order... whenever you violate any you will face trial...also detention is good for it gives room for proper police investigation so that the right judgment could be passed on them.

However, the findings showed that some respondents see no reason for detaining many of the suspects: some of the cases were trivial (e.g., fighting over girlfriend, failure to greet the village head, etc.) while others were detained only because of missing case files and delays in

getting legal advice from the Director of Public Prosecution (DPP). In this regard, a respondent said:

...courts concerned have not decided their cases due to prosecutor's or judges' delay resulting from lack of facilities like transportation, stationeries, case diaries, etc... And because the judiciary is not just, cases like armed robbery are hardly tried at all and the police are not fast in their investigation and do not seem to grant bail free of charge

To another respondent commenting in the same vein:

...they do not deserve to be in prison custody because most of them if they've money at police stations or court, they will not visit prison...and detaining them will not help because government must spend a lot for their feeding, and welfare...and in most cases their offences are not in line with their charges.

The respondents that had no qualms with detention were influenced by the professionalism thesis: all alleged offences must be thoroughly investigated and appropriately punished; had the government care to provide necessary equipment for optimal performance, criminal justice officials would have performed better; were the larger society saner, the justice system would have been sane; and should suspects be left without enquiry, even if human rights were going to be violated, society will be worse off as crime may increase. However, the system should have made ample use of bail to curtail likely violations. On the contrary, findings revealed limited use of bail while processing awaiting-trial inmates.

Table 4.8 Reasons for Denial of Bail

Reasons	N	%
Did not give bribe	61	23.6
No surety/ surety not reliable	65	25.0
Did not apply for bail	60	23.0
Not bailable	74	28.4
Total	260	100.0

Source: Field Survey, 2021

Many respondents (48.6%) did apply for bail but were denied while another 51.4% were granted but were unable to use it because of their inability to offer bribe or produce reliable

sureties. Findings further showed that 23.0% said they did not apply for the bail. Some respondents said they were not granted bail because the offences were not bailable, a finding supported by criminal justice personnel's view. To a majority of the police officials, suspects were usually granted bail unless the offence was not bailable or there was a breach of the conditions for bail by suspect [s]. In line with this finding, a male police official in Abakaliki said:

Not all suspects are refused bail. Usually, the suspects that are refused bail are those charged with capital offences. The reasons for the refusal in these cases are: for fear of interfering with police investigation, jumping bail because of the nature of the offence or for fear of committing other or similar offences.

Findings indicated that a few respondents (11.9%) offered bribes to obtain bail to no avail although 23% of the detainees did not. Those who did not offer bribe and/or refused to respond to the question were those charged with capital offences.

4.2.1.7 Detention (Police Cells)

Data collected revealed that in the police stations, respondents said key areas for human rights violations are identified as follows: verbal and physical abuse (97.0%); food provision (98.8%); medical care for the suspects (99.8%); accommodation (87.6%), privacy (98.8%) and facilities for easing oneself (97.6%); however, denial of visits was minimal as only (8.4%) suffered from it.

In the area of verbal and physical abuse of suspects, observation showed that the practice is very endemic. It is realized that the gravity of the offence determined the harshness and severity of the abuse. The research findings further manifested that there was insufficiency regarding food provision in the police stations covered, and awaiting-trial inmates without money or relations close by to assist them were found starving for days. The quantity and quality of food offered to the awaiting-trial inmates at Katsina Central police station was grossly inadequate as was observed and later confirmed by the awaiting-trial inmates. The

feeding arrangement in Kano and Kirikiri police stations was erratic and quantitatively and qualitatively inadequate, too. The awaiting-trial inmates observed were seriously losing weight.

There was no formal provision on medicaments in police stations and sick detainees had to take care of themselves. As for those without money even in the face of serious illnesses no ready help was available. The police did complain of lack of transportation and money to buy certain prescribed drugs for the awaiting-trial inmates affected.

The cells in the police stations were observed to lack enough sleeping space, sleeping materials like mats, blankets and bed-sheets. The environment was noticed to be under severe pressure owing to congestion and unsanitary practices. In addition, the cells smelt badly and there was total absence of personal privacy. Furthermore, conveniences in the police stations were filthy and unhygienic for human use. The awaiting-trial inmates were allowed to receive visits by family members, close relations, friends and others. These visits were not hindered because of economic rewards and other materially oriented benefits attached with them.

The foregoing showed that human rights violation occurred in the police stations covered due to government neglect of the police and their attitudinal dispositions towards the awaiting-trial inmates. Findings showed that the problems of the police adversely affect the operation and performance of courts.

4.2.1.8 Legal Presentation and Court Processes

While being prosecuted in court, legal representation is a right. Where the accused can afford and is interested in getting a lawyer to defend him, he has the right to do so and where he cannot afford one, especially if charged for capital offence, it is required that the government provide him one to defend him as provided for by the law. The data indicated that fair hearing and legal representation were denied to awaiting-trial inmates. Thus, their rights were being

violated because many of them (55.8%) could not get legal services despite their right to be considered innocent until otherwise proved. This contravenes Article 10 of the Universal Declaration of Human Rights of 1948 that says “Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him”.

Furthermore, lack of fair hearing and legal representation detracted from the provisions of Section 36 (c) of Nigeria’s 1999 Constitution that says whenever a person is charged with a criminal offence, he shall “defend himself in person or by legal practitioners of his own choice”.

4.2.1.9 Adjournments

The findings of this study showed that the awaiting-trial inmates were not regularly taken to court and a majority of those taken were taken to Magistrate Courts for hearing. This is because it is the court with jurisdiction to try most of the suspects or their kind of offences; and being grassroots in nature it is commonly found in communities. Furthermore, findings showed that 93.0% of the total awaiting-trial inmates were taken to court for initial appearance/cognizance while 7.0% was not. Since then, these awaiting-trial inmates have been experiencing incessant court adjournment of various duration as shown in the Table below resulting in more violations associated with prolonged detention in the correction centres.

Table 4.9 Court Adjournment

Adjournment	N	%
1-3 times	91	35.0%
4-6 times	12	4.6%
7-9 times	24	9.2%
10 times +	133	51.2%

Total	260	100%
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Source: Field Survey, 2021

The data gathered showed that many of the respondents (42.3%) had spent 6-11 months while awaiting trial followed by 22.7% that had spent a year and more. Thus, it can be said that the respondents had spent a long time while awaiting trial. There were respondents that felt the question of incessant adjournment did not apply to them because they were never taken to court again after the first time they were there. This implies that they had remained in prison remand without bail.

4.2.1.10 Conditions of Correction Centre Detention

While in correction centre detention the awaiting-trial inmate is entitled to certain things as a matter of right: food, medical care, prison sanitation, accommodation, bed and bedding, personal privacy and visit by family members. On the question of food in the Nigerian correctional institutions, the region's climate and geography determine the type of food given. In the North where the two of the five correction centres covered are located, the food was made mainly from cereals like maize, millet, corn, beans and rice. Beans and rice were rare and of low quality. To supplement them, *garri* (granulated cassava or cassava granules) was offered to awaiting-trial inmates.

Table 4.10

Provision of Food	N	%	Extent of
Yes	252	96.9%	Human Rights
No	8	3.1%	
Total	260	100%	

Violations

Number of Times given Food	N	%
Once	7	2.7
Twice	11	4.2
Thrice	242	93.1
Total	260	100.0
Medical Care	N	%
Not Provided	156	75.0
Provided	52	25.0
Total	208*	100.0
*The remaining 52 awaiting-trial inmates never fell ill while under detention		
Action Taken when Sick	N	%
Taken to Hospital	65	25.0
Attended to by prison health worker	86	33.5
Purchased drugs by myself	28	10.4
Sent for relations	6	2.3
Nothing was done	23	8.8
Never Sick	52	20.0
Total	260	100.0
Assessment of Prison Sanitation	N	%
Satisfactory	109	41.9
Not Satisfactory	151	58.1
Total	260	100.0
Provision of Accommodation	N	%
Yes	260	100.0
No	0	0.00
Total	260	100.0
Provision of Bed and Bedding	N	%
Yes	24	9.2
No	236	90.8
Total	260	100.0
Breach of Personal Privacy	N	%
Yes	229	88.1
No	31	11.9

Total	260	100.0
Restriction of Visits by Warders	N	%
Yes	14	5.8
No	246	94.2
Total	260	100.0

Source: Field Survey, 2021

Findings indicated that a few awaiting-trial inmates (3.1%), as shown in Table 4.10 above said they were not given food. These respondents were on special diet that was provided for them from outside the correction centre by their families and/or Non-Governmental Organizations (NGOs) who feed them erratically. In the alternative, these suspects may be on punishment.

Furthermore, a thing of concern is the quantity and nutritional value of the food served to awaiting-trial inmates in the correction centres. Due to poor funding and prisoners' large number, the extent to which the quantity and quality of the food given to them will be high was doubtful, difficult or impossible. This is why 69.6% of the sample said the food was not qualitatively and quantitatively satisfactory. On food quality a prison official at Jos said:

It is not healthy to eat food like that. Usually, the beans are boiled with salt and small oil. The government caused all these because N10 cannot feed an adult 3 times in a day. For this and other reasons the food is generally bad. This is why they easily get sick and lean. In addition, they eat their food in the dirty cells with all the flies, bad stench and toilet-buckets.

Data in Table 4.10 above revealed that 93.1% of the awaiting-trial inmates were given food by the government three times a day; but 1.2% and 1.9% of the sample said they were fed by their families and Non-Governmental Organizations respectively, because they were having medical problems requiring special feeding.

Another area where the violation of awaiting-trial inmates' rights can be noticed is in the area of medical care and sanitation (see Table above). The awaiting-trial inmates were asked what

was done to them when they fall ill from which inference on violation is made. Findings showed that as many of the awaiting-trial inmates fell ill at least 3 times and over, 75.0% of them said they were not provided with medical care. When they fall sick, they have to cater for themselves one way or another that include sending for relations or buying medicines by themselves. Although not uncommon to fall ill three times in a year even when leading a free life, the conditions of correction centres, the inadequacy of facilities, over-congestion coupled with poor feeding make the outbreak of diseases easy in the correctional institutions covered.

The data further indicated that though those who fell ill were taken to government hospitals, the highest percentage of the awaiting-trial inmates (33.5%) were attended to by prison health workers indicating that majority (58.5%) were, no matter how poorly, catered for. However, findings showed that some sick suspects had to purchase their own drugs or send for their relations; and there were some that said nothing was done to ameliorate their sufferings. But well-to-do detainees could get their medical supplies from outside with the help of Warders. Awaiting-trial inmates without money had to languish in anguish of the sicknesses debilitating them³.

Taken together, it can be asserted that human rights violations exist in the area of medical care in general, but more specifically medicaments and ambulance for conveyance to other health facilities outside prison. Although awaiting-trial inmates' low socio-economic status hinders them from getting better medical care out of prison, they are worse off when sick in it. This is consistent with past data gathered by renowned scholars³ in their study of awaiting-trial inmates in Argentina where a respondent said:

The detainees here are poor and neglected by the society... sometimes we carry the sick ones outside on our backs due to dearth of medicine, doctors and transport here.

As indicated in Table 4.10 above, 58.1% of the awaiting-trial inmates said the prison sanitation was not satisfactory, while 41.9% said it was. In this regard, it can be asserted that awaiting-trial inmates were living in unsanitary conditions contrary to Sections 13 and 14 of the UN Standard Minimum Rules that says “A part of an institution regularly used by prisoners shall be properly maintained and kept scrupulously clean at all times”. It has been established that the majority of the awaiting-trial inmates were poor. Thus, what constitutes "satisfactory sanitation" is a matter of perception. Being poor, they were staying in unhygienic neighborhoods before coming to the prison. As such, they will consider the prison environment hygienic and the sanitary conditions satisfactory. In reality, Researcher's observation showed that the buildings are dilapidated due to wear and tear and the environment pressurized culminating into violating suspects' rights to a clean environment capable of elevating their spirits. A correction centre official said:

...in some prisons where bucket system is still in use, the problem is that of disposal of human waste. The temporary method adopted to evacuate human waste in such prisons is to evacuate and bury within the prison or nearby...a method that is not healthy for the prisoners and staff and those residing near such prisons particularly when prisoners and such residents rely upon wells for their water supply

Due to increase in prison population, accommodation has become grossly inadequate with implication for privacy for awaiting-trial inmates. Also, findings showed that when visited by family members, relations and other associates there is no privacy in the official visiting rooms for reasons already adduced.

The study respondents said that they faced numerous problems regarding accommodation (as all of them were detained), its availability, quality and the required accessories (bed and bedding) that go with it which have all been reported as either unavailable or unsatisfactorily available (see Table 4.10 above). This contravenes Section 9, Subsection 1 of the Standard Minimum Rules (SMR) that says “Where sleeping accommodation is individual cells or

rooms, each prisoner shall occupy by night a cell or room by him/herself. If for special reasons, such as temporary overcrowding, it becomes necessary for the central prison administration to make an exception to this rule, it is not desirable to have prisoners in a cell or room. All accommodation provided for the prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to all climatic conditions and particular to cubic content of air, minimum floor space, lighting, heating and ventilation” (see also Section 19 of the SMR on bed and bedding).

The few respondents that stated the contrary about accommodation were older awaiting trials that were given some concession and preference when allocating space. Findings showed that despite their low socio-economic and educational background, the awaiting-trial inmates generally complained of poor accommodation and its accessories (bed and bedding), and loss of privacy (which were all confirmed by the Researcher’s physical observation as at the time of fieldwork)

Findings showed that beds in the correction centres covered were a luxury as they took space, and the few available ones bore no spring at all or the springs were extremely loose. This is the reason why majority of the respondents said they were not given bed and bedding indicating that their rights were abused in this respect. It was found out that some privileged prisoners do buy their own beds and the poor ones among them buy their own sleeping mats or else they sleep on bare floor or jute sacks. Since beds were not available, bedding was equally non-existent resulting in group sleeping on the floor without privacy.

Findings in the above Table indicated that many respondents (88.1%) said they have no privacy mainly because, for most of the time they were locked up to sleep in bulk in the cells and long rooms, and when brought out, they were always under surveillance. Information given by the awaiting-trial inmates showed that they could not stay outside their cells for a

long time, and they were usually brought out once in a day for 30 minutes to get sunlight and some food and to clean themselves. Investigation revealed that the dearth in Prison Warders coupled with low morale made bringing in and out awaiting-trial inmates difficult; moreover, all awaiting-trial inmates have to be in their cells before 6:00 p.m. daily. Similarly, violation of prisoners' right to privacy was found out in connection with receipt and sending of letters which in most cases have to be opened and read to ensure that no security threatening information is passed to the awaiting-trial inmates. In a notable scholar's view, letters are checked because there is a clear and present danger of poisoning from chemicals sprayed on stationery at the inmate's request. Stamps can also be affixed to envelopes with a liquid poison or drugs. Finally, lethal poison can also be suspended in ink⁴.

Research findings indicated that the awaiting-trial inmates were not denied visits from family members, friends and other visitors. As it can be seen from the Table 4.11 below, only 28.5% were barred from receiving visits from their families and 5.8% in the case of other kinds of visitors.

Table 4.11 Restriction on Visits by Family Members

Restriction of Visits by Warders	N	%
Yes	70	28.5
No	190	71.5
Total	260	100.0

Source: Field Survey, 2021

As a convention, awaiting trials usually receive visitors every day. To “mobilize” Warders, smart visitors carry separate food or snacks to them to attract sympathy and special consideration to those visited and to ease protocol in seeing the person in question. This was noticed during data collection and was later corroborated by the awaiting-trial inmates during in-depth interviews with some of them. With poor pay and other conditions of service for the Warders, many people see this practice as nothing out of the ordinary. Moreover, salaries as

at the time of conducting this research study had not been paid to correctional service employees and police for three months.

Findings showed that in instances where awaiting-trial inmates were barred from seeing visitors, sending or receiving letters, it is because they were undergoing some punishment for violating prison rules, or sometimes because they were accused of certain security related practices: organizing riots, networking on how to escape and smuggling of harmful items (needles, sharp bones in food, nails, drugs, and sometimes poison). Other reasons include consistent emotional discharge in the form of crying, yelling and shouting in front of the visitors as was noticed by the Researcher in Abakaliki Correction Centre. There were no instances (as at the time of collecting this data) of wives or husbands visiting and having some quality time with one another.

Table 4.12 Criminal Justice Officials' Views on Extent of Violations

Police Officials on Violations	N	%
Not at all	2	4.5
To a minor extent	24	53.3
To a large extent	19	42.2
Total	45	100.0
Court Officials on Violation	N	%
Not at all	3	13.6
To a minor extent	5	22.7
To a large extent	14	63.6
Total	22	100.0
Prison Officials on Violation	N	%
Not at all	3	7.5
To a minor extent	15	37.5
To a large extent	22	55.0
Total	40	100.0

Source: Field Survey, 2021

When the police officials were asked to comment on the extent of human rights violation in Nigeria only 4.5% said it is non-existent; however, other officials said that violations exist to a minor or large extent. The police officials stated that suspects that committed capital offences have to experience prolonged detention that results in human rights violation.

Similarly, a significant proportion of court officials (63.6%) (i.e. Judges/Magistrates/Lawyers) that commented on the extent of human rights violation in Nigeria said, to a large extent, violations exist. Data showed that while 13.6% of the judicial officials said there were no human rights violations in the Nigeria's criminal justice system, another 22.7% said it exist only to a minor extent.

The position of prison personnel on the extent of human rights violation in Nigeria and as shown in the Table above indicated that while only 7.5% said violations do not exist, many of them (37.5%) said it exist to a minor extent only; and 55% of them said violations exist to a large extent. A respondent in Jos Correction Centre during in-depth interview argued along this line thus:

In prisons the conditions are bad; no food, sporting facilities, and good counseling services...they were [inmates] cheated by their various courts...more so because the judge has the right to grant bail which is not the case. They abandon the case for up to 2, 3 or 4 years without trial...even those suspected of committing armed robbery should be taken to court for judgment without unnecessary delay... because detaining an inmate without trial can make him get involved in other acts due to association with criminals

As for a lawyer respondent in Katsina in our interview, human rights violation exists to a large extent:

...because the police, prison officials, prosecuting counsels, judges and defense counsels are largely instrumental to and lacking in quick dispensation of justice... due to lack of vehicles to carry suspects to court rooms, lack of other facilities, court adjournment, court congestion, corruption, poor remuneration for judges and sometimes sheer callousness and insensitivity of

the police personnel are the reasons...and people accused of robbery are detained for nearly 10 years due to ineptitude from the police or ministry of Justice. In practice the suspects are treated as criminals during interrogation contrary to the provisions of the law, which regard suspects, as innocent until proved guilty

Thus, it is desirable to dwell on human rights violations by criminal justice personnel keeping in view the provisions of the law, constitution, conventions, charters and other operative codes and what obtains in reality because what ought to be differs from what is if we focus on policy versus practice in the Nigeria's criminal justice system.

As previously stated, forms of human rights abuses referred to the various types of violations that awaiting-trial convicts face. In the social sciences, there are several approaches to categorize social phenomena. Typically, socio-political and economic challenges are classified into socially related groups. The typologies employed in this research study, which is about human rights violations, were two: policy-related and practice-related forms of violations. While the former was chosen because, in an ideal world, a country's legal provisions aimed at protecting and promoting human rights should be respected, the latter was chosen because the reality on the ground shows that the legal provisions are not followed in large part by criminal justice personnel, such as police, courts, and correctional institutions.

4.2.1.11 Policy-Related Violations

Nigeria is governed by the requirements of the African Union Charter on Human and Peoples Rights as well as the Standard Minimum Rules for the Treatment of Offenders. As a result, it will be interesting to go over some of the clauses related to this section of the Chapter to see which local policies are in violation of the Standard Minimum Rules and the African Union Charter on Human and Peoples' Rights. This is important since the instruments are widely recognized as good principles and practices in the case of imprisoned inmates.

The 94 Sections of the Standard Minimum Rules are separated into two parts. The Section that is more relevant to this study addresses physiological needs (food, clothing, shelter, personal hygiene, medical care, and so on); social-educational issues (visits, discipline, library facilities, religious counseling, and so on); and treatment humaneness (non-discrimination, their proper classification and separation and legal reasons for detention and so on).

'The use of irons and shackles shall be forbidden. Also, handcuffs, restraint-jackets, and other forms of physical restraint shall never be used', according to Rule 33 of the Standard Minimum Rules. However, Rule 345 of the Nigerian Prisons Service Standing Orders (NPSSO), 2011 supports detainee handcuffing by forcing the Superintendent to obtain medical certification and record it in his notebook if he uses mechanical restraint for more than 24 hours. Because utilizing such measures is allowed by Nigerian policy, certain male awaiting-trial convicts have to be chained or handcuffed to prevent escape, according to the findings of this research study. This explains why 34.7 percent of those polled claimed they had different experiences with the implementation of this policy on them, with some correctional facilities using *mari* on them. This is in violation of Section 37 of the Criminal Procedure Code (CPC), which was enacted in 2007.

Warders are allowed to punish erring awaiting-trial convicts as a disciplinary punishment (e.g., keeping prisoners in solitary confinement for up to six days) under Prison Regulation 49 (1). Torture, cruel, inhumane, and humiliating treatment are all possible as a result of this. Rules 342-344 of the Nigerian Prisons Service Standing Orders (NPSSO) provide for and sanction physical punishment. This policy is in contravention of Section 34 (a) of the 1999 Nigerian Constitution, as well as Rule 31 of the Standard Minimum Rules, which prohibits the use of corporal punishment and torture. Article 5 of the United Nations Code of Conduct for Law Enforcement Officials, 1979, is also violated by the NPSSO under examination. This

Code prohibits the use, instigation, or acceptance of torture or other cruel, inhuman, or degrading treatment or punishment. Furthermore, the Code stipulates that no officer may use superior commands or extraordinary circumstances such as war, national security, or internal instability to justify human rights breaches such as torture or other cruel, inhuman, or humiliating treatment or punishment.

Because the provisions of the State Security (Detention of Persons) Decree No. 2 of 1984, as amended by the State Security (Detention of Persons) Amendment Decree No. 11 of 1994, give the Inspector General of Police the power to detain a person, policy-induced human rights violations can occur in Nigeria. The clauses of the Decree made it plain that courts cannot challenge the Detention Order's legitimacy. The Decree claimed that, despite the African Union Charter on Human and Peoples Rights being included into Nigerian municipal legislation, its provisions on human rights defense cannot be enforced as a separate law. This is due to the fact that it must be submitted to domestic law as well as ouster clauses.

The Nigerian courts have the authority to approve 'hard labour' for persons arrested, indicating that this is a policy flaw that fosters human rights breaches by forcing prisoners to work. According to the data collected, 13.8 percent of those detained were forced to work while awaiting trial. Apart from policies that aid and abet human rights violations, a nation's economic, financial, and manpower practical realities may prevent it from respecting its citizens' human rights.

In general, policy-induced human rights breaches are more likely to occur and repeat during awaiting-trial inmates' interactions with police than with other criminal justice agencies. Arrest, search, seizure, detention, and the power to use force depending on the situation are all areas where police have broad powers. When these authorities are exercised, human rights breaches can occur as a result of the abuse of the authority.

4.2.1.12 Practice-Related Violations

Detainees must be involved in the selection of their country leaders, according to the Standard Minimum Rules (SMR), the International Covenant on Civil and Political Rights (ICCPR) of 1966, and Article 13 (1) of the African Union Charter on Human and Peoples' Rights. Furthermore, a statement of the Federal Government Policy on the re-organization of correctional service in Nigeria (FGP/No.1668 (70)/471/750) says:

Detainees have a right to participate in the political life of the society, including a right, if not below the requisite age, to vote and join political parties, and to form inmates' unions in prisons.

In practice, however, the democratic rights of all the awaiting-trial inmates covered are being violated in this connection since the structural problems of the correction centres covered and the low socio-economic status of the respondents makes it impossible for the awaiting-trial inmates to agitate for, belong to or form association to protect their interests. This explains why they cannot enforce certain rights like the right to vote or join a party of their choice whose leadership may visit them, show them support and offer hope for their release and re-integration. This is not in compliance with Article 21 of the Universal Declaration of Human Rights of 1948 that says "Everyone has the right to take part in the government of his country, directly or through freely chosen representatives".

It is provided for by Nigeria's 1999 Constitution in Section 35 (2) that an arrested person should have the word of caution administered to him indicating that he has the right to remain silent or avoid answering question [s] until after consultation with his lawyers or any person of his choice. However, violations were gleaned on this matter as 71.2% of the awaiting-trial inmates said they were not cautioned as required.

Section 35 (4) of the 1999 Nigerian Constitution, further provides that any person arrested and is not tried within a period of 2 months from the date of arrest or detention if he is in

custody must appear in court for trial. The same applies to an awaiting-trial inmate that is not entitled to bail. Besides, the provision also provides for the “release” of a person detained for 3 months without charge from the date of his arrest in case of a person detained, but granted bail. However, respondents were denied this right as findings shows that 73.9% of the awaiting-trial inmates had spent six months and above awaiting trial which is contrary to the above Constitutional requirement. The practice also violates Section 340 regarding when bail is to be granted and Section 42 of the CPC that encourages speedy trial. The findings further showed that length of stay is a function of type of offence. In this respect an awaiting-trial inmate while responding to interview questions said:

I fought with my girlfriend. I pushed her and she fell on iron. She had a deep cut. After being admitted into hospital she died later. I was arrested, taken to court once in two years and never again with no bail.

Furthermore, other factors, apart from the capitality of the offence come into play in prolonged detention: poverty, educational attainment, economic status, availability of reliable surety for bail, information on when and where being detained, misfortune, but more importantly availability of legal services. Research findings showed that just as there are no adequate legal services in police stations, same can be said of the courts covered because less than ¼ of the sample said they had legal services. Also, findings indicated that awaiting-trial inmates not favoured by prison authorities can have their right to legal services violated by conspiracy: the lawyer is told that the awaiting-trial inmate has been transferred and since not many lawyers insist on seeing transfer documents, they may not bother to follow up for a case that is monetarily not very rewarding resulting in long duration under detention.

It is provided by Section 35 (3) of Nigeria’s 1999 Constitution that any person arrested or detained shall be informed in writing within 24 hours (and in a language that he understands) of the facts and grounds for his arrest and detention (also refer to Sections 5 and 9 of the Criminal Procedure Act). Where the person was not caught committing the offence, the law

requires that a police officer arresting the person shall inform him of the reasons for his arrest. Contrarily, it was found out that almost all of the awaiting-trial inmates surveyed were not informed in writing of the reasons for their detention, with the police claiming that a majority of the awaiting-trial inmates being rural-urban migrants are illiterates without fixed address; and in certain cases, some of the police personnel are themselves semi-literate who when they carry out mass raids (regular feature in many urban centers) find it hard to conform to the rules. Also, poor road network, poor transportation facilities, distance from the point of arrest to near-by courts of competent jurisdiction or a police station, and the rural nature of the country assist in the failure to respect the 24 hours' constitutional requirement.

Section 36 (1) of the 1999 Constitution of Nigeria states that "...a suspected person shall be entitled to fair hearing within a reasonable time by a court...." In practice however, the awaiting-trial inmates do not get speedy and fair trials in their interaction with the criminal justice system. Thus, their rights were being violated since as shown by the data over 2/3 of the respondents had spent unusually lengthy time before they were taken to court. In addition, enquiry revealed that there is no fairness in prison trials during arbitration for lack of checks and balances to guard against arbitrariness. This is contrary to Regulation 48 of the Prisons Regulations that says a Superintendent or an Assistant Superintendent in charge of a prison, the Director of Prisons, or the Deputy Director, or one or more of the visitors of prisons, shall have power to hear and decide a charge against any prisoner and impose punishment. In addition, there was no evidence that the prisoners had any right to appeal (for it is not rewarding to appeal due to fear of reprisal from the Warder or Presido - this is one of the prison informal title holders and is the head of all the detainees).

Furthermore, the 1999 Constitution of Nigeria also provides, in Section 38 (6), that where force is necessary or used in effecting an arrest, only such force as is required to overcome the resistance of the person to be arrested is allowed; an officer using excessive force may be

made to answer for such. The problem with this provision is how to and who is to determine such variables as “resistance,” “excessive force” and when can it be said that a suspect is overcome? In fluid provisions like the above, rights abuse can be expected.

Section 17 of the Standard Minimum Rules for the Treatment of Offenders and Section 34 (a) of the 1999 Nigerian Constitution provide that while under detention, suspects should not be tortured so that awaiting-trial inmates’ rights to proper physiological state is promoted and protected. Contrary to these laid down prohibitions however, findings indicated that while in contact with police, suspects experience torture in the process of arrest, interrogation and subsequent prosecution. The data showed that 64.2% of the awaiting-trial inmates said they were shouted at, beaten, kicked and slapped by the police, sometimes resulting in false confessions. This is the reason why a respondent in Katsina said “I am a practicing lawyer involved in advocacy in Nigerian courts. I have had good reasons to be dissatisfied with the honesty and sincerity in the administration of justice in Nigeria”.

Although required, and despite the fact that the above constitutional provisions are breached, enquiry during data collection from police and prison officials did not show respect for Section 35 (6) of the 1999 Nigerian Constitution that says “Any person who is unlawfully arrested or detained shall be entitled to compensation and public apology from the appropriate authority or person specified by law”.

In conformity with Rule 35 of the Standard Minimum Rules requiring full information on prison and prisoners' status while there, awaiting-trial inmates are expected to be given prison rules to properly guide them. However, findings showed that more than $\frac{3}{4}$ of the awaiting-trial inmates were not given/orally told the prison rules to properly guide them. The failure to tell them the rules explained the shortage of prison staff, their low morale, awaiting-trial inmates’ high number and shortage of working equipment.

It is provided by Section 22 of the Prisons Regulations that ‘...every prisoner shall be allowed a sufficient quantity of food....,’ but findings showed that over 98.7% of the respondents said the quality and quantity of food provided to them was poor and inadequate.

Closely connected to feeding is shelter for the awaiting-trial inmates. Section 19 of the Standard Minimum Rules for the Treatment of Offenders states that:

...every prisoner shall, in accordance with the local and national standard, be provided with separate bed, and with separate and sufficient bedding, which shall be clean when issued, kept in good order and changed often enough to ensure its cleanliness

Contrarily, findings showed that 90.8% of the respondents said they were not given bed and bedding indicating that this provision is not respected in Nigeria. The failure/inability to respect awaiting-trial inmates’ rights to decent accommodation is due to the economic realities of the country. With the caveat “...local and national standard” benchmark to respect for human rights will be difficult to set as governments can rationalize human rights abuse using the economic realities of a country as a basis. Thus, findings showed that beds in nearly all the correctional facilities covered were a luxury as they took space, and the few available ones had no spring at all or the springs were extremely loose.

Although not the case in practice, implicit in the Prisons Regulations is the availability of a physician and of medicine that ought to be in conformity with Section 15 of the Standard Minimum Rules that says:

...at every institution there shall be available the services of at least a general practitioner. The medical services should be organized in close relation with the general health administration of the community or nation. They shall include a psychiatric service for the diagnosis and, in proper cases, treatment of states of mental abnormality.

Similarly, Section 30 of the Prisons Regulations says “...an infirmary or proper room or place for the reception of sick prisoners shall be set apart in the prison.” Also, Section 32 of

the Prisons Regulations provides that “...if a prisoner complains of illness to any prison officer, the prison officer shall report the complaint without unnecessary delay to the Superintendent”. However, findings showed that the realities of the awaiting-trial inmates’ experiences were different as they were completely dissatisfied with medical care in the police stations and prisons surveyed: in detention centres physicians and medicine were not readily available and, where available they were insufficient. For this reason, many cases of sicknesses were not recorded because the detainees do not usually report because not much will be done to help them. The Welfare Officer (WO) of the Kirikiri Correction Centre said during Focus Group Interaction (FGI):

Skin diseases are the most common illnesses here due to congestion, shortage of water for bath and washing, and lack of items for personal hygiene. It is not seen as a serious malaise to call for hospitalization. Due to poor medical facilities prisoners and detainees do not complain about it. The situation needs careful consideration.

The findings further indicated that up to 80.0% of the respondents fell ill and lodged a complaint during which the correction centre health workers treated them with pain relievers and sedatives to make them sleep and forget their problems. This practice, the Welfare Officer of Katsina Correction Centre said, was necessary because they consider the bulk of the prisoners’ problems to be psychological as a result of frustration requiring rest and sleep that sedatives offer. However, prescribing sedatives to almost all ailments constitute drug abuse that results in drug dependence. If care is not taken, the awaiting-trial inmates’ condition can get worse with probable disastrous consequences while under detention or even after release. In addition, incarceration conditions that include denial or absence of access to amenities for personal hygiene contribute to the deteriorating health conditions in correctional institutions.

The Standard Minimum Rules for the Treatment of Offenders, Sections 14 and 15 require the authorities to give awaiting-trial inmates appropriate clothing, taking note of the climate and environment. It is provided by Section 31 of the Prisons Regulations that prisoners are required to keep themselves clean and decent so that prisoners not exempted by the medical officer shall bathe daily for the promotion of personal hygiene. Furthermore, Section 322 of Prisons Standing Orders says that "Every prisoner will receive 2 ounces of soap for his personal use (3 ounces in the case of female prisoners) and for the washing of his clothes". Similarly, Section 320 of the Prisons Standing Order provides that "Every prisoner will be offered a tooth brush upon reception...powder dentifrice will be issued as required. Chewing sticks will be issued as and when required".

From practical observation, all the awaiting-trial inmates did not get the chance to bathe and change clothes daily; and all of them were not provided with soap to bath and wash clothes. For this reason, detainees' bodies were observed to be full of rashes brought about by scratching. The condition was made worse because cells and the prison environment in general were rarely treated with insecticides and germicides. Furthermore, investigation showed that nearly all of the detainees did not have the chance of brushing their teeth as required by the Prisons Standing Order. It was discovered that for certain security reason, shaving blades, nail cutters and/or razor blades were prohibited. Thus, the aspect of personal hygiene dealing with shaving and nail cutting were neglected or made impracticable.

Despite the fact that the contrary obtains, Section 16 of the Prisons Regulations provides that people in correctional facilities should be separated based on offence type. Although Section 24 of the Prisons Regulations on inmate classification says accommodation should be offered taking note of age, race, sex, etc., findings did not show detainee classification according to age. The practice of mixing detainees is endemic due to poor and limited accommodation; and findings revealed that with the caveat "...in accordance with the local and national

standard...” and the proviso “...only as far as prison accommodation renders it practicable” the import of the provision gets defeated as shortage of accommodation can be rationalized and mixing detainees of distinct and different backgrounds can happen. To buttress this, point an awaiting-trial inmate during FGI in Katsina Correction Centre said:

Because of congestion people have no means of even stretching their legs. Over 150 people occupy a cell meant for 20 people. A single cell can contain 20 people of different offences...you cannot move from one end to another without stepping on some body. This can lead to a fight or punishment from O.C⁵ torture. They mix all kinds of suspects due lack of space.

Although Section 11 (1) of the Prison Act, intended to decongest the correctional institutions, an intention that will ultimately reduce human rights violations or the potentialities for abuse, provides that in relation to all correctional institutions, the Chief Justice of Nigeria and other Justices of the Supreme Court shall act as official visitors, there was practically little use of official visits as mechanisms for prison decongestion. Findings on privacy and visits revealed that in the five prisons covered, prison officials were misusing the provisions of Section 44 (a) of the Constitution empowering them to breach privacy if it is “...in the interest of defence, public safety, public order, public morality or public health”.

The Rule 60 (1) of the UN Standard Minimum Rules for the Treatment of Offenders provides that:

The regime of the prison institution should seek to minimize any differences between prison life and life at liberty which tend to lessen the responsibility of prisoners or the respect due to their dignity as human beings.

However, findings showed that life in prison entails loss of liberty in all its ramifications as adduced by all the respondents. Findings are supported by some scholars’ observation regarding liberty in American prisons that:

From the moment of arrest to the time of release and beyond, prisoners undergo rusticated liberty, humiliation, inner turmoil, racism, violence,

monotony, stigma, fear, and anger...we are treated as less human and degraded constantly⁵.

The discrepancy between policy and practice on human rights stipulations in Nigeria require further enquiry to offer insight as to the socio-economic and political status of victims of human rights abuse.

4.2.2 Socio-Demographic and Economic Attributes of Respondents

This subsection of the chapter deals with the socio-demographic and economic characteristics of the awaiting-trial inmates studied. The demographic attributes covered here include age, sex, marital status, number of children (if any), and religion, while the economic attributes comprised of educational qualification, employment status and income level of the detainees. Other issues covered in the subsection are the types of offences for which the awaiting-trial inmates were being held and awaiting-trial inmates' previous contact with the criminal justice system.

This subsection is divided into two: there is the presentation of the data obtained from the sampled awaiting-trial detainees in the police cells and the five correction centres covered; and there is presentation on the attributes of the criminal justice officials.

4.2.2.1 Awaiting-Trial Inmates

It can be seen from Table 4.13 below that while nearly half of respondents were 25 years of age or younger, and married, about two-thirds have had children. The respondents were overwhelmingly male and somewhat evenly distributed among the Islamic and Christian faiths, the latter observation reflecting the environment the respondents were detained.

Table 4.13 Socio-Demographic Characteristics of Respondents

Age	N	%
<20years	47	18.1

21-25years	72	27.7
26-30	46	17.7
31-35	47	18.1
36-40	26	10.0
40+	22	8.5
Total	260	100
Marital Status	N	%
Married	118	45.4
Single	119	45.7
Divorced/Separated/Widowed	23	8.9
Total	260	100.0
Number of Children	N	%
None	89	34.2
1-2	118	45.4
3-4	53	20.4
Total	260	100.0
Sex	N	%
Male	234	90.0
Female	26	10.0
Total	260	100.0
Religion	N	%
Moslem	143	55.0
Christian	115	44.3
Free thinker	2	0.7
Total	260	100.0

Source: Field Survey, 2021

As can be seen from the table below, nearly half of the respondents were secondary school graduates, and the majority of them were low-income earners. In addition, over half of them worked for themselves.

Table 4.14 Economic Characteristics of Respondents

Educational Qualification	N	%
Primary/No formal Education	108	41.5
Secondary	117	45.0
OND/NCE	23	8.9
University	12	4.6
Total	260	100.0
Income	N	%
<N7,000	102	39.3
N7,000–N8,000	113	43.5
N8,001–N9,000	15	5.8
N9,001–N10,000	14	5.4
N10,001+	16	6.2
Total	260	100.0
Employment Status	N	%
Public sector	27	10.4
Private sector	59	22.7
Self employed	121	46.5
Unemployed	53	20.4
Total	260	100.0

Source: Field Survey, 2021

Since the majority of the respondents (45.4 percent) were between the ages of 20 and 30, it is safe to assume that the majority of those awaiting trial who were surveyed are youngsters. Importantly, this finding supported criminology's long-held belief that the "dangerous decade" of ages 20-30 is when persons are most likely to come in touch with the criminal justice system. For example, renowned criminologists have discovered that the younger the age, the greater the curiosity and likelihood of engaging in delinquent and criminal behaviour⁶.

Table 4.15 Previous Contact with the Criminal Justice System

Had Contact	N	%
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Yes	45	17.5
No	215	82.5
Total	260	100.0

Source: Field Survey, 2021

Table 4.16 Offences for which Suspects were Accused

Offence Type	N	%
Property Offence	121	46.5
Person/ Violent Offence	39	15.0
Armed Robbery	34	13.1
Minor offences	66	25.4
Total	260	100.0

Source: Field Survey, 2021

Table 4.15 above is on whether or not the awaiting-trial inmates ever had contact with the criminal justice system before their current arrest. It indicated that overwhelming majority of them never, in their lives, had previous contact with the criminal justice. This goes to show that if ever convicted they would be first-time offenders. It confirms the position of Ibrahim Jarma Katagum (one-time Nigerian Controller-General of Prisons) and the Welfare Officer of Kirikiri Correction Centre that over 65% of the prison population is awaiting trial and are mainly first-time offenders. Recent report of the Nigerian Correctional Service (NCoS) of December 2022 put the total prison population at 74,081 inmates (of these, only 22,701 were convicted prisoners - representing 31% of the prison population and the remaining 51,380 – 69% of the prison population – were awaiting trial).

It is discernible from Table 4.16 above that majority of those awaiting trial were arrested and detained for property offences like stealing, burglary, pick pocketing, criminal breach of trust, fraud and obtaining by false pretence. Again, another bulk of the awaiting-trial inmates were accused of minor offences that included wandering, fighting, idling, staying late at night, and

even making uncomplimentary remarks to the policeman on beat. It is instructive that only 13.1% of them were arrested for the serious offence of armed robbery.

The findings from the qualitative data on awaiting-trial inmates' places of residence showed that they were mainly residents of rural areas prior to their arrest, even though many of them have become rural-urban migrants. A male respondent in Kano commenting in this line says:

...majority of the detainees are rural, poor illiterate members of our society. They lack the requisite political education and awareness to seek for and defend their human rights. In fact, some of them don't even know when their rights are breached because of illiteracy.

The relationship between age, religion, sex, marital status, education, employment status, and income on the one hand and offence type on the other was scrutinized to find out the pattern of relationship in terms of the kind of attributes possessed by the different types of awaiting-trial inmates. In an attempt to do this, Chi-square was used. Chi-square assisted the Researcher in the analysis of frequencies. Furthermore, it helped the Researcher to establish whether or not a relationship exists. Hence, it is being used in this study to see the relationship between the independent and the dependent variables.

Table 4.17 Age and the Offence of Awaiting-Trial Inmates

Age	Property offences	Person/violent offences	Armed robbery	Minor offences	Total
25 years/Less	61 (51.3)	28 (23.5)	14 (11.8)	18 (15.2)	119
26-35years	34 (36.6)	12 (12.9)	20 (21.5)	28 (30.1)	93
36+	26 (54.2)	-	-	22 (45.8)	48
Total	121	39	34	66	260

χ^2 19.99; df=6; at critical region 12.59; 0.05 level of significance; C=0.07;

Source: Field Survey, 2021

Table 4.17 above showed that out of the 109 awaiting-trial inmates that were aged 25 years or younger, the highest percentage of them (61.3%) was suspected of property offences indicating that at young age involvement in property offences is highly likely. With χ^2 19.99 and Pearson's product-moment correlation coefficient $C=0.07$ the relation existed even though it is weak. This pattern is connected to the fact that the respondents being overwhelmingly youth, their desire for material things could be expected; and they were motivated to commit property offences in search of joy and pleasure coupled with the excitement associated with deviation. Also, the higher the respondent's age, the less likelihood of getting involved in person/violent offences, or armed robbery. However, as findings indicated the higher the age, the more the chance of committing minor offences.

Table 4.18 Education and the Offence of Awaiting-Trial Inmates

Education		Property offences	Person/violent offences	Armed robbery	Minor offences	Total
Primary/No Education	Formal	86 (79.6)	13 (12.0)	---	10 (08.4)	108
Secondary		21 (17.9)	14 (12.0)	31 (26.5)	51 (43.6)	117
University/OND/NCE		14 (40.0)	12 (34.3)	3 (8.6)	6 (17.1)	35
Total		121	39	34	66	260

$\chi^2=9.86$; $df=6$; critical region=12.59; 0.05 level of significance; $C=0.047$; $V=0.032$

Source: Field Survey, 2021

In today's modern world, merit is emphasized and determined by the level of education an individual obtains; the education eventually determines one's placement in the occupational strata and the resultant reward from it. With very low or no Western education at all, awaiting-trial inmates were held for property offences, indicating that the lower the education the higher the probability of committing property offences and converse is the case, as

evidently, only close to half of awaiting-trial inmates with university degrees, OND or NCE was detained for property offences as indicated in Table 4.18 above. This finding was supported with $\chi^2=9.86$, Pearson's product-moment correlation coefficient $C= 0.047$ and Cramer's $V=0.032$ indicating a weak relationship between poor education and indulgence into property offences. Respondents with Secondary school education were found in all the offence typologies, though their low education motivated them into committing minor offences.

Table 4.19 Income per Month and Offences of Suspects

Income	Property offences	Person/Violent offences	Armed robbery	Minor offences	Total
<N10,000	106 (46.8)	35 (15.2)	34 (14.8)	55 (23.9)	230
N10,001-N11,000	7 (50.0)	4 (28.6)	-	3 (21.4)	14
N11,001 +	8 (50.0)	-	-	8 (50.0)	16
Total	121	39	34	66	260

$\chi^2=6.96$, $df=6$, 12.59 critical level and at 0.50 level of significance; $C=0.066$

Source: Field Survey, 2021

In modern societies, level of education determines employment and the later influence economic power. Table 4.19 indicated that the higher the income level, the higher the probability for property and minor offences to maintain current property, and obtain new/latest and better ones; and the lower the income level the higher the probability for armed robbery due to the severity of the need occasioned by poverty. This was evident by the value of $\chi^2=6.96$ and Pearson's product-moment correlation coefficient $C=0.066$. Hence, this finding was supported by the research study's theoretical framework which recognized the primacy of economic variables in crime, victimization and human rights violations. The findings were buttressed by the empirical data revealed in a survey

conducted in Zaria and some parts of Nigeria by a scholar⁷. The survey indicated that the risk of criminal victimization, arrest and violations are “...higher among working class and peasant groups in physically and socio-economically poor residential areas than middle-class persons...”

4.2.2.2 Criminal Justice Administration Personnel

This subsection examines the characteristics of police officers, judges/magistrates and lawyers, and correction centre officials in the research regions, all of whom are referred to as criminal justice administration personnel in this part.

A unique questionnaire was supplied to correction centre authorities, which was different from the one given to other criminal justice personnel such as the police, judges/magistrates, and lawyers. Due to the similarities of their work (they are both involved in the investigative and interrogative aspects of criminal justice administration), the latter were grouped together and given the same questionnaire; also, their training and practice elicit comparable or identical responses from them, albeit variances can be expected.

Table 4.20 below represents the socio-demographic and economic attributes of the police officers, judges/magistrates and lawyers in the five research locations covered, namely Kano, Kirikiri, Abakaliki, Katsina and Jos, while Table 4.21 represents those of the prison officials.

Table 4.20 Socio-Demographic and Economic Characteristics

Age Bracket	N	%
20-25	6	13.3
26-30	6	13.3
31-35	13	28.9

36-40	9	20.0
41-45	7	15.6
46 +	4	8.9
Total	45	100.0
Gender	N	%
Male	42	93.3
Female	3	6.7
Total	45	100.0
Marital Status	N	%
Married	38	84.5
Single	6	13.3
Widowed	1	2.2
Total	45	100.0
Number of Children	N	%
1-2	14	35.8
3-4	16	41.0
5 and above	9	23.2
Not Applicable	6	13.3
Total	45	100.0
Religious Affiliation	N	%
Moslems	24	53.3
Christians	21	46.7
Total	45	100.0
Educational Level	N	%
Primary level	5	11.1
Secondary level	12	26.7
OND/NCE	9	20.0
University level	19	42.2
Total	45	100.0

Source: Field Survey, 2021

It is evident from Table 4.20 above that the highest percentage of those sampled was young (20-36 years old) and male. In the area under study, there was extremely low involvement of

women in law enforcement in general and police duties in particular. Additionally, not a single female lawyer was sampled due to unavailability coupled with little involvement of women in the legal profession in the study areas. The data indicated that the highest percentage of the respondents was married and those with 3 children and over equally constituted the highest percentage. Furthermore, the findings showed that there is a somewhat balanced representation of the two dominant religions in the responses obtained, even though more Moslems were represented due to the nature of the areas of study that were predominantly inhabited by more Moslems.

In addition, a high percentage of the sampled respondents possessed more than secondary school education. This is because the judges/magistrates and lawyers must have passed through the University while those with Secondary school education and OND/NCE were policemen of other ranks and inspectors respectively.

Table 4.21 Age of Correction Centre Officials

Age Bracket	N	%
20-29	3	7.5
30-39	23	57.5
40-50	14	35.0
Total	40	100.0
Gender	N	%
Male	35	87.5
Female	5	12.5
Total	40	100.0
Marital Status	N	%
Married	39	97.5
Single	1	2.5
Total	40	100.0
Number of Children	N	%
1-2	8	20.0
3-4	22	55.0
5 and Above	10	25.0
Total	40	100.0
Educational Level	N	%

Primary	3	7.5
Secondary	3	7.5
OND/NCE	15	37.5
University	19	47.5
Total	40	100.0
Religious Affiliation	N	%
Moslem	23	57.5
Christian	17	42.5
Total	40	100.0

Source: Field Survey, 2021

On the age distribution of the prison officials shown in Table 4.21 above, it is clear that respondents in the age category 30-39 constituted the highest percentage showing that the workforce in the prisons covered as at the time of this research was young. The Table further showed that out of the 40 respondents covered, the highest percentage of them was male and was married with 3 or more children.

Furthermore, it is evident from the Tables that many of the respondents in the prisons (85%) possessed higher education. Furthermore, it indicated that Moslems represented the highest percentage owing to the nature of the areas covered by the study.

4.2.3 Perceptions of Awaiting-Trial Inmates and Officials: Correlates, Costs and Remedies

A prominent scholar of Psychology in the United States of America posits that perception is the faculty of acquiring sensory experience⁸. He also believes that the general principles of perception relate to motivation (i.e., how we perceive objects distinctly from their surroundings) and the attention we pay to the objects. This is why psychologists view perception as the ability to see, hear or understand; it can also be viewed as the quality of understanding or insight. Thus, in ordinary parlance, perception can be defined as a way of seeing or understanding something. Hence, perception in this study connotes how victims of human rights violations (i.e., awaiting-trial inmates) and criminal justice system officials see

and understand the enabling factors and costs of, and remedies against, human rights violations in Nigeria.

The bulk of the perceptions were gleaned from the quantitative and qualitative data collected through the questionnaires, interviews, and Focus Group Interaction (FGI). This subsection is divided into three. The first deals with the correlates of violations that include prolonged military rule, illiteracy, adjournment, shortage of judicial officers and corruption. The second focuses on costs of violations in terms of increase in recidivism, deteriorated health and morality, loss of confidence in the judiciary, prison officials' frustration and costs of detention to the children of detained parent. The third dwells on the remedies against human rights violations covering awaiting-trial inmates' and officials' views: provision of more education to citizens, reform of the criminal justice system, employment and training of justice officials, reducing official corruption, punishing erring judicial officials, proper organization of the courts, and proper funding of the criminal justice system.

4.2.3.1 Correlates of Human Rights Violations: Awaiting-Trial Inmates and Officials

The data in Table 4.22 below is on the awaiting-trial inmates' belief that military rule is a factor in human rights violation in Nigeria's criminal justice system as it can be seen that 72.8% of the awaiting-trial inmates attributed the problem of human rights violations to it. Similarly, nearly all the police personnel surveyed linked human rights abuse in Nigeria to prolonged military rule. One of the police personnel said:

Military rule is undemocratic. It is based on direct orders from the above. So human rights violation is bound to be high where orders and directives are always given irrespective of the correctness of the directive.

Table 4.22 Awaiting-Trial Inmates on the Role of Prolonged Military Rule in Human Rights Violation

Military Rule as a Factor	Frequency	%
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Yes	189	72.8
No	57	21.9
No Response	14	5.4
Total	260	100

Source: Field Survey, 2021

Table 4.23 Officials on the Role of Prolonged Military Rule in Human Rights Violation

Military Rule as a Factor	Frequency	%
Agree	28	70.0
Disagree	12	30.0
Total	40	100

Source: Field Survey, 2021

The findings in Table 4.23 above also indicated that 70.0 % of the correction centre officials perceived military rule as one of the motivating factors for human rights violation in Nigeria generally and in the police stations, courts and correction centres covered in Kano, Katsina, Kirikiri, Abakaliki and Jos respectively.

Table 4.24 below is on the role of illiteracy in engendering human rights violation. As the findings in the previous section indicated, the majority of the victims of abuse were people with no or very low education, i.e., in the Western sense.

Table 4.24 Awaiting-Trial Inmates on the Role of Poor Education in Human Rights Violation

Poor Education as a Factor	Frequency	%
Yes	198	76.0
No	22	8.3
No Response	41	15.7

Total	260	100
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Source: Field Survey, 2021

The data showed that 76.0% of the awaiting-trial inmates said their poor education or no education was responsible for their human rights violation; they believed that it was lack of Western education that have made them ignorant of their rights, hence unable to defend them. Moreover, it was lack of education that have made them unemployed, poor and incapable of defending their rights.

Similarly, there was the feeling among the criminal justice officials too, that illiteracy is related to human rights abuse. For instance, 89.8% of the police surveyed posited that the higher the literacy level, the higher the knowledge of civil and political rights, and that the reverse was the case. A police respondent commenting along this line said:

...majority of the detainees are rural, poor illiterate members of our society. They lack the requisite political education and awareness to seek for and defend their human rights. In fact, some of them do not even know when their rights are breached because of illiteracy.

Furthermore, it was argued by a lawyer interviewed at one of the courts covered that literate people hardly experience violations from the criminal justice officials because:

...the police and whoever it is will be careful and suspicious of the person in their remand. Also, with literacy and education the suspects will be able to demand and protect their rights. So, improving literacy and educational base of the people will promote respect for human rights even if the criminal justice stakeholders do not like it

To the correction centre officials surveyed, illiteracy among the victims was a factor in human rights abuse (see Table 4.25 below). Emphasizing on illiteracy as a correlate of human rights violation, some prison officials said making education expensive and unaffordable to a majority of the people leaves the country with too many illiterates or semi-illiterates who cannot fight for and defend their rights. Hence, most awaiting-trial inmates in Nigeria are

incapable of possessing the requisite civic and political education that would empower them to defend their rights.

Table 4.25 Officials on the Role of Illiteracy in Human Rights Violation

Illiteracy as a Factor	Frequency	%
Agree	36	90.0
Disagree	4	10.0
Total	40	100.0

Source: Field Survey, 2021

The data below dwells on the influence of adjournment in promoting human rights violation. In addition to normal adjournment, there are other variables that were found to warrant adjournment culminating into prolonged detention of the suspects resulting in abuse of their human rights: inefficiency in the system, on-going investigation and absence and shortage of the justice administrators, e.g., judges or lawyers.

Table 4.26 Awaiting-Trial Inmates on the Role of Adjournment in Human Rights Violation

Adjournment as a Factor	Frequency	%
Yes	175	67.3
No	67	25.8
No Response	18	6.9
Total	260	100

Source: Field Survey, 2021

The data showed that 67.3% of the awaiting-trial inmates saw incessant court adjournment as a factor encouraging human rights violation in the area surveyed. Furthermore, 73.5% of the respondents said inefficient justice system, where on-going investigation and the use of “holding charge” (this is a tactic used by the police to legitimize detaining a suspect after first

court appearance for recognizance. The usual claim is that the suspects are held pending the outcome of investigation) are common practices, contribute to human rights violation.

In the view of the correction centre officials surveyed, shortage of judicial officers is among the major factors in human rights violation. The data in the Table below show that 77.5% of the sampled respondents held this view. They argued that the insufficiency of judicial officers contributed to the systems' inefficiency; and the inefficiency resulted in incessant adjournment since cases cannot be treated with dispatch.

Table 4.27 Officials on the Role of Shortage of Judicial Officers in Human Rights Violation

Officers' Shortage as a Factor	Frequency	%
Agree	35	77.5
Disagree	5	22.5
Total	40	100

Source: Field Survey, 2021

Furthermore, the respondents posited that criminal justice systems' inefficiency motivated absence of judges/magistrates and absence of lawyers respectively; a situation that resulted in the failure to hear awaiting-trial inmates' cases leading to adjournment and eventual human rights violation for them.

However, the respondents opined that even though lack of witnesses and lack of evidence contributed to the problems of human rights violations, they were not significant reasons relative to adjournment and shortage of judicial officers that promoted detention without trial and exacerbated human rights violations.

It is the view of many respondents (85.8%) that official corruption is among the major causes of the deficiencies in the criminal justice system. These deficiencies include miscarriage of

justice in the form of unfairness and delays in trials, which eventually resulted in the violation of the awaiting-trial inmates' human rights.

Table 4.28 Awaiting-Trial Inmates on the Role of Corruption in Human Rights Violation

Corruption	Frequency	%
Yes	223	85.8
No	21	8.1
No Response	16	6.1
Total	260	100

Source: Field Survey, 2021

On their part too, 92.5% of the police and prison officials respectively associated human rights abuse to corruption in the country in general and the justice system in particular. A correction centre official commented in this regard thus:

We are all Nigerians. Corruption is a huge problem that is disgracing us. The corruption is increasing because of bad leadership. The police, lawyers and judges are guided by illegal material benefit; in the prison system too, there is corruption. Our judiciary is very dirty. Something must be done.

The findings however, showed that there were some respondents that pointed at other reasons, apart from the above, as being responsible for human rights violations: unnecessary technicalities and elitism employed by the judges and lawyers, refusal to use informal methods of settling disputes, politicizing cases, vengeance/vindictiveness of the rich and powerful against the poor, lack of fear of God and sheer wickedness.

Furthermore, these awaiting-trial inmates believed that even if the justice implementers want to perform optimally and efficiently, lack of or poor working equipment and acute shortage of funds could hinder them from doing so.

A combination of the aforementioned factors renders the awaiting-trial inmates vulnerable to human rights abuse with attendant consequences and costs which is the subject of the next subsection.

4.2.3.2 Costs of Human Rights Violation

It should be apprehended, comprehended and rationalized that when talking about the costs of human rights violation, reference to prolonged detention in Nigeria's police cells and correctional institutions must be made. To a large extent being detained is an inseparable part of human rights violation in Nigeria due to the inefficiency and ineffectiveness of the criminal justice system that carries with it negative effects. The negative effects will now be looked at.

One of the major costs of human rights violations is the inability of the prison institution to rehabilitate its inmates. This is because while under detention the adult awaiting-trial inmates and their new peers in the criminal enterprise get introduced into more serious criminal career. They may be released without marketable expertise. So, even when they are released [as the qualitative data show] the probability is more than chance that they will recidivate. This finding was strengthened by some scholars' view that recidivism occurs because there are young, unskilled, poorly educated people in detention, and the typical offender has few marketable capabilities to offer potential employees owing to neglect and rights violations while incarcerated⁹. Moreover, nearly all the awaiting-trial inmates surveyed come out with low self-esteem resulting from post-traumatic experience.

Findings showed that because the respondents lack pre-release training owing to absence or poor workshops, they were unable to find or keep a job upon release and they often return to crime, the only "business" they know; this equally affects detainees that have spent inordinately long time on remand. To further support this point, in a Civil Liberties

Organization (CLO) study on pre-release training in Nigerian correctional facilities, a released prisoner said:

When I left the prison, I had no place to go. My family was ashamed of me and I could not find my wife again. She went away with my child- the baby was two years when I went to prison. I could not find them and I could not find a job. I began to think of business-like spare parts or cloth materials. But you cannot go into business like that. You need money for apprenticeship and then to start the business. But I was already a man and no one wanted to make me an apprentice. I know that even if they took me, they may find that I was in prison and they will stop me. The prison did not give me any kind of assistance. Even when I was leaving, they did not give me transport money to my house. No help was given to find my people. They just open the gate for me to go.

As posited by two prominent scholars and writers in the field of Criminal Law, recidivism happens because correctional institution is the absorbing, surreal (this is because it is unlike the reality due to strange and a combination of distortions of things, as in a dream) and exhausting arena of the absurd where 'You become like the fish that does not know it is living in water'¹⁰.

Furthermore, prison problem vis-à-vis recidivism is aggravated because of constant misunderstanding between the prison keepers, in their numerous roles and the kept who are routinely hostile. A scholar believes that it is this misunderstanding between the keepers and the kept that makes rewarding co-existence in the correction centre or out of it extremely difficult if not impossible;¹¹ these resulted in more hostility and frustration for the prison authorities increasing their inability to rehabilitate their clients.

Findings of this survey showed that incarcerating people and the human rights violations emanating from it negatively impacted on their health and moral well-being. Evidence in this chapter showed that health facilities were grossly inadequate and sometimes non-existent in the research areas covered. Due to poor personal and environmental hygiene, it is easy to become ill in the Nigerian correctional institutions and other detention centres; and data in

this chapter indicated that awaiting-trial inmates suffered violations on account of improper medical care. Findings showed that the awaiting-trial inmates' poor condition of health often affects that of their parents. A respondent during FGI in Abakaliki Correction Centre said:

The effect of my detention, inhuman treatment and loss of health is so great to the extent that my mother also developed severe sickness, which led to a surgery, and my father got hypertension. My poor parents are old and there is nobody to take care of them

On the question of morality, reports from some of the awaiting-trial inmates during Focus Group Interaction (FGI) with them indicated the existence of homosexuality among them. In accordance with some scholars' observation, homosexuality in America is caused by overcrowding and motivated by four reasons which are instructive to the Nigerian government¹². The reasons are as follows: double celling; societal tolerance; an increase in youthful offenders; and under-staffing.

With acute shortage of food in Nigerian correctional institutions, some disadvantaged awaiting-trial inmates engaged in the practice of homosexuality to get food. Without doubt, this will do some degree of damage to their moral imperatives. Upon release, there is no guarantee that they will stop the practice. With AIDS confirmed in both Kano and Kirikiri Correction Centres, even the larger society is threatened when homosexuality-addicted-awaiting-trial inmates are eventually released into it.

Discussion with some of the prison authorities in Katsina and Kano indicated the presence of illegal use of such drugs as marijuana, P-tablet, amphetamines, alcohol, valium, etc. among the awaiting-trial inmates. Findings showed that while in detention some youth learnt the habit and may carry on with it even after release. Drug addiction in itself is a huge problem to the addicted as it escalates other problems: if an addicted youth is unemployed, he will not be able to support the drug use habit and in the absence of a reliable source of drugs or money for drugs, the youth may have to commit crime to support the habit. Thus, the detention and

degradation have not only taught the detainee deviant habits but have also criminalized him by disposing him to drugs without a sustainable means of obtaining them.

Detaining people without speedy trial culminating into human rights abuse results in doubt being cast on the criminal justice system itself. Analysts of correctional facilities see them as tools of human rights violations and oppression. It is this role that spells out its form, and determines the methodology it uses in dealing with clients. Economic position and background play prominent roles in obtaining justice from Nigeria's criminal justice system. For this reason, the system becomes less credible and unattractive to the common man since it not only alienates him, it also deprives him of appropriate protection. In this connection a female prison official respondent in Jos said:

...because many of them belong to the less privileged class they suffer from the system...even when their offenses do not warrant their being detained, lack of money or influence make them end up spending many years in the prison. Sometimes they even stay longer than they would have were they actually convicted by a court of law. The rich spend their money to ensure that the crime they commit is shifted upon an innocent soul who did not commit it, because he has no money or position in the society. This creates mistrust of the system by a majority of the people.

As a result of corruption and elitism in the Nigeria's criminal justice system, disrespect for law and its implementers by the rich and powerful ensues. This has resulted in further loss of confidence in the judicial system by the poor who constitute a majority of the awaiting-trial inmates in the study areas and the country in general. The system is as arranged against them and it is in this regard that a correction centre official in Abakaliki said:

...if the detainees have money at police stations or courts, they will not visit prison. I do not have confidence in the ability of the system to be objective and fair...the system is more beneficial to the rich.

The same respondent said that the police, on arresting a person, do not like respecting his rights by taking him to court for the determination of the case. After initial appearance, they

just send them to the correction centre under a lot of guises many of which are unsubstantiated.

Findings indicated that a majority of the awaiting-trial inmates do not trust the criminal justice system. As put by a male respondent in Jos, this is because ‘...some of the charges are false and mere frame-up...not all suspected cases deserve detention...and nearly all of us are brought here due to societal injustice’.

Furthermore, the respondent opined that suspects could have clear defence, yet they would be detained, while others would be such minor cases that do not require litigation. Yet, the police and judges “connive” as it were, to send the alleged offenders to prison because of some potential monetary benefits to them. Again, this contributes to loss of confidence in the criminal justice system.

The Researcher's interaction with the prison Warders manifested their frustration and loss of morale because the population of ‘clients’ under their care overwhelmed them. Even though the number of prisons constructed has increased just slightly in the 1970s, the prison national average has increased from 35,899 in 1976 to over 60,000 in 2015. Majority of the correction centre officials attributed their frustration to the refusal of the government to give the necessary equipment with which to perform their duties. They lamented that as professionals they have been rendered ineffective and inefficient in dealing with the people they are supposed to rehabilitate. This results in frustration that can be transferred on the suspects as was noticed in Abakaliki, Kirikiri and Kano Correction Centres where Warders shouted and insulted awaiting-trial inmates seemingly out of frustration.

The cost of this frustration and low morale is the urge/tendency to abandon their initial mission of prisoner rehabilitation and reformation. Hence, job in the correction centre is not taken seriously as it is seen as a mere meal ticket of last resort that is carried out with little

motivation. This is not the attitude envisaged by a scholar regarding correction in the 21st century that involves moving away from service occupation to that of true professionalism;¹³ professionalism practiced by knowledgeable, highly skilled, motivated, and professional correctional personnel. These personnel are essential in fulfilling the purposes of corrections effectively and with foresight through the employment of wisdom devoid of threats and bullying.

Even for cases that are very serious and necessitate incarceration in the interest of the suspect, societal harmony and concern for the victim, it was found out that dealing with them has added to the frustration and aggressive tendencies of the correction centre officials. In Katsina Correction Centre, for instance, a female respondent that poisoned her co-wife's child to death was found to be baffling the correction centre officials on her case. They see her as an amplifier of their frustration.

Part of the cost of detention, with or without violation, concerns lack of attention to one's children (See Table 4.29 below).

Table 4.29 Awaiting-Trial Inmates on Satisfaction with the Care Given to their Children

Satisfied	Frequency	%
Yes	62	23.8
No	109	41.9
Not Applicable	89	34.3
Total	260	100.0

Source: Field Survey, 2021

The question of whether or not detained parents are satisfied with the care given to their children while they are absent was hinged on two premises. The first is the respondent's confidence in the hands and environment that he/she left the child. The second is based on the

information received by the awaiting-trial inmate during visits by family members, friends and associates concerning the children.

The data in the above showed that 41.9% of the respondents were not satisfied with the care given to their children. This is connected with the level of poverty in the nation that hinder one from properly taking care of the needs of his immediate family let alone other dependents. The problem is compounded by the extended nature of African families, which makes qualitative life sometimes difficult if not impossible. Even those who said they were satisfied with the care given to their children lamented that nobody could care for their children the way they will do it themselves were they with them.

All the respondents interviewed were concerned about the short-term and long-term consequences of their absence on their children: poor or no education, lack of guidance and counselling, lack of emotional attachment and affection, lack of food, clothing and other essentials of living, probable involvement in delinquent behaviours, etc. Commenting on women incarceration in America, a renowned Criminal Justice scholar, for instance, says instead of incarcerating women suspects:

...they should be placed on community corrections, because the incarceration binge for women is often more extreme than that of men. The binge did not stem from an increase in women's violence. Women detainees are more often victims of abuse, and the children of women detainees are harmed more by their incarceration¹⁴.

The economic implications of the respondents' detention and why or how they constitute human rights violation need highlighting. Data showed that over $\frac{3}{4}$ of the respondents did not suffer any negative economic effect emanating from their detention. And yet, 94.2% said they did not rely on past savings, which is because of the respondents' self-employed/unemployed status that did not allow for savings. Also, they did not rely on past savings because they were marginally employed and the income accruing from this employment is not enough for

them to maintain themselves and family (where applicable), and even save something. This strengthens the findings in the second section of this chapter that the study sample was uneducated, unemployed and possess low income.

For the avoidance of doubt, savings here encompasses liquid cash, fixed assets and even domestic animals. It is vital to include these forms of assets because they normally characterize and propel much of the research areas' local economy. People who are broke or faced with certain financial demand easily resort to mortgaging these kinds of properties to get cash. Apart from these effects, there were other money-related draw-backs of detention.

Respondents were asked whether they lost their jobs, business partners and income due to detention, and majority of them (68.2%, and 77.0% for loss of jobs and business partners respectively) said they did. Here, loss of job encompasses any venture the respondents relied on for income irrespective of whether it is in the public or private sector, or self-employment.

Those who said they lost their jobs were mainly self-employed and possessed skilled and semi-skilled expertise. As for those who said they lost no jobs, it is because they were truly and really unemployed, and were only engaged in whatever the day and situation offered for them to get an income. In other words, they might have been mere casual workers.

Findings further showed that majority of the respondents (77.0%) said they lost business partners in their private businesses. This further confirms the point that majority of the respondents were self-employed and were running sole proprietorship kind of business which usually crumbles with the prolonged absence of the proprietor who is the organizer and financier. Some respondents during interview confided in the Researcher that they lost a lot of their fixed assets like farmlands, houses and plots; animals like cows, sheep and goats were also lost by some of the respondents in the process of securing justice. These, when put together, can be considered a violation of the awaiting-trial inmates' rights against monetary

and other forms of material deprivations. Data showed that another 64.7% and 77.8% said they neglected their farms and had poor harvest respectively (see the Tables below).

Table 4.30 Neglect of Farm

Farm Neglected	N	%
Yes	183	64.7
No	24	35.3
Total	260	100.0

Source: Field Survey, 2021

Table 4.31 Poor Harvest

Harvest was Poor	N	%
Yes	183	77.8
No	77	35.2
Total	260	100.0

Source: Field Survey, 2021

Finally, as stated earlier, the study areas and Nigeria in general are agrarian in nature. Thus, detention of suspects is expected to have negative impact on the respondents' farms. As reported by majority of the respondents, the detention had forced them to neglect their farms resulting in poor harvest or no harvest at all. However, those who did not neglect their farms may have entrusted them in the hands of family members or such other reliable persons who will tend the farm [s] and share the proceeds with the detainee's family. Or in the alternative, the farmlands were given to interested farmers for a fee or part of the farm produce harvested.

The respondents that recorded poor harvest might have left the farms when the seeds were at nursery stage and did not leave money for maintaining them. Therefore, a poor harvest or no harvest at all was bound to be recorded as attested to by some of the respondents. Having been incarcerated, the awaiting-trial inmate had no means of tending the farm including

getting and applying such important ingredients to modern farming as fertilizer, insecticides, germicides and herbicides, and the result can best be imagined. In the second section of this chapter, findings showed that some of the awaiting-trial inmates had families. With poor or no harvest at all due to the incarceration of the household head, the families' security against hunger was thwarted. This can be considered as a serious cost to the awaiting-trial inmates' family reflected in lack of food security brought about by the detention of their bread winner. Socially, the awaiting-trial inmates perceived themselves as stigmatized and rejected by the society. Thus, even if they are released, they may not be able to socially adjust to their earlier social network of relations.

The costs of human rights violation dwelled on in the present chapter include rise in recidivism, deteriorated health and morality, loss of confidence in the judiciary, prison officials' frustration and the costs of detention to the children of detained parents. Thus far, it is clear that prolonged detention without trial and the human rights violation arising therefrom has many costs that can be categorized as economic, social, psychological, familial, etc. This presupposes that something must be done to mitigate the effects of human rights abuse arising from prolonged detention without trial. The next subsection of the chapter addresses this matter.

4.2.3.3 Remedies Against Human Rights Violation

From the data gathered, many suggestions that can offer remedies against human rights violation within the Nigeria's criminal justice system have been given.

The data in Table 4.32 below shows that many of the respondents (88.5%) favour giving people human rights education to empower them to appreciate and defend their rights. The reasoning is that educated victims and potential victims of violations will be able to fight their cases out and even make contact with people who can assist them.

Table 4.32 Educate People on their Rights

Education	Frequency	%
Yes	230	88.5
No	13	5.0
Not Applicable	17	6.5
Total	260	100.0

Source: Field Survey, 2021

The above assertion is tenable because majority of the study sample were poorly educated or uneducated. Their educational disposition seemed to encourage the belief that the less the educational status of an awaiting-trial inmate, the more the feeling that human rights education will halt rights violation; conversely, the highly educated awaiting-trial inmates seemed to regard other variables like halting incessant court adjournment as a remedy against human rights violation. To support the view that education is important a lawyer interviewed in Katsina responded thus:

...detention without trial and human rights violation occurs because there is low education and general awareness on human rights on the part of the citizens which encourage unnecessary arrest and detention.

For eminent scholars of Criminal Justice, criminal justice reform in developing countries should encompass better funding, better staff condition of service, more liberal penal policy, a wider range of prisoners' rights and more respect for them and their family members/children¹⁵. In tune with the above view, 88.5% of the respondents felt that reform of the criminal justice system would remedy the problems of human rights violation in Nigeria.

In this regard a respondent said:

the reform should be thorough such that ...there will be proper investigation before inmates are brought to prisons...so that the right suspects are detained. Also fines, the system of parole and suspended sentence should be used as opposed to imprisonment; and as part of the reform there should be advocacy for enhanced religious activities by religious organizations in Nigeria to cushion the effects of prison life and other forms of detentions that are prone to human rights violation.

Furthermore, it is felt by the respondents that the government needs to properly empower its committee with powers to free awaiting-trial inmates that have been detained more than necessary. The committee should be well equipped to monitor human rights violations in the country. In his view, a Nigerian scholar says reforms are needed so that:

Our criminal courts are made more interesting, i.e, when the oddities in our laws are removed, when the procedural laws are simplified, when the modes of presentation are re-oriented, when judicial officers are more natural in their approach to the administration of justice and Nigerian citizens receive justice according to the law in the way they understand it¹⁶.

To curtail human rights violation, a respondent said the reform should ensure that ‘All the correctional facilities in the Federation reach United Nations standards. The correctional institutions should have autonomy in running their funds...the government should construct modern prisons’. According to the respondents, doing these by the government can forestall mixing detainees of different offences or age status (this contravenes the provisions of Rule 7 of The United Nations Standard Minimum Rules for the Treatment of Prisoners (“the Nelson Mandela Rules”) of December 2015 says "When prisoners are being allocated to different institutions, due account shall be taken of their judicial and legal situation (untried or convicted prisoners, first offender or habitual offender, short sentence or long sentence) of their physical condition (young, adult, sick) their mental condition (normal or abnormal) their sex, age and, in the case of convicted prisoner, the special requirement of their treatment": e.g., mixing first time offenders and hardened criminals with attendant consequences. Agreeing with this view a respondent said, ‘...we need reform so that...when kept in prisons, the suspects are categorized according to the nature of their offences to avoid contamination with hardened criminals’.

The criminal justice personnel covered in this study also emphasized reform of the system as a remedy against human rights violation. As many police officers put it, reform of the entire

criminal justice system is required. Contributing in similar vein a judge interviewed in a court in Katsina said that the reform must ensure that:

There is a completely changed system where both the rulers and the ruled are aware of their roles and responsibilities and stick to them...also a competent, incorruptible and responsible criminal justice system is needed. There should also be mass campaign to enlighten the people about crime, their causes and ways of avoiding same.

Employing and training of justice system officials were among the remedies against human rights violation that the respondents identified (see Table 4.33 below).

Table 4.33 Employment and Training of More Justice System Officials

Employ more Judges	Frequency	%
Yes	174	66.9
No	45	17.3
Not Applicable	41	15.8
Total	260	100.0
Train more Judges	Frequency	%
Yes	198	76.2
No	23	8.8
Not Applicable	39	15.0
Total	260	100.0
Employ more State Counsels	Frequency	%
Yes	179	68.8
No	36	13.8
Not Applicable	45	17.3
Total	260	100.0

Source: Field Survey, 2021

The data in the above Table showed the respondents' belief that the problem of human rights violation can be remedied by employing more judges and lawyers; and giving them more appropriate training. Furthermore, the respondents said the judicial system require additional state counsels to prosecute and decongest the system, and reduce delays. Also, there is need

for more legal aid-lawyers to defend poor suspects-along with the need to amend the Legal-Aid law to expand its coverage of applicants' offences. According to a male respondent in Jos, if the justice system operators are to perform their functions well their training must be sincerely done and sustained; the respondent further said:

...the judiciary should, in addition to more trained officials, be properly equipped with modern technology...to enable it carry out its work smoothly...and the condition of service of government lawyers should be improved to attract qualified manpower into the service that can treat cases with dispatch.

Available evidence, as shown in the first section of this chapter, indicated that corruption was noticed as one of the problems in the criminal justice system. This often crystallizes into violating the human rights of suspects due to time wastage. As put by a respondent time wastage usually happens because:

...the complainants do not give enough money as incentive to the police to come and take them to court. Many of the suspects have spent many years without being to court for once due to corruption- inspired inefficiency. Some of them have been forgotten, as they do not have the means of checking erring judges; they are unable to have their rights respected...corruption is too much in the system.

Table 4.34 Reduce Corruption in the System

Reduce Corruption	Frequency	%
Yes	223	85.8
No	4	1.5
Not Applicable	33	12.7
Total	260	100.0

Source: Field Survey, 2021

To many of the respondents (85.8%) corruption is a contributory factor in the existence and promotion of human rights violation. It has to be reduced, if not entirely eradicated, if the human rights of detainees awaiting trial are to be respected. A respondent opined that

‘...corruption by both the police, judges/magistrates/lawyers should be checked...more specifically judges should be monitored and an eye should be kept on the professional career of the police and those found wanting must be appropriately punished’.

Corruption can simply be viewed as the perversion of integrity or state of affairs through bribery, favour and moral depravity. It refers to dishonest or illegal behaviour, especially of people in authority. In the views of renowned Philosophers, while commenting on corruption, a distinction has to be made between ethical issues and corruption even though they are related¹⁷. Ethical problems linked to justice administration include falsifying records, lying, and such other unsavory practices like "shopping" i.e. taking items from the scene of burglary and misuse of position. Put together, corruption and unethical conduct function to harm a system and render it moribund. This is the reason why a scholar maintained that if Nigerians are to make significant progress in the 21st century, corruption is the basic problem they must tackle¹⁸. This view is shared by many scholars and writers on the capacity for corruption to damage society and systems¹⁹. Scholars are of the view that developing countries like Nigeria should not emulate police's rationalization of corruption in America²⁰.

One of them was quoted saying:

The public thinks every cop is a crook-so why try to be honest? The money is out there-if I do not take it, someone else will. I am only taking what is rightfully mine; if the city paid me a decent wage, I would not have to get it on my own.

Findings in Tables 4.35 and 4.36 below show that, to some respondents, remedying the problem of human rights violation in Nigeria's criminal justice system requires punishing erring judicial officials like judges, magistrates, court clerks and other supporting court officials. More specifically remedying human rights violation of detainees awaiting trial requires punishing the absence (without valid reasons) of lawyers and prosecutors in court.

Table 4.35 Punish Erring Judicial Officers

Punishment	Frequency	%
Yes	199	76.5
No	25	9.6
Not Applicable	36	13.8
Total	260	100.0

Source: Field Survey, 2021

Table 4.36 Punish Absence of Lawyers/Prosecutors

Punish Absence	Frequency	%
Yes	112	43.1
No	27	10.4
Not Applicable	121	46.5
Total	260	100.0

Source: Field Survey, 2021

The respondents further said that apart from punishing all erring judicial officers, the Legal Aid Council (LAC) should be encouraged to expose wrong doings in the criminal justice system so that as posited by a respondent:

...unfaithful judicial and police officers are dealt with...and those who are consistent absentees are sorted out and made scapegoats to silence secret evil doers who will learn from them.

However, the data collected showed that there are respondents that felt other additional strategies will help in remedying human rights violations: proper record keeping, updated case diaries and denial of transfers or furloughs to prosecutors and judges handling cases. Other equally vital points mentioned by the respondents include fear of God by the justice system implementers, morally sound/conscientious police, judges, magistrates, lawyers, and prison officials. They also believed that sympathy, affection and concern for the inmates are useful variables in remedying the problems of human rights violation. Criminal Law experts believe that these variables have helped awaiting-trial inmates seeking justice in America²¹.

The awaiting-trial inmates believed that one major problem facing them is the time wasted before their cases are determined. Thus, as the data in the Table below show, quick determination of cases will assist in remedying human rights violation in the country.

Table 4.37 Cases Should Be Quickly Treated

Quick Treatment of Cases	Frequency	%
Yes	230	88.5
No	9	3.5
Not Applicable	21	8.1
Total	260	100.0

Source: Field Survey, 2021

One of the awaiting-trial inmates that had this view said to treat cases quickly, ‘...the Federal Government of Nigeria should, after giving the prison authorities free hand in conveying the inmates to their respective courts, supply the police departments, the courts and prisons with more functioning vehicles as enough and efficient means of transportation is essential in the bid to speedily try cases’. The same respondent posited that while in court for hearing ‘...there should be good means of producing evidence by the police’. Another respondent in Abakaliki Correction Centre summed up the issues thus:

Black Maria lorry should continue to be under the custody of prison authorities, and courts should not delay in demanding inmates for hearing. The police should release case investigations on time and the DPP should also write and advice on time to enable the court judge give judgment in time without unnecessary adjournment.

In the opinion of the prison authorities interviewed, remedying the problems of human rights violation in Nigeria must start with the courts so that Magistrates and judges are empowered to swiftly deal with cases. This requires adequate human and material resources qualified to meet the challenges of adjudication. This will stop Magistrates and Judges from sending

criminal suspects to prison for remand. The respondents also said that the magistrates and judges should be encouraged to give bail with procedures that are transparent, corruption-free, less elitist and cumbersome.

The data in Tables 4.38 and 4.39 below manifest the respondents' belief that remedying the problems of human rights violation would require a significant use of the services of Legal Aid Council and a resort to informal methods of settling disputes.

Table 4.38 Encourage the Activities of Legal Aid Council

Legal Aid Council	Frequency	%
Yes	226	86.9
No	15	5.8
Not Applicable	19	7.3
Total	260	100.0

Source: Field Survey, 2021

Table 4.39 Encourage Informal Settlement of Disputes

Informal Settlement	Frequency	%
Yes	205	78.8
No	17	6.5
Not Applicable	38	14.6
Total	260	100.0

Source: Field Survey, 2021

In order to get improvement in the justice system, the respondents said that Legal Aid Council (LAC) and other human rights organizations/civil society groups have to check the activities of the Nigeria's criminal justice system to improve its efficiency and effectiveness. This is why one of the sampled respondents posited that, '...the problem of human rights violation can be minimized through constant visits by LAC, members of Non-Governmental

Organizations (NGOs) and, meeting with judges and the police to facilitate informal settlement of cases’.

The data showed that over 97.6% of the awaiting-trial inmates surveyed said that one of the remedies against human rights violation in Nigeria is adequate funding of the criminal justice system to meet up with the challenges facing it. In the same token, majority of the prison authorities also maintained that as long as there is inadequate funding and high figures for detainees awaiting trial, human rights violation will continue to occur. That is, to make progress vis-à-vis respect for human rights, government has to invest more resources in the justice system so that cases can be treated with dispatch and the poor living conditions of the detainees ameliorated. This finding is consistent with a scholar’s position regarding Nigerian correctional institutions that says:

...genuine respect for human rights in the face of serious prison congestion must start with more investment in the system especially because detainees account for more than half of national average population²².

A Warder in Katsina Correction Centre said that if the correctional institutions are continually underfunded, then, ‘...we will not be able to effectively respect all their rights talk much less of reforming them’. With the current government poor funding, speedy trial will be difficult despite the fact that the current levels of crime are two to three times the rates 30 years ago²³.

Clearly, remedies against human rights violation are varied: provision of more opportunity for human rights education; recruitment and training of justice officials; reducing corruption; punishing erring judicial officials; speedy trial; and more funding of the system.

4.3 Discussion of Findings

This third and last section of the chapter tries to explain variances in violations by discussing the findings. It looks at the findings in the context of relevant literature from previous related

studies to discuss the influence of independent variables covered on crime type. It also discusses the findings in the light of the socio-economic and demographic attributes of the respondents. The goal is to see the influence of these attributes on the perceptions of the awaiting-trial inmates. Furthermore, we will want to see if the awaiting-trial inmates' perceptions of the correlates of violations concur with the research findings. For instance, the findings show that socio-economic variables are the correlatives of prolonged detention without trial culminating into human rights violation.

The purpose of the bivariate Tables below is to assist in seeing the influence of the independent variables on the dependent and at a later stage to see how some independent variables influence one another. The dependent variables were correlated against the independent to determine which of the independent variables were the most statistically significant in influencing the dependent variables. Hence, the demographic and socio-economic attributes of the respondents were correlated against denial of caution, application for bail, verbal/physical abuse, farm neglect, lawyers and judges' absence at awaiting-trial inmates' court sessions, court adjournment, time spent in detention and visitation. Education as an independent variable was found to be statistically significant in influencing two independent variables: employment and income; and income influenced another independent variable: offence type.

As shown in Table 4.40 below, while all OND/NCE holders and graduates were cautioned, 89.8% and 75.2% of awaiting-trial inmates with primary/Quranic/no formal schooling and secondary school education respectively, were not. Since education socially and economically empowers people²⁴, awaiting-trial inmates not cautioned were bound to be the less educated ones. This revelation was strengthened by $\chi^2=11.07$ and gamma 0.45 showing a moderate positive relationship between low/lack of education and the failure of the police to caution suspects.

Table 4.40 Education and Cautioning Before Interrogation

Detainees' Education		Cautioning of Detainees before Interrogation		
		Cautioned	Not Cautioned	Total
Primary/No Schooling	Formal	11 (10.2)	97 (89.8)	108
Secondary		29 (24.8)	88 (75.2)	117
OND/NCE		23 (100.0)	-	23
University		12 (100.0)	-	12
Total		75	185	260

$\chi^2=11.07$; df=5; 0.050 significance level; r= 0.45

Source: Field Survey, 2021

It can therefore be asserted that the higher the awaiting-trial inmates' education the more the likelihood of being cautioned. A lawyer respondent in Katsina contributing in this regard said:

Some suspects are cautioned particularly the enlightened and well informed who usually write their statements themselves. Others such as illiterates are not cautioned since the police draw up their statements for them and include a jurat that they were cautioned. The educated ones must be cautioned before statement...which when not done will render the statement inadmissible even if it is a clear confession...they are educated, you know.

The findings of this research showed that human rights violations exist with respect to acquiring bail by awaiting-trial inmates that are poor. The data in Table 4.41 below show that respondents with an income of N9, 000.0 and more applied for bail; all those in the income bracket N8, 001-N9, 000 did not. This shows that a majority of the low-income group did not apply for bail. Hence, it can be said that the higher the income, the higher the possibility of applying for bail. This revelation was strengthened by the values of $\chi^2=7.81$ and Pearson's product-moment correlation coefficient $C=0.62$ showing a strong positive relationship between high income and the possibility of seeking for bail. This further confirms the earlier assertion that the victims of human rights abuse were usually low-income earners.

Table 4.41 Awaiting-Trial Inmates' Income and Bail

Income Per Month	Application for Bail		
	Applied	Did not Apply	Total
<N7,000	34 (33.3)	68 (66.7)	102
N7,000-N8,000	62 (54.9)	51 (45.1)	113
N8,001-N9,000	-	15 (100.0)	15
N9,001-N10,000	14 (100.0)	-	14
N10,001 +	16 (100.0)	-	16
Total	126	134	260

$\chi^2=7.81$; df=3;0.05 significance level; C=0.62

Source: Field Survey, 2021

Table 4.42 Education and Application for Bail

Awaiting-Trial Inmates' Education	Granted/Denied		
	Applied/Denied	Applied/Granted	Total
Primary/Quranic/No Formal Schooling	68 (63.0)	40 (37.0)	108
Secondary	23 (19.7)	94 (80.3)	117
OND/NCE	23 (100.0)	-	23
University	12 (100.0)	-	12
Total	126	134	260

$\chi^2=11.07$; df=5;0.050 significance level; r=0.54

Source: Field Survey, 2021

As revealed by the findings of this study, while all respondents with OND/NCE and graduates applied for bail but were denied, only 19.7% of awaiting-trial inmates with

secondary school education applied for bail and were granted; but they were unable to use it. Additionally, 63.0% of awaiting-trial inmates with primary/Quranic/no formal schooling applied for bail but were denied. Consequently, findings showed that highly educated awaiting-trial inmates applied for bail but were denied because of the seriousness of their offences, e.g. violent offences such as armed robbery. The lowly educated awaiting-trial inmates who were granted bail could not use it because their low education has made them unemployed and eventually economically disadvantaged to enhance using the bail granted them. These kinds of awaiting-trial inmates found it difficult to get sureties to bail them owing to their poor status. The values of $\chi^2=11.07$ at 0.05 significance level and gamma=0.54 showed a moderate positive correlation between lack of education and the inability to seek for and use bail.

Table 4.43 Type of Offence and Application for Bail

Offence Type	Application for Bail		
	Applied	Did not Apply	Total
Minor Offences	63 (95.5)	3 (4.5)	66
Property Offences	24 (19.8)	97 (80.2)	121
Person/Violent Offences	39 (100.0)	-	39
Armed Robbery	-	34 (100.0)	34
Total	126	134	260

$\chi^2=7.81$; df =3; 0.050 significance level

Source: Field Survey, 2021

The data gathered indicated that while 95.5% of the awaiting-trial inmates held for minor and person/violent offences applied for bail, an overwhelming majority of property and armed

robbery suspects did not. Their inability to apply for bail was not unconnected with the gravity of their alleged offences that were not bailable. Moreover, non-bailable offences required careful and serious investigation that hindered granting of bail for fear of escape or influencing the investigation. Hence, the more serious the offence the less likelihood of seeking for bail as the Chi-square values above indicated.

When the question of bail was correlated with education, occupation and income it was found to be statistically significant as awaiting-trial inmates with education, employment and a reasonable income (who were very few) got more motivation to apply for bail than a majority of the awaiting-trial inmates that were not so advantaged. This finding is supported by the viewpoint of a Criminology scholar that criminal justice implementers are always careful with people who have a platform and voice²⁵.

Interview results showed that violations existed where some judges refused to give bail because some people did not want the suspect [s] released or bailed, and there could be instructions from superior officers not to grant bail no matter what. It is in this vein that one respondent said some suspects, especially the poor ones, were denied bail:

For pecuniary reasons sometimes, and for pure mischief to punish detainees or put them in trauma to succumb to police expectations.

Furthermore, expectedly, it is one thing to apply for bail and quite another to get it for many reasons as adduced by the awaiting-trial inmates: some of the police and judges were said to be corrupt and some others had the erroneous assumption that a good number of otherwise bailable offences were not bailable.

Table 4.44 Age and Beating of Awaiting-Trial Inmates

Age	Beating of Awaiting-Trial Inmates by Officials		
	Beaten	Not Beaten	Total
<20 years	14 (29.8)	33 (70.2)	47

21-25 Years	8 (11.1)	64 (88.9)	72
26-30 Years	6 (13.0)	40 (87.0)	46
31-35 Years	-	47 (100.0)	47
36-40 years	-	26 (100.0)	26
40 years +	-	22 (100.0)	22
Total	28	232	260

$\chi^2=12.59$ df =5; 0.050 significance level; C=0.69

Source: Field Survey, 2021

The research findings showed that awaiting-trial inmates beaten were mainly young who were detained for property offences, person/violent offences or armed robbery. These are offences that attract negative public perception and publicity. The beating of awaiting-trial inmates suspected of these offences is a response to public outrage about them. It can therefore be affirmed that age is a determinant of physical abuse because young detainees being more adventurous than older ones are more prone to committing offences regarded as heinous. This revelation was supported by the high value of Pearson's product-moment correlation coefficient C=0.069 indicating a strong positive relationship between young age and the possibility of physical abuse.

Table 4.45 Education and Beating of Awaiting-Trial Inmates

Awaiting-Trial Inmates' Education	Beating by Officials		
	Beaten	Not Beaten	Total
Primary/Quranic/No Formal Schooling	21 (19.4)	87 (80.6)	108
Secondary	7 (6.0)	110 (94.0)	117
OND/NCE	-	23 (100.0)	23
University	-	12 (100.0)	12
Total	28	232	260

$\chi^2=11.07$; df =5; 0.050 significance level; r=0.72

Source: Field Survey, 2021

Tables 4.44 and 4.45 above indicated that of the relatively few awaiting-trial inmates beaten are male and lowly educated respondents. For their low education, these respondents were unemployed and, thus, having a very low income as findings revealed in the second section of this chapter. Thus, it can be said that as more male awaiting-trial inmates were beaten, higher number of lowly or formally uneducated respondents were beaten. This indicates that the higher the education, the less the possibility of being beaten. Consequently, lack of education was found to be the major determinant of physical abuse. This correlation is positively strong with gamma=0.72. This is because of the empowering qualities of education: high education over-shadows other disadvantages like gender or being considered youthful.

Table 4.46 Offence Type and Verbal/Physical Abuse

Offence Type	Verbal/Physical Abuse (Shouts, Insult, Mockery, Beating, etc.)		
	Experienced	Did Not Experience	Total
Minor Offences	6 (9.1)	60 (90.9)	66
Property Offences	88 (72.7)	33 (27.3)	121
Person/Violent Offences	39 (100.0)	-	39
Armed Robbery	34 (100.0)	-	34
Total	167	93	260

$\chi^2=7.81$; df=3; 0.050 significance level

Source: Field Survey, 2021

Verbal and physical abuse appears to be a function of the gravity of the offence, as findings in Table 4.46 showed that person/violent offences and armed robbery suspects experienced those abuses more than minor offenders. Owing to the value attached to personal property in Nigeria, 72.7% of the awaiting-trial inmates suspected of property offences also said they experienced verbal and even physical abuse as shown by the Chi-square values obtained.

Table 4.47 Awaiting-Trial Inmates' Income and Lawyer's Absence at Court Hearing

Income Per Month	Lawyers' Absence		
	Not Experienced	Experienced	Total

<N7,000	4 (3.9)	98 (96.1)	102
N7,000–N 8,000	22 (19.5)	91 (80.5)	113
N 8,001–N 9,000	2 (13.3)	13 (86.7)	15
N9,001–N 10,000	7 (50.0)	7 (50.0)	14
N10,001+	16 (100.0)	--	16
Total	51	209	260

$\chi^2=9.49$; df =4; 0.050 significance level; C=0.58

Source: Field Survey, 2021

The data in Table 4.47 showed that the higher the income, the less likely an awaiting-trial inmate will experience lawyers' absence at court hearings. This finding was supported by the values of Pearson's product-moment correlation coefficient C=0.58 showing moderate inverse correlation between income and absence of lawyers. This confirms the belief that lawyers are usually aggressive in cases that are monetarily rewarding. Furthermore, data in Table 4.48 below showed that the higher the education of the awaiting-trial inmate, the less the likelihood of Judges' absence at the court session. This showed that the higher the education and disposable income of the detainee, the less the probability of absenteeism by lawyers and judges at their hearings which is a finding supported by the value gamma, $r=0.68$.

Table 4.48 Awaiting-Trial Inmates' Education and Absence of Judge at Court Hearing

Awaiting-Trial Inmates'		Judges' Absence	
Education	Not Experienced	Experienced	Total
Primary/No Formal Schooling	61 (56.5)	47 (43.5)	108
Secondary	88 (75.)	29 (24.8)	117
OND/NCE	23 (100.0)	-	23
University	12 (100.0)	-	12
Total	184	76	260

$\chi^2=11.07$; df =5; 0.050 significance level; $r=0.68$

Source: Field Survey, 2021

Table 4.49 Education and Court Adjournment

Education	Number of Court Adjournments				
	1-3 Times	4-6 Times	7-9 Times	10 Times +	Total
Primary/ No Formal Education	33 (30.6)	12 (11.1)	21 (19.4)	42 (38.9)	108
Secondary	28 (23.9)	-	-	89 (76.1)	117
OND/NCE	20 (87.0)	-	3 (8.7)	-	23
University	10 (83.3)	-	-	2 (16.7)	12
Total	91	12	24	133	260

$\chi^2=11.07$; df=3; 0.050 significance level; C=0.67

Source: Field Survey, 2021

The data in Table 4.49 above showed that lowly educated detainees experienced greater number of adjournments than awaiting-trial inmates that were highly educated. This was supported by $\chi^2=11.7$ and Pearson's product-moment correlation coefficient C=0.67. For instance, the bulk of the ¾ of the respondents that experienced adjournment 1-3 times were OND/NCE holders and graduates; however, only 8.7% and 16.7% for OND/NCE holders and graduates experienced it 7-9 times and ten times and above respectively. Thus, there is an inverse relationship between education and adjournment: the higher the education, the less the likelihood of encountering incessant court adjournment for obvious reasons: with education one can get employed and have an income; also there is the ability to seek for and sponsor legal services; and one will have a network of friends that can assist in the matter coupled with related influences associated with being educated.

Awaiting-trial inmates' rights can be said to be violated in relation to right to speedy trial as stipulated in the Constitution. Although there were awaiting-trial inmates held for serious

offences requiring thorough investigation, the bulk of the awaiting-trial inmates were held for property offences that are bailable and can be (should be) swiftly dispatched.

When examining the impact of the independent variables studied on the kind of offence, efforts are made to place the findings in the context of relevant literature from previous studies.

Age: The majority of the awaiting-trial inmates in this study were young people in the 20-30 age range, which is confirmed by data acquired by two erudite scholars²⁶, who found that “arrest statistics show that 60% of all persons arrested and imprisoned are under thirty years of age”.

Education: The findings showed that the majority of awaiting-trial inmates have low/no formal education (Primary and Secondary school leavers), reflecting some of the research areas where Western/formal education is still not sufficiently embraced and poverty appears to have prevented some parents from enrolling their children in school due to the rising cost of education. It is probable that their lack of education or knowledge of the legal system prevented them from securing bail, as those with greater education and knowledge of the system are more likely to secure bail and avoid detention pending the outcome of their cases.

Religion: The findings refuted the premise that the detainees' religious affiliation had anything to do with their arrest, treatment, or, more specifically, their protracted imprisonment awaiting trial. The findings highlighted the razor-thin difference between respondents of Islamic and Christian religions in the awaiting trial group when it comes to human rights violations.

Gender: Gender: It was discovered that males made up the vast majority of the respondents. This demonstrates that the awaiting trial population (while simple and convincing) is typical of the gender disposition of criminality and/or arrest in the general community.

Employment: The data on the respondents' employment status revealed that the majority of them are self-employed. Being self-employed implies that you do not have a formally recognized source of income, therefore the awaiting-trial inmates may have been dependent on whatever alternative options are available.

Income: According to the findings of this survey, the respondents were low-income earners. Furthermore, data revealed that having a lot of money means spending less time in custody awaiting trial, or even none at all. As noted by famous Public Law academics, persons with great economic power will use it in any manner they can to avoid prosecution or incarceration, one of which is securing bail (which involves financial sureties)²⁷.

There is no denying that Nigerian youth, who made up the majority of the sampled respondents, are impoverished. And the youth's poverty contributed to their lack of education, or their lack of education contributed to it. Because a big percentage of the sampled respondents were uneducated, finding satisfying jobs was incredibly difficult for them. And, due to their educational deficiencies, they lacked the necessary skills and drive to launch independent economic initiatives that would provide them with a fair wage. While in other countries like America and Europe such factors as race play a role in the workings of the criminal justice system, in Nigeria discrimination along the lines of economic ability seems to be the bane of the system; hence the adoption of classical Marxism as the theoretical orientation of this research study.

Marital Status: The marital status of the sampled respondents was evenly distributed, according to the research findings. However, individuals who had ever experienced family life outnumbered those who had never experienced it. When compared to the age groups of the sampled respondents, those who were married could be regarded to have wedded for too short a time due to divorce, separation, or widowhood. Furthermore, as previously stated, the bulk of respondents were in their early to late twenties.

When the dependent variables were correlated against the independent variables, education, offence type and income were found to be statistically significant factors that influence the awaiting-trial inmates' perceptions of the correlates and costs human rights violation, as well as the remedies against the phenomena of violation.

Table 4.50 Educational Level of Respondents and Human Rights Violation

Educational Level of Respondents	High Education Prevents Human Rights Abuse		
	Yes	No	Total
Primary	108 (100)	-	108
Secondary	104 (89.2)	13 (10.8)	117
OND/NCE	10 (43.0)	13 (57.0)	23
University	-	12 (100.0)	12
Total	222	38	260

$\chi^2=7.1$; df=3; 0.050 significance level; $r=0.83$

Source: Field Survey, 2021

The data in Table 4.50 above showed that lowly educated respondents perceived lack of education as the cause of human rights violation. This explains their support for increase in the provision of education to citizens as the means for reducing human rights violation in Nigeria. It can be seen that while all primary school certificate holders and 89.2% of Secondary school leavers subscribed to giving more education to Nigerians as a solution to human rights violation, the graduates in the sample did not.

Thus, it can be asserted that the higher the education of an awaiting-trial inmate, the more he attributes the cause of rights violations to other factors apart from education. This assertion is strongly backed with the value of $\chi^2=7.1$ and gamma=0.83 which indicated a strong correlation in the belief that possessing high education hinders human rights violations. This perception concurs with the study finding that a major correlate of human rights violation in

the study area was poor or lack of Western education among the respondents that made up the bulk of the study sample.

Table 4.51 Educational Level of Respondents and Lack of Training for Judicial Officials

	Lack of Training for Judicial Officials Promotes Human Rights Abuse		
	Yes	No	Total
Primary	15 (14.0)	93 (86.0)	108
Secondary	10 (8.2)	107 (91.8)	117
OND/NCE	19 (84.6)	4 (15.4)	23
University	11 (98.7)	1 (2.3)	12
Total	55	205	260

$\chi^2=7.81$; df=3; 0.050 significance level; $r=0.48$

Source: Field Survey, 2021

The findings above showed that while only 14.0% of the awaiting-trial inmates with primary school education and 8.2% with secondary school education perceived lack of training for judicial officers as the cause of human rights violation, as high as 84.6% of the respondents with high education (OND/NCE holders) and 98.7% of the graduates did. Therefore, with the value of $\chi^2=7.81$ and gamma=0.48, it can be maintained that the higher the education, the higher the perception that lack of training for judicial officials facilitated human rights violation. The respondents perceived that trained judicial personnel can remedy the problems of human rights violation bedeviling Nigeria's criminal justice system and the research areas more specifically.

The above perception is congruent with our study findings which proved that education as an independent variable is statistically significant in the analysis of human rights violation in

Nigeria. Education influences two other independent variables (unemployment and low disposable income) that also promote awaiting-trial inmates' human rights violation.

Table 4.52 Offence Type and Employing More Justice Personnel

Offence Type	Employing More Judges Prevents Human Rights Violations		
	Yes	No	Total
Minor Offences	58 (88.3)	8 (11.7)	66
Property Offences	100 (83.3)	21 (16.7)	121
Person/Violent Offences	39 (100.0)	-	39
Armed Robbery	34 (100.0)	-	34
Total	167	93	260

$\chi^2 7.81$; df=3; 0.050 significance level

Source: Field Survey, 2021

The findings in Table 4.49 showed that majority of the awaiting-trial inmates, regardless of offence type, considered shortage of justice personnel as the cause of human rights violation. However, it can be said that the more serious the alleged crime, the more the detainee awaiting trial considers shortage of judicial personnel as a related cause of human rights violation: the shortage is considered responsible for non-determination of their cases. This explains the awaiting-trial inmates' perception that recruitment of more justice personnel is a vital factor in mitigating human rights violation in the study areas and Nigeria generally, a finding supported by the above Chi-square values.

Table 4.53 Income Level of Respondents and Incessant Court Adjournment

Income Level of Respondents	Incessant Court Adjournment Promotes Human Rights Violations		
	Yes	No	Total
<N7,000	24 (23.3)	78 (76.7)	102

N7,000-N8,000	39 (34.9)	74 (65.1)	113
N8,001-N9,000	12 (78.2)	3 (12.8)	15
N9,001-N10,000	13 (98.0)	1 (2.0)	14
N10,001 +	16 (100.0)	-	16
Total	104	156	260

$\chi^2=9.49$; df=4; 0.05 significance level; C=0.62

Source: Field Survey, 2021

It is evident in Table 4.53 that when income is correlated with incessant court adjournment vis-à-vis human rights violation, it proved to be statistically significant. While low income awaiting-trial inmates (who could not obtain legal services) do not perceive court adjournment as a cause of human rights violation, high income awaiting-trial inmates (who were able to acquire legal services and could have a better treatment from the justice system) do.

Thus, with the value of $\chi^2=9.49$ and Pearson's product-moment correlation coefficient of C=0.62, it can be argued that high income positively correlated with the likelihood of obtaining legal services. Hence, there is a probability for the awaiting-trial inmates to perceive incessant court adjournment as the motivating factor for human rights abuse. This finding is in conformity with our findings that the higher the income of an awaiting-trial inmate, the less the possibility of judges/lawyers' absence during the awaiting-trial inmates' case and the less likely the recurrence of incessant court adjournment.

The Researcher's interactions with the awaiting-trial inmates and some Welfare Officers in the five correction centres showed that incessant court adjournment leads to delay in trials and eventual human rights abuse. The American Supreme Court listed four variables that can help in assessing the nature of delay as follows: the length of the delay; the reasons for the

delay; the defendant's assertion to his right to speedy trial; and the prejudice occasioned by the delay to the defendant. These variables should be instructive to Nigeria.

Table 4.54 Income Level of Respondents and Punishing Absence of Officials

Income Level of Respondents	Punishing Absence of Judicial Officials Prevents Human Rights Violations		
	Yes	No	Total
<N7,000	39 (38.1)	63 (61.9)	102
N7,000-N8,000	47 (41.7)	66 (58.3)	113
N8,001-N9,000	11 (73.4)	4 (26.6)	15
N9,001-N10,000	14 (100.0)	-	14
N10,001 +	16 (100.0)	-	16
Total	127	133	260

$\chi^2=9.49$; df=4; 0.05 significance level; C=0.57

Source: Field Survey, 2021

As can be seen from the findings in Table 4.54, as income increased the perception that punishing absence of judicial officials without valid reasons would help also increased. This further supports the position that the higher the income, the more the possibility of securing legal services, and the stronger the quest for prompt adjudication of cases. Hence, as the findings indicated, with the value of $\chi^2=9.49$ and C=0.57, there is a strong indication that any unnecessary absence of the judicial officers will be seriously viewed and objected to by the awaiting-trial inmates. This perception is in harmony with the research finding that income is a significant variable that determined the kind of treatment people get from the Nigeria's criminal justice system. The higher the income, the less the possibilities for human rights abuse and the lower the income the higher the chances of human rights violation.

Findings from the qualitative data showed that failure/refusal of the witnesses to appear before the court is another important correlate of human rights violation perceived by the

respondents. Witnesses' non-appearance is related to the inability of the government to bear the full costs they incur while trying to appear before the court. Also, there were reports of intimidation and harassment by some lawyers/judges which discouraged witnesses from re-appearing. In some instances, the way the witnesses are questioned make some of them feel as if they were the suspects. Furthermore, the image of the criminal justice system seems tainted, thus making it difficult for people to voluntarily appear as witnesses.

The research findings further indicated the awaiting-trial inmates' perception that obtaining evidence can be difficult in Nigeria due to lack of or poor working equipment. This is a perception that was in harmony with the correlates of human rights violation found out by this research study (the police usually complain of lack of transportation, stationery, computers, forensic laboratories, and claims for out of station allowance).

In conclusion, it is quintessential to recapitulate that the Researcher raised five simple research questions (RQs) in tandem with the research objectives in Chapter One of this research study. And, this present chapter has provided comprehensive, explicit, robust, and logical answers to them. In doing so, it grappled with the nature, extent and types of human rights violations experienced by the awaiting-trial inmates in the research areas covered; it presented and discussed the findings on the socio-demographic and economic characteristics of the respondents of the study, the awaiting-trial inmates, as well as the criminal justice personnel; and it also dealt with the correlates and costs of human rights violations that usually emanate from prolonged detention in remand as well as with remedies against them.

The locations of violations were identified following a pattern: violations at police stations, courts, and correctional institutions. In general, findings showed that human rights breaches exist in the criminal justice system, which can be linked to the criminal justice system's apparent slow pace from the moment of arrest by the police to arraignment in court to jail

conditions. At the police station, issues were incidents of verbal and physical abuse after arrest, failure to warn suspects, and the suspects' inability to stand up for themselves or obtain a credible surety for bail, all of which contributed to their inability to use the bond if granted. The shortage of, and sometimes absence of means of transporting the suspects, and indiscriminate use of correctional institutions by judges were another set of factors that have been found to be too common in engendering human rights violation in the study areas and the entire country.

Findings showed that though some improvements were noticed in the areas of abusing, slapping, beating and forcing suspects into hard labour in police stations and correction centres, violations persist, as evidenced by observable criminal justice processes (denial of bail, constant court adjournment, delayed investigation, unreasonable delays, official corruption, and so on) and conditions of confinement (unsatisfactory sanitation, poor feeding, accommodation, medical care, pre-release training, sporting facilities, etc.).

Analysis showed that a discrepancy between policy and actual practice as regards human rights violations exist: findings showed that to a certain extent, Nigeria's prison policy and practices do offend the Universal Declaration of Human Rights, the United Nations Standard Minimum Rules, the African Union Charter on Human and Peoples' Rights and even Nigeria's Constitution. Furthermore, some of the regulatory instruments governing Nigeria's correctional institutions are old-fashioned, making them to fall short of current expected practices²⁸.

Additionally, the findings showed that although the factors militating against proper management of correctional facilities in Nigeria are structural, emanating from governmental neglect, lack of proper co-ordination between the criminal justice actors was found to make and is still making matters worse in the face of an elitist and alien criminal justice system that not only marginalizes the poor and uneducated people (who happened to be a majority of the

study sample), but also not adaptable to traditional societies like Nigeria where civic and political education is low.

It is evident from the results of regression analysis that education, employment, income, and property offences determined the nature and extent of violations experienced by awaiting-trial inmates. Thus, the educated, employed and high-income group that was suspected of minor and person/violent offences experienced little human rights violations compared to the uneducated, unemployed, low-income earners that were suspected of minor and person/violent offences. This is the social category that witnessed deprivations when compare with other social categories.

A painstaking presentation and discussion of the findings on the socio-demographic and economic characteristics of the respondents of the study, the awaiting-trial inmates, as well as the criminal justice personnel was undertaken by the chapter. In research undertakings, a look at the socio-demographic and economic characteristics of the respondents is vital because they indicate such things as life style, social status, life chances as well as values, beliefs, opinions and dispositions.

Findings indicated that the respondents were predominantly male, in their early and mid-30s with low education; they were mainly self-employed, with low income and were single. Furthermore, the highest percentage of the male respondents was detained for property and minor offences, while female respondents were detained mainly for personal/violent offences. The criminal justice personnel were predominantly male, found to be well educated, and married with children.

The chapter has scrutinized the correlates and costs of human rights violations that usually emanate from prolonged detention in remand as well as with remedies against them. In general, military dictatorship, poor education, ignorance of rights, incessant court adjournment, shortage of judicial officers and corruption were found to be the correlates of

human rights violations. Findings indicated that the costs of violations include increase in recidivism, deteriorated health and morality, loss of confidence in the judiciary, frustration of prison officials, impact on the children of detained parents, and other social and economic consequences.

According to the opinion of the respondents, findings further showed that certain factors could be helpful in remedying the problem of human rights violations: human rights education to the citizens, reform of the justice system, recruiting and training of more justice officials, eradicating/cutting corruption and punishing erring judicial officers. Others include quick dispensation of justice, encouraging the activities of Legal Aid Council, encouraging/usage of informal methods of settling disputes and more funding of the system.

Finally, the analysis revealed particular socio-economic attributes of the respondents that influenced their perceptions of the correlates of human rights violations as well as the types of suggestions they made in solving the problems of human rights violations in Nigeria's criminal justice system: education, employment, income, type of offence and age. Surprisingly, respondents' perceptions of the correlates of human rights violations were strikingly similar to the findings of the basic research.

Every research undertaking suggests recommendations that have policy implication to the problem under inquiry. This research study is no exception. While the remedies against human rights violations analyzed in this chapter were as perceived by the awaiting-trial inmates and officials, the recommendations in the next chapter would focus on recommendations for the stakeholders in the criminal justice system (police, courts, correctional institutions and the society in general) based on the totality of the research.

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Chapter Five

Conclusion

It is quintessential to note that this chapter is, customarily, a microcosm of the whole. It has five main sections. The first section highlights major research findings together with the significance of such findings. The second section deals with a presentation on the conclusions reached by the study. The third section focuses on emanating recommendations offered to the government, the police, courts, correctional institutions and the larger society that have policy implications. The fourth section pinpoints Researcher's contribution to knowledge. Finally, the fifth section is on areas for further research/studies. Ultimately, this final chapter aggregates all thoughts, reviews actions, findings, and makes prognosis.

5.1 Summary of the Findings

The research findings showed that despite a legal framework that is, on the whole, compliant with international human rights standards, implementation of the procedural safeguards for arrest and detention is weak in Nigeria. Most awaiting-trial inmates (ATIs) were victims of arbitrary arrests and do not enjoy the rights that accrue to them during their arrest and detention. The findings indicated that more males than females were arrested and detained in the five correction centres covered. Furthermore, majority of those awaiting trial were young, in their mid-20s, and early 30s. The findings showed that majority of the suspects were held for property offences. Another sizeable proportion of the awaiting-trial inmates were held for minor offences. Furthermore, there were awaiting-trial inmates accused of armed robbery. However, personal/violent offence charges were less common.

Findings indicated that a majority of the respondents were poor and possessed very low western education. In addition, awaiting-trial inmates who were poor and could not afford legal representation often remain in jail for longer periods of time, according to the findings.

Pretrial inmates' rights to a fair and prompt trial were jeopardized by prolonged imprisonment. Also, the police and the courts could be held responsible for the bulk of the awaiting trial problems due to structural and the negative attitudinal dispositions of the officials.

Correctional institutions have contributed to the suffering of awaiting-trial inmates by keeping them in extremely poor conditions. According to the findings, awaiting-trial convicts are frequently housed in overcrowded correctional facilities, which may affect their health and raise their chance of being tortured or subjected to other cruel, inhuman, or degrading treatment or punishment. According to the findings of the research study, most awaiting-trial convicts, particularly in police cells, do not have appropriate food and water. Inmates awaiting trial frequently lack clothing and bedding, as well as access to health services, personal hygiene facilities, and exercise chances.

Findings indicated that sharp practices in discharging prison duties worsen the problems of the awaiting-trial inmates. Gross under-funding from the government complicates the entire problem. Findings showed that most detention facilities in Nigeria are not suitable for housing detainees, and there are frequent challenges in providing water and other basic necessities such as hygiene, sanitation and bedding. Moreover, many of these correctional facilities are dilapidated, and have inadequate space, lighting and ventilation.

Furthermore, the findings indicated that the highest percentage of respondents (both Moslems and Christians) was detained for property offences showing that though there is no substantive difference along religious affiliation regarding type of offence, Christians appear to commit more of property and minor offences than Moslems; but there were more Moslems accused of person/ violent offences than Christians. Findings further indicated a balance in the number of people of the two faiths detained for armed robbery.

Findings further showed that while male respondents were mainly detained for property offences, overwhelming majority of the women were detained for person/violent offences indicating a connection between gender and types offences people get involved in. While men get involved in property crime to acquire material things like electronics (radio, television, fridge, iron, heater, video, etc.), food stuff, money and other forms of assets, women may be involved in person/violent offences like fighting with co-wives, stabbing with a knife, poisoning husband or co-wives children, baby stealing, etc. Sometimes, they may be accused of trivial matters like witchcraft, fighting over boyfriend, petty jealousy, unfaithfulness and gossip.

Furthermore, the findings showed that as being single is associated with committing property offences so was being married. The distinction is on the kinds of property involved: while the married respondents may steal properties that are household needs (food, clothing, money and so on), the single may steal items of fashion and vogue (radio, television, video, television, video CD player, cell-phone, shoes, wrist watches, fashion designers, etc.). Being divorced/separated/ widowed has no relationship with being involved in armed robbery as indicated by findings. Though there were more married respondents involved in property offences, there were more single awaiting-trial inmates involved in minor offences. What is instructive is the low percentage (13.4%) of divorcees/separated/widowed awaiting-trial inmates on account of property offences when compared with the other social categories.

The findings showed that being self-employed is positively correlated with committing property offences due to the incapacity of being self-employed to generate enough income that could be used to purchase property. No public and private sectors employees were detained for armed robbery. What is instructive is that there was little connection between employment status and committing person/violent offences. Findings showed that being employed influence the ability to apply for bail. For instance, as all public sector employees

applied for bail, private sector employees also did; and as informally self-employed awaiting-trial inmates applied for bail, the unemployed respondents were unable to apply for bail.

It has been revealed in the study that people charged with minor offences were scattered across the years of detention, but respondents held for person/violent offences and armed robbery respectively spent 2-5 months while a majority of property offenders spent 6-11 months awaiting trial after being charged to court. This shows that most victims of abuse were in this social category.

The findings showed that the high number of property offenders incapacitated prison officials from taking them to court regularly as scheduled. Furthermore, these awaiting-trial inmates were found to be lowly and/or formally uneducated and by extension economically disadvantaged due to unemployment. These factors render them vulnerable to neglect and eventual abuse while in detention.

As revealed by the findings, unlike the widowed/divorced/separated respondents, a majority of the married and unmarried respondents received visitors. It is evident that widowed/divorced/ separated respondents did not receive as many visitors as the married and single awaiting-trial inmates. This was influenced by their marital statuses: being widowed, divorced or separated. Furthermore, being detained for person/violent offences hindered them from enjoying prison officials' sympathy when it comes to their families or relations visiting them. Consequently, the victims of abuse vis-à-vis visit were found among widowed/divorced/separated respondents essentially because many of them were detained for offences that do not necessarily attract sympathy and empathy from prison officials: murder, assault, husband/child poisoning, kidnapping, etc.

Findings showed low rate of conjugal visits. Were conjugal visits allowed to happen, personality stabilization and emotional composure for the awaiting-trial inmates would have

been engendered. Lack of these visits increased awaiting-trial inmates' psychological and physiological problems that would require medical attention in the face of poor or absent medical facilities in the correctional institutions covered. However, most Prison Warders see having this quality time as a luxury awaiting-trial inmates should not have as the denial would make the difference between prison life and life at home.

Findings revealed many variables as the correlates of human rights violations: military dictatorship, poor education, ignorance of rights, incessant court adjournment, shortage of judicial officers and corruption. The costs of violations were increase in recidivism, deteriorated health and morality, loss of confidence in the judiciary, frustration of prison officials, costs of detention to the children of detained parents, and other social and economic costs. The remedies against human rights violation identified include the provision of human rights education to the citizens, reform of the justice system, recruiting and training of more justice officials, eradicating/cutting corruption and punishing erring judicial officers. Others include quick dispensation of justice, encouraging the activities of Legal Aid Council, encouraging/usage of informal methods of settling disputes and increased funding of the system.

Efforts were also made to glean the perceptions of the awaiting-trial inmates on the correlates and costs of, and remedies against human rights violation. Thus, the independent variables were regressed against the dependent. Certain adverse macro-social forces were found to be predictors of human rights violations. For instance, education was found to be a determinant of two other independent variables, i.e., employment and disposable income. These variables influenced awaiting-trial inmates' perceptions of the correlates of human rights abuse and the remedies against abuses.

It is explicit that there were some independent variables that influenced one another in the research study: education, employment, income and offence type. For instance, findings showed that being educated improve the chances of getting a gainful employment. Awaiting-trial inmates with low or no formal education were found to be either informally self-employed or unemployed. Furthermore, these respondents were found to be the main victims of human rights violations. This demonstrates that the lower the education the lower the possibility of getting employed and the more likely the risk of being a victim of human rights abuse if arrested being processed in the Nigeria's criminal justice system.

Closely connected to being educated and employed is the disposable income of the respondents. As the findings showed, respondents with tertiary education who were presumably employed also earned incomes which enable them to have a better deal in the criminal justice system. This contrasts with the uneducated and unemployed respondents that were found to be the victims of human rights abuse than the educated and employed ones. Thus, it can be argued that the higher the education, the more the probability of being employed; and as a result, the higher the disposable income. The existence and persistence of these advantages mitigates the likelihood of being a victim of human rights violations if arrested and when being processed in the Nigeria's criminal justice system.

5.2 Conclusion

The broad findings and conclusions of the research are presented in this section after the data had been arranged and processed from which deductions and inferences were drawn. It is worth noting that human rights abuses were split into two categories. First, there were violations over which officials have no influence and which are prompted by the Federal government's neglect of the justice system; and second, there were violations that are directly related to the operations of justice system officials.

The findings in Chapter Four showed that majority of the respondents were young and male. They possessed low or no western education and were unemployed. They belonged to the low-income group, and were suspected of property and minor offences. The socio-economic attributes of awaiting-trial inmates determined the nature, extent and types of violations they suffered. From the bivariate analysis, it was the uneducated, unemployed, low-income group, and property offenders that experienced rights violations relative to the educated, employed and high-income group.

When compared with other socio-economic variables, gender showed the most macro-variability and dispersion, i.e., dispersion identified when compared with variables like income, age, marital status, education and so on. In other words, far fewer female awaiting-trial inmates were involved. This may be linked to differentials in involvement in criminal activity by males and females indicating that there were more reported cases of male than female criminality.

The findings showed that human rights violations in the criminal justice system were linked to a variety of factors, including wrongful arrest by police, incidents of verbal and physical abuse after arrest, failure to warn suspects, and the suspects' inability to stand up for themselves or obtain a reliable surety for bail, which is part of the reason for their inability to use the bail if granted, among others. Denial of bail, constant court adjournment, delayed investigation, unwarranted delays, official corruption, and so on are some of the other reasons. The remaining factors are related to the circumstances of incarceration in penal institutions, as evidenced by bad sanitation, inadequate nourishment, indecent housing, grossly inadequate medical care, poor pre-release training, and insufficient sporting facilities, among other things. On the awaiting-trial inmates, the practices and lack of amenities mentioned were found to be pervasive and severe.

Furthermore, there existed a discrepancy between policy and actual practice regarding human rights violations. Nigeria's prison policy and practices do offend the UN Standard Minimum Rules, the African Union Charter on Human and Peoples' Rights and even Nigeria's Constitution. In addition, some of the regulatory instruments governing Nigeria's correctional institutions are old-fashioned. Hence, the instruments are incapable of meeting the requirements of modern corrections.

The findings showed that respondents' socio-economic characteristics, such as education, employment, income, age, and kind of offense, influenced the awaiting-trial inmates' opinions of the correlates of human rights violations. The characteristics also influenced the types of solutions they propose for Nigeria's human rights breaches. Surprisingly, respondents' perceptions of the correlates of human rights violations closely matched those of the core research findings: a lack of or low education leads to unemployment and a lack of spare income, both of which fueled crime commission. The bulk of the young awaiting-trial inmates were discovered to be uneducated/lowly educated, unemployed, and have poor income, putting them at risk of criminality, arrest, incarceration, and eventual human rights violations. Inmates awaiting trial felt that redressing human rights violations would entail providing individuals with education, jobs, and a reasonable disposable income, among other things.

Even though the related reasons for the poor management of correctional facilities in Nigeria might emanate from governmental neglect, lack of proper co-operation and coordination between the criminal justice agencies was found to contribute in slow processing of the suspects thereby making matters difficult to the uneducated, unemployed and poor people who happened to be a majority of our awaiting-trial inmates.

Despite advocacy for deinstitutionalized penology in recent times and seeming governmental sympathy for the idea, there is a high degree of congestion in the correctional institutions

surveyed due to routine use of imprisonment and denial of bail. As a consequence of over congestion, the bodies of the awaiting-trial inmates were infected with rashes, scabies and other skin diseases. It is clear that the poor environment hygiene caused these. Though not unexpected, the awaiting-trial inmates were not offered required feeding and medical attention due to their high number. It is therefore maintained that the poor state of the correctional facilities, over congestion and neglect by staff hinders effective and efficient performance and worsen health conditions.

When the Researcher observed the so-called training workshops in the correction centres, the equipment provided (where provided at all) were grossly inadequate and outmoded. Thus, it can be pointed out that the correction centres are incapable of providing the required pre-release training. This may be the reason for the high recidivism rate in Nigeria, since those who have experienced prolonged detention have not been adequately prepared for re-entry (i.e. life in the community after release). The awaiting trial inmates, especially those that spent long time, are worse hit by this situation, because they have not been classified and no provision has been made for them.

5.3 Recommendations

Below are some findings-based recommendations which if faithfully implemented could efficiently and effectively improve the performance of the criminal justice implementers and will eventually reduce the problems associated with policing, justice adjudication and prolonged detention. It is hoped that the recommendations will result in respecting the human rights of the detainees awaiting trial. The recommendations are offered to the government, the police, the courts, the correctional institutions and the larger society.

5.3.1 The Government

Government should strive assiduously to strengthen the internal and external national oversight and accountability mechanisms on pre-trial detention by building their capacity to enable them to efficiently perform their mandates. It is important to devote resources to promote the increased capacity of mechanisms, and to allow for an increased capacity to investigate complaints, as well as to apply to other functions such as prevention and public education. Furthermore, efforts should be made to follow up and implement their recommendations. This would lead to an improvement in the situation of awaiting-trial inmates.

Human rights violations in Nigeria are a result of the government's negligence and underfunding of the criminal justice system, according to the findings of this study. As a result, if any agency is to do its job correctly, the government must provide it with the necessary instruments, which the agency must then put to efficient and successful use. As a result, the government should ensure that the police, courts, and penal institutions receive sufficient budgetary predictions and allocations. The government must set aside funding for consumables, transportation, and communication equipment, as well as forecast long-term increases in policing, adjudication, and the jail population. While allocating funds to correctional institutions, the government should set aside additional funds to care for detainees awaiting trial.

In addition, it has been argued that pilferage is in existence in detention centres. Thus, if what has been budgeted is to positively impact on the awaiting-trial inmates, discreet investigations on this matter is needed to halt or minimize the practice. Where culprits are apprehended, the government should be courageous in punishing them.

The police have to be sensitized by the government about the importance of granting bail to suspects. They should be made to realize that denial of bail complicate matters for the

awaiting-trial inmates and the entire criminal justice system. Since many awaiting-trial inmates were unable to secure bail due to lack of reliable sureties, it is hereby recommended that Bail Bonds Companies be allowed to operate in Nigeria to aid reliable indigent awaiting-trial inmates. Also, the services of the companies should be made affordable to a majority of the awaiting-trial inmates.

The government should ensure that other arms of the criminal justice system especially the police and courts rise up to the challenges of their duties by objectively, swiftly and passionately disposing off cases under the present democratic dispensation. All judicial officers that have problems in subordinating themselves to democratic governance should undergo a rigorous re-orientation that would make them adjust to the new situation.

The findings of this research showed that the awaiting-trial inmates were poor and uneducated. Hence, overwhelming majority of them could not obtain legal services. Therefore, government needs to recruit more lawyers to protect the poor that cannot afford legal service. Furthermore, Legal Aid Council needs more funding and government co-operation to make it more efficient and effective. Lawyers in the country should be urged by the government to render cheap or free legal (*pro bono*) services to the indigent that form a bulk of the awaiting-trial inmates.

There is literature and a belief by some of the justice personnel interviewed that justice system should be based on the punitive philosophy. An awareness campaign should be mounted to disabuse the minds of government officials and the general population that criminal justice system, especially correctional institutions are abodes for punishment as conceived by the colonialists. Contrarily, correctional institutions should be seen as avenues for genuine rehabilitation. Similar efforts are required to forestall communal and traditional

prejudices against awaiting-trial inmates, ex-convicts and convicted offenders in the Nigerian society.

There is enough evidence to show that some awaiting-trial inmates were held on trivial and minor offences. Thus, the criminal justice system could benefit if the laws that make certain behaviours criminal, even though they do not visibly threaten security, are abrogated. These behaviours include wandering, idling, etc.

There is no proof indicating proper political participation by awaiting-trial inmates. It will be useful to the awaiting-trial inmates if the government can devise ways of allowing them the right to vote and belong to a political party of their choice since no current laws prohibit it. Politicians should be encouraged to canvass for the votes of the detainees and consider them as a constituency with interests to be protected.

In the scheme of things, the government should give adequate recognition and approval to civil society, as it remains a key stakeholder in the issue of pre-trial detention, given the vast potential for violations of citizens' rights and the range of negative consequences that may result from these violations. It is critical to urge organized civil society to participate in national and regional efforts to elevate the visibility of detainees awaiting trial and to push for better law and practice. Civil society organizations (CSOs) are also in a strong position to petition the national government to address the root causes of the indiscriminate use of pre-trial detention, as well as violations of rights while in custody.

5.3.2 The Police

The police play a critical role in the administration of justice. Furthermore, if their difficulties are addressed, progress on respect for human rights can be made. As a result, some recommendations for policing policy and the Nigerian police force can be made.

According to the findings, the majority of police officers who interact with awaiting-trial inmates were uneducated and unprofessional. As a result, they must be informed about the most recent advancements in modern police. This can be accomplished by exposing police officers to the rigours of their jobs through modern police training. The training should emphasize the supremacy of the rule of law, the value of police service to the community, and the standing of citizens as recipients of police services. In addition to their practical work, police training programmes should emphasize knowledge of the local community and its socio-cultural disposition. This will ensure that when matters come up, they are able to have intuition on the meaning and use of initiative and discretionary powers.

The police force needs re-orientation so that rules regarding human rights, morality, ethics and proper human relations are inculcated into the service. It will empower them to efficiently handle reports or complaints brought to their attention. When properly trained and empowered with professional skills, the police will make use of only necessary force in dealing with suspects. In general, it will also empower them to respect the legal and constitutional rights of citizens.

One of the reasons for delay in trials is the absence of the prosecutors at court sessions. To forestall this problem, the number of police with requisite legal expertise to prosecute cases in courts should be increased and appropriately rewarded. This will speed up cases and decongest correctional facilities and police cells.

The overcrowding being experienced in Nigeria's criminal justice system is usually promoted by prolonged detention awaiting trial. It is hereby suggested that there should be an upper limit that a suspect can spend on remand after which a suspect should be tried or released. The prosecution should be able to prove its charge within the required time or the suspect

gets unconditionally released. This has the potential benefit of engendering quick police investigation and trial.

Highly significant in the administration of justice is crime prevention. In order to properly prevent crime, the police have to efficiently and effectively utilize the equipment and weapons supplied to them. This will serve as a preventive approach to crime commission capable of minimizing the potentialities for litigation with its attendant problems.

5.3.3 The Courts

There is no denying that Nigerian courts are overburdened with cases due to a variety of causes, including an increase in crime, adversarial, slow, elitist, foreign, and corrupt nature of the institution. Furthermore, data demonstrated that court congestion is exacerbated by lawyers and judges arriving late or refusing to present in court for no good reason. As a result, a holistic approach to these issues is essential to make Nigerian courts efficient and effective. The National Crime Control and Prevention Commission (NCCPC) can provide a framework for a holistic strategy.

It is necessary to investigate, widely use, and promote informal means of punishment and customary practices that promote mediation between opposing parties. In other words, deinstitutionalized punishment should be promoted and applied to lessen the risk of human rights violations. They include verbal sanctions such as admonition, reprimand, and warning; conditional discharge; status penalties; economic sanctions such as fines and day-fines; confiscation or an expropriation order; restitution to the victim or a compensation order; suspended or deferred sentence; probation and judicial supervision; a community service order; referral to an attendance center; house arrest; and any other form of non-institutional treatment.

The findings showed that another common complaint against the courts in Nigeria is the spate of corruption that permeates them. Thus, if objective, speedy and just trials are needed in our courts, they have to be purged of corruption. In this light, Nigeria Bar Association (NBA) should be more aggressive in identifying and seeking for the sanctioning of corrupt judges and lawyers. Closely connected to corruption is the failure/refusal of judges and lawyers to abide by the ethics of the legal profession that demands honor, impartiality and honesty from them. Instances abound where these "gentlemen" connive and fake evidence, extort money from poor people, and miscarry justice in favour of the rich. Legal Practitioners' Disciplinary Committee (LPDC), being independent of NBA, should be involved in checking professional misconduct, controlling corruption and organizing the judiciary properly to restore its credibility and enlist the confidence of the citizens.

Magistrates and Judges should learn to make effective use of bail in their dispositions. This has the benefit of barring the awaiting-trial inmates from experiencing prison life and allowing them to organize their defense. Relatedly, there is the need for judges to develop the habit of sitting in prisons to decide cases. This will solve the transportation problem facing the police and correction centres and will make all the awaiting-trial inmates easily accessible. Furthermore, judges that have the statutory powers to visit correctional institutions and review cases should use this opportunity in the interest of suspects. The Nigeria Bar Association should monitor these kinds of visits so that judges who make use of it are commended and honoured.

To facilitate effective and efficient treatment of cases, the courts should be equipped with modern technology like computers, fax machines, GSM telephone lines, internet connectivity and a personal website. Trained staff should be employed to handle some of the equipment. Furthermore, modern training and retraining of court judges, magistrates and other staff is crucial in the adjudication of cases speedily and fairly.

5.3.4 Correctional Institutions

The findings revealed that confinement in a correctional facility has a variety of consequences, particularly psychological and medical ones. More specialists, including psychologists, psychiatrists, and medical doctors, should be involved in administering correctional institutions to adequately treat the deteriorating psychological and medical health of awaiting-trial detainees. More can be accomplished by these professionals with the help of religionists, philanthropists, and the government, as well as collaboration with NGOs, because they will assist in adequately preparing unconvicted detainees for reintegration, preventing the post-detention tendency to engage in criminal activity.

Findings revealed that there is glaring shortages of basic necessities of life and other social amenities in Nigerian correctional institutions. To mitigate this shortage, effective and efficient tapping and channeling of prison labour into productive ventures like agriculture, carpentry, construction, sanitation and so on is required. The proceeds could be used to look after the welfare of the awaiting-trial inmates and supplement government efforts especially because pilferages are experienced. If the rights of the suspects are to be respected, the present correction centres and their facilities (health care, sanitation, accommodation, feeding arrangement, clothing and leisure facilities) must be upgraded, and where none exists, they need to be provided to make them suitable and adequate for the awaiting-trial inmates.

Investigation indicated that good timing and constancy in prison food distribution have to be respected for security reasons. Having been frustrated as awaiting-trial inmates and the fact that the food given to them was inadequate, the potency for revolt was/is always imminent. Moreover, there was/is the possibility of transferred aggression visited on Warders in the form of prisoner violence. This manifested itself in Awka correction centre in August, 2010

where prisoners violently demonstrated due to poor food quality and quantity and erratic timing.

Glaringly, more barracks for correction centre officials to enable them easily commute to and from place of work have to be made available. As for prison officials living in inappropriate rented quarters, rent subsidy should be generously awarded to them to boost their morale. Relatedly, in order to motivate, retain and attract more staff to the correctional service, their salaries, allowances and benefits should be enhanced and reviewed upward. This is essential due to the importance of their job that is also risky and full of challenges.

There is high increase in crime rate in Nigeria without corresponding increase in prison building and/or facilities. In order to avoid human rights violations and to be able to meet and maintain standards before eventual de-institutionalization of punishment, present correctional institutions require facilities of international standard. To change public perception about releasees and the essence of prisons, the architectural design of correctional institutions in Nigeria should be transformed to make it appear a home rather than a total institution with punitive characteristics. In addition, the prison staff/inmate ratio, which is 1:25, should be improved to 1:10 by 2023. This has the benefit of treating the inmates individually depending on their problems and needs. It will enhance performance regarding rehabilitation and frustration due to incarceration.

Closely related to the availability of modern facilities and more employees is the need to update the professional training and competence of the correctional institutions staff to enable them catch up with the changing patterns of corrections and management of awaiting-trial inmates. These goals can better be achieved if the correctional service is adequately funded.

To engender proper prison administration, boost in prison staff morale, more job satisfaction and proper management of inmates and the system in general, prison staff should be

empowered by the government in its role of producing awaiting-trial inmates to courts and transporting discharged awaiting-trial inmates to their communities which is in line with Section 19[1] of the Nigerian Correctional Service Act (“the Act”), 2019.

5.3.5 The Society

Former detainees frequently endure discrimination and isolation from society after being released, whether as acquitted or as an ex-convict. If these issues are to be resolved, society must demonstrate to releasees that they are accepted as normal members of society by demonstrating unambiguous understanding and openness. Releasees will be able to practice the professions they learned in correctional institution or those they had prior to confinement if society accepts them. This has the added benefit of lessening the financial consequences of their remand.

To help releasees integrate, society should patronize and purchase their goods and services, ensuring that they have a steady source of income. Furthermore, giving releasees responsibility can make them responsible in their communities and the converse is the case. Thus, the society should try and give releasees some community responsibilities that will make them feel integrated and relevant. If and when this is done, the society in general will obviously desist from stigmatizing releasees, and their kith and kin.

Findings showed that there were awaiting-trial inmates that have children that were affected by the detention. The society and philanthropists should develop a programme that will offer education to the children of the detained parents. Furthermore, the children should not be made to feel bad about the conduct of their parents to avoid the children being frustrated and alienated, which may push them into delinquency. It is known that the delinquents of today are the adult criminals of tomorrow.

The task of socialization can no longer be left to parents and schools alone. If good behaviour is to be obtained from children and the youth, the entire society must contribute in child socialization. This can be done by exemplary behaviours from senior citizens and by counseling youth towards better moral values that will hinder them from getting involved in delinquency, deviance and crime. Furthermore, crime control and prevention can better be achieved by the police in collaboration with the society. Therefore, members of the society have to learn to help the police by giving them intelligence data on criminal activity in their areas. Also, the well-to-do should offer financial assistance to the police.

Some of the problems facing Nigeria are caused by military incursion that has done damage to our democratic culture, encouraging political apathy. Therefore, societal members must develop interest in the democratic practices in Nigeria by electing transparent and responsible leaders capable of making good laws for the country, i.e., leaders that can check corruption, unemployment and would give the right attention to all our criminal justice agencies.

Conclusively, the Federal Government should view the crime-problem in Nigeria as a result of a perspective based on a static and archaic criminal justice system operation. In addition, much as the police, courts, and correctional institutions are a problem, the total socio-economic and political environment operating in the country is criminogenic and inclined towards human rights violation of especially the poor and uneducated members of our society due to its foreign and capitalistic nature. This implies that a transformation and overhaul of the justice system towards social justice that emphasize on a just and egalitarian system is fundamental. Since the current social order being practiced in Nigeria from independence to date has failed Nigerians, capitalism with a conscience (welfarist system as a prelude to the evolution of a fully socialist society) should be tried in Nigeria. This will enable us achieve a society that is less criminogenic and abusive of human rights.

5.4 Contribution to Knowledge

This research study is a necessary and long overdue resource in this era of growing human rights concerns and abuses. It is a valuable contribution to knowledge and scholarship as it draws the attention of philosophers, lawyers, political scientists, anthropologists, activists, government agents, politicians and diplomats, and others eager to comprehend or shape the rights of prisoners in general and that of awaiting-trial inmates (ATIs) in particular. Whether as cause or effect (perhaps a bit of both) of this attention, there can be little doubt any longer that, as a feature of international law and politics, human rights are here to stay. This study increases the understanding of that body of human knowledge known as human rights. Needless to say, with this thesis in hand, students and policy makers, as well as observers, will be equipped with a tool for making sense of the twists and turns of human rights.

The research has contributed to the growing field of the philosophical foundations of human rights. It provided a state-of-the-art discourse on human rights (based on the various conceptual, empirical and theoretical reviews, analysis and the central problem of this study), and this addressed four main questions.

- i. If there are human rights, what are they? Are they a subset of moral rights? Are they legal rights?
- ii. What grounds or justifies human rights?
- iii. Which proposed human rights are real human rights? Should we dismiss some classes of human rights claims as morally, legally or conceptually questionable?
- iv. Are there human rights at all, or should we embrace the sceptical conclusion that there are no genuine human rights?

The research study proved conceptually and empirically that there is a diversity of positions on each question, with no prevailing philosophical view even on fundamental issues like what

a human right is. It called the attention of scholars to the fact that there is great value in this diversity: the nature, ground, contents, and existence of human rights are not matters of universally accepted, unchallenged dogma. They are, rather, subjects on which there is a range of competing well-developed positions and this, the study suggested, is a sign of the intellectual, cultural, and political fertility of the notion of human rights.

The thesis captured and reflected on the variegated nature of the meaning of human rights in contemporary scholarship and in public discussion. It brings together the divergent viewpoints of leading philosophers and social theorists who examined the foundations, meaning and impact of human rights on the world, and the dynamic inherent in the phrase's use today. The thesis proved conceptually that the term itself is a combined one: the 'human' refers to morality and ethics and to the treatment that individuals are entitled to expect from public and private powers, and 'rights' refers to their legal provenance. It stresses further that the hybridity of human rights introduces a number of paradoxes at the heart of society, which this research explored in a way that is inquisitive and critical.

The study draws the attention of scholars, educators, policy makers, students and others to the legitimate aims of human rights, as human rights do not aim to create the perfect world or represent a vision of a new, secular utopia. Contrarily, it emphasizes that the legitimate aims of human rights are, in fact, rather more modest: to eradicate forms of significant and systematic human suffering. The study popularizes a world in which all human beings enjoyed their human rights – a world devoid of arbitrary arrest, of punitive detention without charge or trial, of inhuman and degrading treatment; a world devoid of despotic rulers, of regimes which silence opposition through torture, false imprisonment, and gross intimidation; a world devoid of starvation and the millions of premature deaths which result every year from lack of access to drinking water; a world genuinely rid of genocide and forms of ethnic cleansing. This research is of the view that it would be a world very much better than the one

we currently inhabit. It believes that achieving such a world is not a task restricted to the few. It does not require occupying political office, or securing a legal career. It does not require the accumulation of specialized skills or qualifications in making the world a better place. It is not, therefore, a task for someone else to perform. Genuinely achieving a truly humane world is a challenge to us all and not just the select few.

Another fundamental contribution of this research study to knowledge and scholarship is that it has drawn attention to the fact that there are few in-depth studies on correctional institutions and prisoners in Nigeria. And these few studies have failed to enrich our knowledge and understanding of the deteriorating conditions of the correctional facilities as well as the degrading, humiliating and dehumanizing treatment experienced by prisoners under the criminal justice system in Nigeria. The few studies conducted have only concentrated on certain categories of people like women, children, the elderly and the mentally ill. Useful as this empirical data is, it says little about Awaiting Trial Inmates (ATIs) in general as attention was on women awaiting trial; this study will bridge this knowledge gap.

The research views that while freedom, prosperity, and peace have flourished in parts of the world, acute poverty, disease, and starvation continue to ravage other areas. It stresses that more than one billion people live on less than \$1 per day. Another two billion live on less than \$2. The study challenges scholars, policymakers, and human rights advocates to give greater attention to the economic and social rights so often ignored. It asks, why should the status of intense economic needs, which can be matters of life and death, be lower than that of personal liberties?

The thesis directs academic traffic to the necessity to continually scrutinize and pay attention to human rights education and content as a course so germane and worthy of professional

handling. Many see the present world as a more dangerous place for human rights and fundamental freedoms than ever before. The research is of the view that the solution to the world's problems is human rights education at all levels, for everyone, so that the world transforms from a planet of violence and hostile use of force into one characterized by a culture of human rights and peace in a rule of law society. What the world needs now is not more soldiers trained to kill or destroy in order to stop others from killing or destroying, but more humans educated in human rights, who are capable and willing to challenge governments to abide by the human rights norms that are the birthright of all human beings and were painfully birthed in the crucible of the holocaust. No justice, no peace. We should all work together for the promotion and protection of human rights by first learning them ourselves at school or online or elsewhere. And we should teach them to our children, the future of this planet. The time for war should be no more. We should promote justice and peace through increase in the knowledge of and action for human rights.

5.5 Suggested Areas for Further Research

This research study is on human rights violation of awaiting-trial inmates in five states (Lagos, Ebonyi, Katsina, Kano and Plateau) in Nigeria. In the process of conducting the research certain areas requiring further scholarly attention were identified as follows:

- i. More investigation is needed on the practicability of such other alternatives to imprisonment as community service, binding order, installmental payment of fines etc.
- ii. The possibility and workability of Bail Bond Companies to stand as sureties for people requiring bail needs inquiry. Research is also required on the pros and cons of genderizing bail.

- iii. Corruption has been identified as antithetical to the performance of police, judges and lawyers. A suitable methodology should be devised and used to plug the holes of corruption in the criminal justice system through a survey.
- iv. All police officers, judges or prosecutors that are investigating, trying or prosecuting criminal cases should not be allowed to go on leave or transfer until the cases under them are determined. The merits and demerits of this position require scientific enquiry.
- v. Illiteracy/lack of education encourages human rights violation. Thus, studies should be conducted on how best to make Nigerians cognizant of their rights and how to empower them to insist on their rights despite their lack of or poor Western education.
- vi. There is need for an inquiry on how to punish erring police and other judicial officers who cause unnecessary delays in trials due to slow investigation, court adjournment, missing case files, late or no advice from the Director of Public Prosecution (DPP), absence of lawyers and so on.
- vii. A comparative scholarly undertaking of mutually exclusive prison penal practices (e.g., China, USA and Nigeria) can help in producing a hybrid penal system amenable to the socio-economic, cultural and social underpinnings of Nigeria.
- viii. Studies on prison sub-cultural practices and values will assist in knowing the safety valves devised by awaiting-trial inmates while being incarcerated.
- ix. Research on the feasibility of forming Prison Detainees' Association (PDA) that will protect their interests is required.

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Appendices

Appendix I

Detention of Suspects Survey

(Questionnaire)

Introduction

I am a PhD student in the Department of Politics and International Relations, Lead City University, Ibadan. I am interested in Nigeria's criminal justice system with emphasis on the role of the police, judges, correctional institutions and awaiting-trial inmates. The intention is to analyze the factors motivating the problem of detention without trial.

This questionnaire is designed to address the problem with a view to finding solutions to them. Thus, your contribution in this regard is highly required. This is a purely academic exercise. Whatever you say is strictly confidential but will surely assist in policy formulation and implementation.

Identification:

Questionnaire Number	
Location Town	
L. G. A	
Name of Correction Centre	
Household Address of Suspect	
Name of Interviewer	
Date/Time of Interview	

Section A: Demographic Information (Please, Fill-in or Circle Your Answer)

No.	Questions and Filters	Coding Category	Codes	More Codes
	How old are you?			
	Marital Status	Married		

		Single Divorced Separated Widowed		
	How many children do you have?	1 1 – 3 3 – 5 5 + None Not Applicable		
	Who takes care of the children in your absence?	My Wife My Parents My Brothers My Sisters Nobody Not Applicable		
	Are you satisfied with the care given to the children?	Yes No Not Applicable		
	Sex	Male Female		
	What is your highest educational qualification?	Primary Level Secondary Level OND/NCE Holder University Level Never been to Formal School Quranic School		
	Where were you employed before your arrest?	Public Sector Private Sector Self Employed Unemployed		
	What is your religious belief?	Moslem Christian Traditional Religion Free-Thinker		

	What is your total income per month before your arrest?	N7,000 – N8,000 N8,001 – N9,000 N9,001 – N10,000 N10,001 – N11,000 N11,001 and above		
	What is your occupational skill?	Vulcanizer Petty Trader Bus Conductor Farming Tailoring Craft Others Specify..... Not Applicable		
	What is your location of residence before the arrest?	Urban Area Rural Area Foreigner		
	Did you ever have contact with the criminal justice system before your arrest?	Yes No		
	If yes to the above question, as what?	Suspect Victim Witness Others Specify.....		

Section B: Subject Matter Questions

Kindly recall the circumstances of your alleged offence, arrest and detention

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	Since when have you been in this correction centre?	1 Month 2-5 Months 6 Months – 11 Months 1 Year – 23 Months		
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		2 Years – 35 Months 3 Years – 47 Months 4 Years – 59 Months 5 Years and Above Not Applicable.		
	The psychological sufferings associated with your detention are	(a) Depression/unhappiness/worries (b) Sleeplessness (c) Loss of weight (d) Loss of appetite (e) Others specify..... (f) Not applicable	Yes [] Yes [] Yes [] Yes []	No [] No [] No [] No []
	The economic costs associated with your detention include.	(a) Loss of job (b) Loss of income (c) Loss of business partners (d) Neglect of farm (e) Poor harvest (f) Offering bribes to no avail (g) Relying on past savings (h) Others Specify (i) Not applicable	Yes [] Yes [] Yes [] Yes [] Yes [] Yes [] Yes []	No [] No [] No [] No [] No [] No [] No []
What are the effects of your detention to your family?				
	What offence are you being suspected of?	Stealing Burglary Auto – theft Murder Assault Rape 419 Robbery Others Specify.....		
	Have you been taken to court on this particular matter?	Yes No		
	If yes which type of	Area court/customary court		

	Court?	Magistrate court High court		
	How many times have you been taken to court on this particular case?	1 - 5 times 6 - 10 times 11 - 15 times 16 - 20 times 21 times and above I Can't remember Not Applicable		
	Why do you think your case has not been decided?	a) Lack of witnesses b) Lack of evidence c) Investigation going on d) Absence of the judge e) Absence of the lawyer f) Court adjournment g) Others specify..... h) Don't know	Yes [] Yes [] Yes [] Yes [] Yes [] Yes []	No [] No [] No [] No [] No [] No []
	How many times has your case been adjourned?	1 - 5 times 6 - 10 times 11 - 15 times 16 - 20 times 21 times and above Not Applicable		
	Do you have a lawyer?	Yes No		
	Who assigned the lawyer	The Government The Legal Aid Council Private Arrangement		
	Can you afford the cost of a lawyer?	Yes No		
	If No to question above, why were you not assigned a lawyer?	Shortage of lawyers Did not ask for one I refused to offer bribe I did not know that I am entitled to a Lawyer Not Applicable		

	Have you ever been advised about your right to remain silent before interrogation?	Yes No		
	If yes then who advised you?	The Police The Judge The Lawyer Others Specify..... Not Applicable		
	Where were you advised about your right to remain silent?	At the police station At the court In the correction centre At home Not Applicable		
	Do you know what bail is?	Yes No		
	Do you know the conditions for bail?	Yes No		
	Did you apply for bail?	Yes No Not Applicable		
	If your answer to above is yes, why were you not granted bail?	Failure to give bribe Lack of a surety Low integrity of the surety I did not know that I am entitled to it The offence is not bail able Others specify.....		
	What is your assessment of your accommodation here?	Extremely Poor Poor Fair Good		
	Are you given food?	Yes No		
	If yes, by who?	Prison officials Family members My religious sect Non-governmental		

		Organization Others specify.....		
	How many times a day are you given food?	Once a day Twice a day Thrice a day		
	How do you assess the food you are given in terms of quality?	Very Satisfactory Satisfactory Not satisfactory		
	How do you assess the food you are given in terms of quantity?	Very satisfactory Satisfactory Not satisfactory		
	Is the sanitation in the prison satisfactory?	Satisfactory Very satisfactory Not satisfactory		
	How many times have you fallen sick while awaiting trial here?	Not ever Once-Twice Thrice-Four times More than four times		
	If yes to above what was done to you?	Rushed to the hospital Attended to by prison Health Workers Purchased my own medicine Sent for my relations Nothing was done Not Applicable		
	Do you think your human rights are being violated in respect of?	a) Fair hearing b) Right to a lawyer c) Medical care d) Accommodation e) Privacy f) Visit by family members	Yes ☐ Yes ☐ Yes ☐ Yes ☐ Yes ☐ Yes ☐	No ☐ No ☐ No ☐ No ☐ No ☐ No ☐
	Is the severity of the abuse in form of?	a) Abuse/Insult b) Shouting c) Hard labour d) Denial of seeing visitor e) Denial of food	Yes ☐ Yes ☐ Yes ☐ Yes ☐ Yes ☐	No ☐ No ☐ No ☐ No ☐ No ☐

		f) Denial of bedding g) Slapping h) Severe beating i) Others Specify..... j) Not Applicable	Yes ☐ Yes ☐ Yes ☐ 	No ☐ No ☐ No ☐
	Are the following reasons associated with human rights violations (Pick as many as possible)	a) Ignorance on the part of the citizens b) Poor education in the general population c) Prolonged military rule d) Inefficient judicial system e) Corruption by judicial officials f) Others Specify.....	Yes ☐ Yes ☐ Yes ☐ Yes ☐ Yes ☐ Yes ☐	No ☐ No ☐ No ☐ No ☐ No ☐ No ☐
	What do you think should be done to reduce detention without trial? (Pick as many as possible)	a) Employ more judges b) Educate the citizens on their rights c) Give more training to judicial officers d) Cases should be quickly decided e) Official corruption should be discouraged f) Additional state counsels should be employed g) All erring judicial officials should be punished h) Encourage the activities of judicial aid council i) Absence of lawyers without valid reasons should be punished j) Unnecessary court adjournment should be checked k) Informal settlement of disputes l) Others specify.....	Yes ☐ Yes ☐ Yes ☐ Yes ☐ Yes ☐ Yes ☐ Yes ☐ Yes ☐ Yes ☐ Yes ☐ Yes ☐ Yes ☐	No ☐ No ☐ No ☐ No ☐ No ☐ No ☐ No ☐ No ☐ No ☐ No ☐ No ☐ No ☐

Thank you.

Appendix II

Correction Centre Officials' Questionnaire

Introduction

I am a PhD student in the Department of Politics and International Relations, Lead City University, Ibadan. I am interested in Nigeria's criminal justice system with emphasis on the role of the police, judges, correctional institutions and detainees awaiting trial. The intention is to analyze the factors motivating the problem of detention without trial.

This questionnaire is designed to address the above problem with a view to finding solutions to them. Thus, your contribution in this regard is highly required. This is a purely academic exercise. Whatever you say is confidential but will surely assist in policy formulation and implementation.

Identification:

Questionnaire Number	
Location Town	
L.G. A	
Name of Correction Centre	
Household Address	
Name of Interviewer	
Date/Time of Interview	

Section A: Demographic Information (Please, Fill-in or Circle Your Answer)

No.	Questions and Filters	Coding Category	Codes	More Codes
	How old are you?			
	Marital Status	Married Single Divorced Separated		

		Widowed		
	How many children do you have?	1 1 – 3 3 – 5 5 + None/ Not Applicable		
	Sex	Male Female		
	What is your highest educational qualification?	Primary Level Secondary Level OND/NCE Holder University Level Never been to formal school Quranic school		
	What is your religious belief?	Moslem Christian Traditional religion Free-thinker		

S/No.	Section B: Subject Matter Questions			
	What is your total income per month?	N7,000 – N8,000 N8,001 – N9,000 N9,001 – N10,000 N10,001 – N11,000 N11,001 and above		

1. Name of Correction Centre.....
2. State:
3. L.G. A.:
4. What is the current prison total population?
5. What is its official capacity?
6. How many of the current population are convicted inmates?

7. Why do you think you have awaiting trial inmates?
.....
8. What problems do these awaiting trial inmates pose to this correction centre?
.....
9. From your experience what are the usual offences committed by those awaiting trial?
.....
10. Do you think the general character or nature of their offences necessitate detaining them?
Yes ☐ No ☐
11. Give reasons for your answer
.....
12. To what extent do you think the rights of those awaiting trial are being violated?
Not at all ☐
To a minor extent ☐
To a large extent ☐
Give reasons for your answer
.....
13. To what extent do you think illiteracy on the part of the suspects encourage their detention without trial?
Not at all ☐
To a minor extent ☐
To a large extent ☐
14. Kindly suggest ways the problem of prolonged detention without trial can be addressed
.....
15. In general, to what extent do you think there is human rights violation in Nigeria?

Not at all []

To a minor extent []

To a large extent []

16. Do you agree that the following encourage human rights violation in Nigeria?

a. Illiteracy among the citizens

i) Agree [] ii) Disagree []

b. Prolonged military rule

i) Agree [] ii) Disagree []

c. Corrupt judicial system

i) Agree [] ii) Disagree []

d. Inadequacy of judicial officers

i) Agree [] ii) Disagree []

17. Suggest alternatives to keeping offenders in prison

.....

18. Suggest some solutions to human rights violation in Nigeria

.....

Thank you.

Appendix III

Police Officials, Lawyers and Judges / Magistrates Questionnaire

Introduction

I am a PhD student in the Department of Politics and International Relations, Lead City University, Ibadan. I am interested in Nigeria's criminal justice system with emphasis on the role of the police, judges, correctional institutions and detainees awaiting trial. The intention is to analyze the factors motivating the problem of detention without trial.

This questionnaire is designed to address the above problem with a view to finding solutions to them. Thus, your contribution in this regard is highly required. This is a purely academic exercise. Whatever you say is confidential but will surely assist in policy formulation and implementation.

Identification:

Questionnaire Number	
Location Town	
L.G. A.	
Name of Correction Centre	
Household Address	
Name of Interviewer	
Date/Time of Interview	

Section A: Demographic Information (Please, Fill-in or Circle Your Answer)

No.	Questions and Filters	Coding Category	Codes	More Codes
	How old are you?			
	Marital Status	Married Single Divorced Separated Widowed		

	How many children do you have?	1 1 – 3 3 – 5 5 + None/ Not Applicable		
	Sex	Male Female		
	What is your highest educational qualification?	Primary Level Secondary Level OND/NCE Holder University Level Never been to formal school Quranic school		
	What is your religious belief?	Moslem Christian Traditional religion Free-thinker		

No.	Questions and Filters	Coding Category	Codes	More Codes
	What is your total income per month?	N7,000 – N8,000 N8,001 – N9,000 N9,001 – N10,000 N10,001 – N11,000 N11,001 and above		

Section B: Subject Matter Questions

1. To what extent is there detention without trial in Nigeria?

-Not at all []

-To a minor extent []

-To a great extent []

2. Kindly give the reasons for your answer

.....

3. In the process of interrogation to what extent are the suspects' rights respected?

- None at all []
- To a minor extent []
- T o a large extent []

Kindly give reasons for your answer

.....

4. Are suspects usually cautioned before interrogation commences?

Yes [] No []

If yes, how?; If No, why not?

.....

5. Why are suspects refused bail?

.....

6. Why are suspects granted bail unable to use the bail?

.....

7. In any case do the suspects you come across know how to apply for bail?

Yes [] No []

8. In case suspects are kept in detention pending the determination of their cases who takes care of their feeding?

.....

9. Suggest ways of reducing prolonged detention without trial

.....

10. To what extent do you think that there is human rights violation in Nigeria?

None at all []

To a minor extent []

To a large extent []

11. Suggest ways of reducing human rights violation in Nigeria

.....

12. Court /Police Official

- a) High court Judge.....
- b) Magistrate Judge
- c) Area court Judge.....
- d) Police Officer (ASP& Higher)
- e) Police Other ranks
- f) Lawyer.....

Thank you.

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Appendix IV

Focus Group Interaction (FGI) Schedule

Introduction

The focus of this study is on criminal justice system and human rights violation with emphasis on awaiting-trial inmates. The study centres on 4 key issues:

1. The criminal justice system
2. Awaiting - trial inmates
3. Prison congestion
4. Human rights violation

The specific questions to be addressed are as follows:

- a. In your own experience, what are the major problems faced by awaiting-trial inmates/other inmates?
- b. What factors are responsible for increase in awaiting-trial inmates?
- c. Can we break these factors for detailed discussion?
- d. What promotes the human rights violation of the detainees?
- e. Are the detainees given bail? If not, why?
- f. In what way are the rights abused? What is the pattern?
- g. What problem do those awaiting trial pose to the prison system?
- h. Suggest alternatives to keeping inmates in detention
- i. What can we suggest as solutions to increase in awaiting - trial inmates?
- j. What methods should be put in place to check the violation of their rights?

General discussion will begin with a select group of Awaiting-Trial Inmates (ATI) at the five correction centres (Abakaliki, Kirikiri, Kano, Katsina, and Jos Correction Centres) for the study. The discussions will be tape recorded and later transcribed. As the discussion goes on other issues might come up and appropriate notes will be taken. Here, emphasis is on the general theme of the study keeping into consideration the above 4 key areas. The questions are to be addressed by the inmates awaiting trial as the main unit of response.

Appendix V

In-Depth Interview (IDI) Schedule

Introduction

This is an empirical study on Nigeria's criminal justice system. The focus is on inmates awaiting trial in our correctional institutions and police stations. We want to see the kinds of human rights violations they suffer from.

1. In your own experience, what are the major problems faced in your police/prison organization?
2. What are the procedures for handling awaiting - trial inmates in police station/ prison?
3. What factors are responsible for increase in awaiting - trial inmates?
4. Can we break these factors for detailed discussion?
5. Are the awaiting-trial inmates given bail? If yes why are they still in detention, if no, why not?
6. What promotes the human rights violation of the inmates?
7. In what way are their rights abused?
8. What is the severity of the abuse and what pattern does it take?
9. What problem do those awaiting trial pose to the police/ prison system?
10. Suggest alternatives to keeping inmates in detention.
11. What can we suggest as solutions to increase in awaiting - trial inmates?
12. What method should be put in place to check the violation of their rights?

Apart from the above general questions, respondents will be asked their professional views. The units of response here are the police and correction centre officials with more emphasis on other ranks because of their closeness to the awaiting-trial inmates.

Appendix VI

Observation Guide

Below are the issues in mind when observation on police and prison cells will be conducted.

1. Availability of conveniences in police cells
2. The number of conveniences in police cells
3. The conditions of the conveniences available
4. The conditions of the cells themselves in terms of space, cleanliness, ventilation, etc.
5. Availability of sleeping materials and their conditions
6. Extent of congestion in police cells
7. Availability of conveniences in prison cells
8. The number of conveniences in prison cells
9. The conditions of the conveniences available
10. The conditions of the cells themselves in terms of space, cleanliness, ventilation, etc.
11. Availability of sleeping materials and their conditions
12. Extent of congestion in prison cells.
13. Availability of prisoners' uniforms
14. Adequacy of prisoners' uniforms
15. The conditions of prisoners' uniforms
16. Availability of health facilities
17. Adequacy of health facilities
18. The conditions of the health facilities

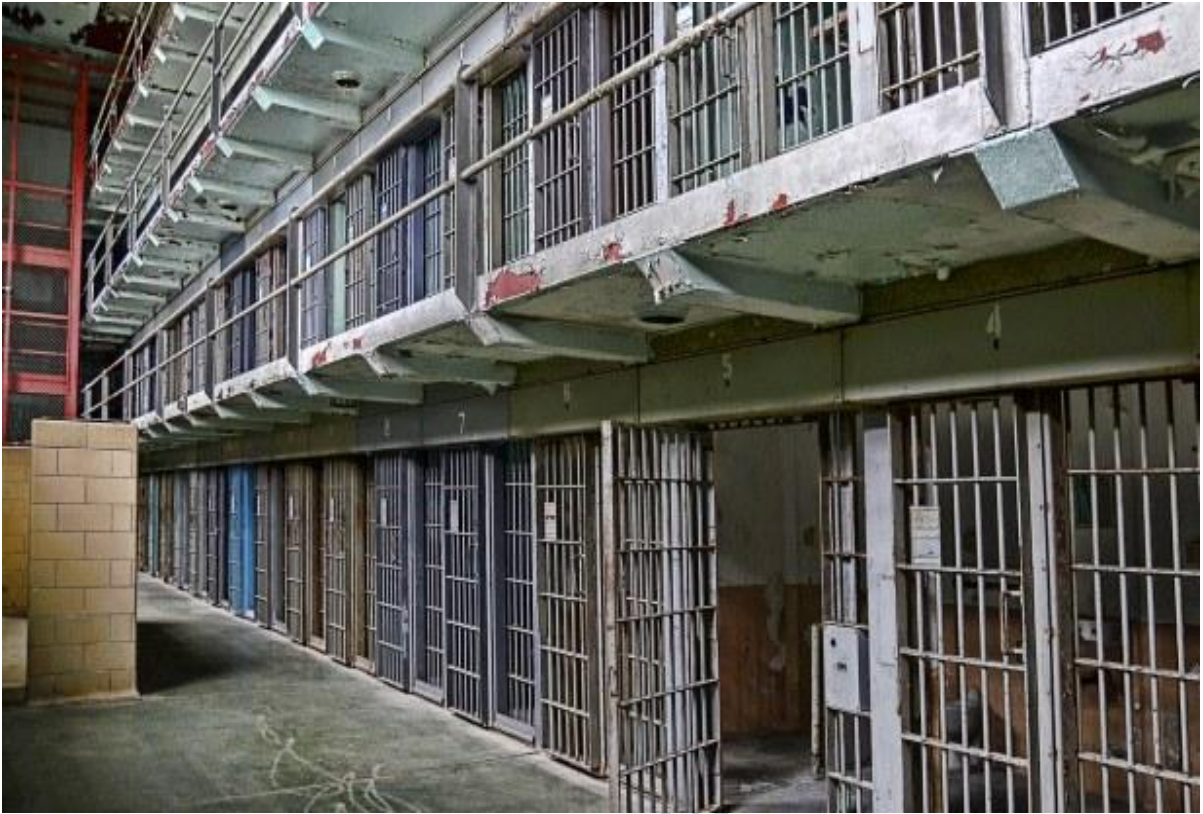
Appendix VII

Pictures from Kirikiri, Abakaliki, Jos, Kano and Katsina Correction Centres

A. Kirikiri Correction Centre













B. Abakaliki Correction Centre







C. Jos Correction Centre







D. Kano Correction Centre









E. Katsina Correction Centre







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D. Publications

- M. Bimbo Ogunbanjo and Modupe Albert, “Globalization and Human Rights”, **Journal of Al-Qadisiya in Arts and Educational Sciences**, Vol. 22, Issue 2, November 2022, Pp. 345-362. s
- M. Bimbo Ogunbanjo, “Regional Integration in Contemporary Africa”, **Iraqi Journal of Humanitarian, Social and Scientific Research**, Vol. 2, Issue 4, March 2022, Pp. 171-191.
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- M. Bimbo Ogunbanjo and Cynthia A. Walker, “The Economic Aspects of Contemporary Globalization”, **ESCAE Journal of Management and Security Studies**, Vol. 1, No. 1, April - July 2021, Pp. 99-120.
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- viii. M. Bimbo Ogunbanjo and Modupe Albert, “Globalization and Human Rights”, Paper Presented at the Third International Scientific Conference on **Humanities and Social Sciences**, Organized by the University of Al-Qadisiyah, Al-Diwaniyah, Qadisiyyah Province, Iraq, on the 18th – 19th April, 2022 (Online Presentation).



.....
Signature

.....19/11/2024.....

Date

The University Compliance Certification

This is to certify that this Doctor of Philosophy (PhD) Thesis by Martin Abimbola Ogunbanjo, with matriculation number LCU/PG/001484 in the Department of Politics and International Relations, Faculty of Management and Social Sciences, Lead City University, Ibadan, Oyo State, Nigeria is in full compliance with the approved University format and style.

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