



A CRITICAL ANALYSIS OF THE INSTITUTIONAL FRAMEWORK PROTECTING THE RIGHT OF INMATES IN NIGERIA

ABBIYESUKU, Tamunoemi A. *

ABSTRACT

Inmates while observing the sentence of a court or awaiting trial in correctional custody do not totally lose their rights as human beings and therefore enjoy certain basic rights despite being confined to a correctional Centre. This article examines the institutional frameworks protecting the rights of inmates in Nigeria. The institutional framework protecting the rights of Nigerian inmates at the African regional and international fronts was examined. The principal aim of this article is to examine the institutional frameworks protecting the Nigerian inmates' rights and make a case for reform, while the specific objective is to identify institutions saddled with the responsibility of the protecting rights of the Nigerian inmates. The doctrinal research methodology was adopted and reliance was made extensively on primary and secondary sources, through the utilization of international instruments, regional laws, and domestic laws, among others. This article finds that the institutional frameworks protecting the rights of the inmates in Nigeria are the Judiciary, Nigerian Police, National Human Rights Commission, Nigerian Correctional Service, Legal Aid Council, Administration of Justice Commission, and Administration of Criminal Justice Monitoring Committee, among others. This article finds also that at the regional and international front, the institutional frameworks protecting the rights of Nigerian inmates are the Africa Commission on Human and Peoples' Rights, Africa Court on Human and Peoples' Rights, Special Rapporteur on Prisons and Conditions of Detention in Africa, United Nations Office of the High Commissioner for Human Rights, United Nations Human Rights Council, Committee Against Torture, among others. This article discovered and concluded that the domestic institutional frameworks, particularly the National Human Commission, Nigeria Correctional Service and Legal Aid Council are inactive in the protection of the rights of Nigerian inmates. Therefore, this article recommends that the domestic institutional frameworks protecting the rights of Nigerian inmates should be more proactive in ensuring the monitoring and protection of the rights of Nigerian inmates. Also, the sections Legal Aid Act,¹ dealing with the mandate of the Legal Aid Council should be amended to create a special section of the Legal Aid Council to be specifically in charge of inmates' rights enforcement.

Keywords: Rights, Inmates, Institutional frameworks, Institutions, Inmates Rights.

1.

2. INTRODUCTION

The inmates in Nigeria are either convicted or awaiting trial persons who are legally committed to lawful custody by reason of being in conflict with the law.² The Nigeria Inmates are still humans who retain their humanity, as such they are accorded human rights, which are an inherent dignity

*LL.B (Hons), LL.M (RSU), BL (Abuja), PhD Research Candidate (RSU), Senior Lecturer, Department of Law, School of Legal and Global Studies, Port Harcourt Polytechnic, Rumuola, Port Harcourt, Rivers State, Nigeria. tamunoemi.abbiyesuku@portharcourtpoly.edu.ng, 08037632537.

¹ Legal Aid Act, 2011. Cap L9, LFN 2004. S8 and S9.

² Nigerian Correctional Service Act 2019, s 46; L O Gostin and Others (eds), *Ethical Consideration for Research Involving Prisoner* (National Academics Press 2007) 1.



of the human persons.³Consequently, by virtue of their humanity, not only are they entitled to certain rights, but they are equally entitled to seek protection and enforcement of those rights within the limits permitted by law.⁴Accordingly, subject to certain limitations by virtue of incarceration, the basic rights of Nigerian inmates are guaranteed by the Nigerian Constitution,⁵ Nigerian Correctional Service Act,⁶ Administration of Criminal Justice Act⁷, Anti-Torture Act,⁸ African Charter⁹ and other regional¹⁰ and International human rights and inmates rights protection and legal instruments.¹¹

The rights of inmates in Nigeria guaranteed under the relevant laws are protected by domestic, regional and international institutions. These institutions are the creations of legislative works saddled with the responsibility to ensure that the rights of inmates in Nigeria are protected. Accordingly, this article tends to critically analyze the institutional frameworks protecting the rights of inmates in Nigeria, both at the domestic, regional and international fronts.

³ P E Nlerum, 'Rights to Prisoners' in O Okpara, *Human Rights Law and Practice in Nigeria II* (Pulicom International Nig. Limited 2009) 217.

⁴ Y A Muhammand and Others, 'The Rights of Prisoners in Nigeria and the Role of Prisons and Modern Penology' [2017] (60) *Journal of Law, Policy and Globalization*, 71

⁵ Constitution of the Federal Republic of Nigeria 1999 (as amended), ss 15(2), 17(2)(b), 33, 18(3), 34, 36, 37, 38, 39, 42, 77(2), 117(2), 175(1), 241, 242.

⁶ NCSA (n2), ss 2, 4(2), 9(1)(b), 10,12(2)(c), 14,15(1), 17(1) 18(1)(a), 23(1), 24(1), 30(1)(3), 34(1)(2), 35

⁷ Administration of Criminal Justice Act 2015, ss 8(1), 14(2), 110, 396, 401(2)(c), 468

⁸ Anti-Torture Act 2017, ss 1,2

⁹ African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act 1983, art 2, 3, 4, 5, 7, 8, 9, 15, 16, 17

¹⁰ Ouagadougou Declaration and Plan of Action on Accelerating Prison and Penal Reform in Africa 2002; Arusha Declarations on Good Prison Practice in Africa 1999; Kampala Declaration of Prison Health in Africa 1999, Kampala Declaration of Prison Condition in Africa 1996 and Robben Island Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, inhuman or Degrading Treatment or Punishment in Africa 2002

¹¹ Charter of the United Nations 1945, ss 1, 55, 56; Universal Declaration of Human Rights 1948, art 2,3,4,5,7,8,9,10,11,12,18,19,21,23,24,25,26; International Covenant on Civil and Political Rights 1996, art 6,7,8,10,14,17(1), 18, 19, 25, 26; International Covenant on Economic, Social and Cultural Rights 1966, art 10(1), 11; Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984, art 1,216(1); United Nations Standard Minimum Rules for the Treatment of Prisoners 2015, Rule 1,11, 12(1), 18, 19, 22, 23,24,47,58,64,65,91,93,96,104,106; United Nations Basic Principles for the Treatment of P:isoners 1990; United Nations Standard Minimum Rules for Non-Custodial Measures 1990 and united Nations Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment 1988



3. INSTITUTIONAL FRAMEWORKS PROTECTING THE RIGHTS OF INMATES

The rights of Nigerian inmates are protected by various institutional frameworks both on the domestic, regional and international scene. These institutions take on the responsibility of ensuring that the rights of inmates as provided in the relevant laws are properly protected. A critical examination of these institutions shall be carried on hereunder.

1. *DOMESTIC INSTITUTIONAL FRAMEWORKS PROTECTING THE RIGHTS OF INMATES IN NIGERIA*

The rights of Nigerian inmates are protected by some domestic institutions. The national institutions protecting the rights of Nigerian inmates are the Judiciary, Nigerian Police, National Human Rights Commission, and Nigerian Correctional Service, among others. These institutions protecting the rights of inmates in Nigeria shall be examined hereunder.

1. **The Judiciary**

The judicial powers of the federation and the state are vested in the court.¹² The courts have jurisdiction to entertain matters relating to the protection of the rights of inmates.¹³ Also, the Fundamental Rights (Enforcement Procedure) Rules 2009, confers jurisdiction on the Federal High Court or State High Court or High Court of the Federal Capital Territory to entertain matters related to fundamental rights.¹⁴ Accordingly, the Preamble to the Fundamental Rights (Enforcement Procedure) Rules, empowers the courts to expansively and purposely interpret and apply, to advance and realize the rights and freedoms contained in the constitution, especially Chapter IV, as well as the African Charter and affording the protection intended by them.¹⁵ Thus, the Nigerian judiciary is a major institution saddled with the responsibility to protect the rights of Nigerian inmates.

Nigerian Police

¹² CFRN (n5) s 6(1)(2)

¹³ Ibid, 251, 272

¹⁴ Fundamental Rights (Enforcement Procedure) Rules, Order II, Rule 1

¹⁵ Ibid, preamble 3(a)



The Nigerian Police is empowered by the Nigerian Constitution¹⁶ and the Police Act¹⁷ to arrest and prosecute offenders. The Nigerian Police are thus employed for the apprehension of offenders, preservation of law and order, protection of life and property, and the due enforcement of all laws and regulations in which they are directly charged.¹⁸ The inmates in Nigeria are accordingly the first casualties which the duties of the Nigerian Police affect and the Nigeria Police is the first point of contact in the administration of the criminal justice system in Nigeria. The Nigerian police is therefore an institution in Nigeria responsible for the protection of the rights of the Nigerian inmates.

National Human Rights Commission

The National Human Rights Commission was established by the National Human Rights Act for the protection and promotion of all human rights and fundamental freedoms in Nigeria in response to Article 26 of the African Charter and the resolution of the United Nations General Assembly.¹⁹ The Commission has a Governing Council headed by a Chairman and the Council is responsible for the discharge of the functions of the commission.²⁰ The Commission serves as an extra-judicial mechanism which safeguards the human rights of Nigerians, including inmates. The functions of the commission as created in the Act includes, the dealing with all matters relating to the protection of human rights as guaranteed by the Nigerian Constitution, African Charter, Universal Declaration of Human Rights and other international treaties on human rights to which Nigeria is a signatory,²¹ monitor and investigate all alleged cases of human rights violation in Nigeria and make appropriate recommendation to the President for possible prosecution,²² assist victims of human rights violation and seek appropriate redress and remedies on their behalf,²³ undertake studies on all matters pertaining to human rights and assist the Federal Government in the

¹⁶ CFRN (n5) s 214

¹⁷ Police Act 2020, s 4

¹⁸ Police Act (n17)

¹⁹ National Human Rights Commission (Amendment) Act 2010, s 1(1)

²⁰ Ibid, s 2

²¹ Ibid, s 5(a)

²² Ibid, s 5(b)

²³ Ibid, s 5(c)



formulation of appropriate policies on the guarantee of human rights,²⁴ publish and submit, from time to time to the President, National Assembly, Judiciary, State and Local Governments, report on the state of human rights promotion and protection in Nigeria,²⁵ receive and investigate complaints concerning violation of human rights and make appropriate determination as may be deemed necessary in each circumstance,²⁶ among others.

Further, the powers of the commission as created in the Act include conducting its investigation and inquiries in such manner as it considers appropriate,²⁷ instituting any civil action on any matter it deems fit in relation to the exercise of its functions under the Act,²⁸ visiting persons, police cells and other places of detention in order to ascertain the conditions thereof and make recommendations to the appropriate authorities,²⁹ make determination as to the damages or compensation payable in relation to any violation of human rights where it deems it necessary in the circumstances of the case,³⁰ among others. Also, the Act has empowered the commission to act independently in the conduct of its affairs and the decisions of the commission on the recognition and enforcement of awards and recommendation of the commission shall be seen as a decision of the High Court.³¹ Complaints to the commission can be lodged by any person or organ for themselves or on behalf of any person or group of persons.³² The National Human Rights Commission is obviously saddled with the responsibility of protecting the inmates' rights in Nigeria.

Nigerian Correctional Service

²⁴Ibid, s 5(d)

²⁵Ibid, s 5(e)

²⁶Ibid, s 5(j)

²⁷NHRCA (n19) s 6(a)

²⁸Ibid, s 6(b)

²⁹Ibid, s 6(d)

³⁰Ibid, s 6(e)

³¹Ibid, preamble, s 22(1)

³² Standing Orders and Rules of Procedure of the National Human Rights Commission of Nigeria 2013, Rules 58, 59, 72



The Nigerian Correctional Service is established by the Nigerian Correction Services Act 2019.³³ The Nigerian Correctional Service consists of Custodial and Non-Custodial Services.³⁴ The Nigerian Correctional Service is headed by the Controller-General, with a minimum of eight Deputy Controller-Generals, one of whom is responsible for the non-custodial service and such other subordinates to the Controller-General as may be necessary for the administration of the correction service.³⁵ The appointment of the Controller-General of the Nigerian Correctional Service is made by the Nigerian President on the recommendation of the Board and subject to confirmation by the Senate.³⁶ The Controller-General of the Nigerian Correctional Service shall have the general superintendence of the correctional service; exercise and perform all powers, duties and functions necessary to give effect to Section 2 of the Nigerian Correctional Service Act, in accordance with the provisions of the Administration of Criminal Justice Act and other relevant legislation and policies, administer non-custodial measures; create a platform for interfacing with other criminal justice institutions; develop a plan at the beginning of each year stating the activities of Nigerian Correctional Service in respect of custodial services and non-custodial Services; and deploy officers and material to custodial and non-custodial institutions and centers.³⁷

Further, in line with the provisions mentioned above, the Controller-General shall superintend on inmates safety and humane custody; reformation, rehabilitation and reintegration of offenders; non-custodial institutions and centres; and any other custodial and non-custodial facility.³⁸ The Nigerian Correctional Service shall consist of National Headquarters, Zonal Offices, State Commands, Custodial and Non-Custodial Centre and Training Institutions.³⁹

The functions of the Nigerian Correctional Services shall include taking custody of a person's legally interred, providing safe, secure an humane custody for inmates; conveying remand persons to and from courts in a motorized formations; identifying the existence and causes of anti-social behavior of inmates; conducting risk and need assessment aimed at developing appropriate

³³ NCSA (n2) s 1(1)

³⁴ Ibid, s 1(2)

³⁵ Ibid, s 1(3)

³⁶ Ibid, s 3(1)

³⁷ NCSA (n2) s 4(1)

³⁸ Ibid s 4(2)

³⁹ Ibid, s 8(1)



correctional treatment method for reformation, rehabilitation and reintegration; implementing reformation and rehabilitation programmes to enhance the reintegration of inmates back to the society; initiating behavior modification in inmates through the provision of medical, psychological, spiritual and counseling services for all offenders including violent extremists; empowering inmates through the deployment of educational and vocational skills training programmes and facilitating incentives and income generation through custodial centres, farm and industries; administering borstal and related institutions; providing support to facilitate the speedy disposal of cases of persons awaiting trial and performing other functions as may be required to further the general goals of the Nigerian Correctional Service.⁴⁰ The Nigerian Correctional Service is generally responsible for the management and administration of inmates and custodial facilities in Nigeria.

Legal Aid Council

The Legal Aid Council was established by the Legal Aid Act.⁴¹ The Council is a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.⁴² The Council has the responsibility for the provision of legal aid, advice and access to justice in respect of persons entitled thereto,⁴³ including the Nigerian inmates.

The Council comprises the Governing Board made up of the Chairman and members; the Director-General of the Council; and such supporting legal and other staff engaged for the purpose of the efficient performance of the duties and obligations of the Council under or pursuant to the Act.⁴⁴ The Governing Board is comprised of a chairman, who shall be a retired judge or a legal practitioner of repute of not less than 15 years standing and other members who shall be appointed by the Nigerian President.⁴⁵ The Director-General is responsible for the provision of the secretarial and logistics duties for all meetings and other business of the council and shall be a legal

⁴⁰Ibid, ss 10, 14(1)(2)(3), 18(1) and 23(1)(4)

⁴¹Legal Aid Act 2011 s 1(1)

⁴²Ibid, s 1(2)

⁴³Ibid, s 1(3)

⁴⁴Ibid, s 1(4)

⁴⁵Ibid, s 2(1)(2)



practitioner of not less than 10 years standing.⁴⁶ The functions of the Governing Board shall include the establishment of board policies and strategic plans of the council in accordance with the provision of the Act.⁴⁷ The council has a litigation department and each of the state offices operates three legal service units namely, Criminal Defence, Civil Litigation and Community Legal Services Units.⁴⁸ The mandate of the Legal Aid Council includes the grant of legal aid, advice and access to justice which shall be provided by the council in three broad areas, namely, Criminal Defence Service; Advice and Assistance in Civil Matters including legal representation in court and Community Legal Services subject to merits and indigene test for the parties.⁴⁹ Also, the Council has the mandate to establish, maintain and develop a service known as the Criminal Defence Service for the purpose of assisting indigent persons involved in criminal investigation or proceedings specified in the second schedule to the Act, access to such advice, assistance and representation as the interest of justice requires.⁵⁰

Further, legal aid shall consist of terms provided by the Act of the assistance of a legal practitioner including all such assistance as is usually given to by a private legal practitioner in the preliminary or incidental to any proceeding; representation by a legal practitioner before any court; and such additional aid, including advice as may be prescribed.⁵¹ Also, as part of its mandate, the Council shall establish, maintain and develop a service known as Community Legal Service for the purpose of promoting individual services and in particular, for ensuring that individuals have access to services that effectively meet their needs.⁵² Legal Aid Services are usually granted to persons whose income does not exceed the national minimum wage, especially inmates, it may however be granted to persons whose income exceeds the national minimum wage in exceptional circumstances.⁵³

⁴⁶Ibid, ss 2(3),4(1)(2)

⁴⁷Ibid, s 3

⁴⁸Ibid, s 6(1)(b)(5)

⁴⁹Ibid, s 8(1)

⁵⁰Ibid, s 8(2)

⁵¹ Legal Aid Act (n1)s 8(5)

⁵²Ibid, s 8(7)

⁵³Ibid, s 9(1)(2)



Importantly, it shall be the primary mandate of the Legal Aid Council to from time to time, inspect correctional centres, Police cells and other places where suspected persons are held to assess the circumstances under which such persons are detained.⁵⁴ Also, the Legal Aid Council and lawyers designated by it shall be entitled to have access to and interview suspects detained in correctional centres, Police stations, or any other places of detention in Nigeria and such designated lawyers shall be entitled to be present during the interrogation of the suspects in accordance with the rights guaranteed to suspects under the constitution.⁵⁵

Further, the Legal Aid Council shall regularly liaise with the Judiciary, Attorney General of the Federation or of any State, Department of Public Prosecution, Inspector General of Police, Commissioner of Police, correctional authority or other agencies as may be appropriate, in order to avoid unnecessary delay in the prosecution of cases.⁵⁶ More so, the Legal Aid Council may file an application in any appropriate court for the review of the case of any person who has been held in any place of custody without trial for a period exceeding the maximum provided by the constitution.⁵⁷

Administration of Justice Commission

The Administration of Justice Commission was established by the Administration of Justice Commission Act.⁵⁸ The Administration of Justice Commission consists of the Chief Justice of Nigeria as Chairman, and the Attorney-General of the Federation, Minister of Internal Affairs, Inspector-General of Police, Director of Corrections and President of the Nigeria Bar Association as members.⁵⁹ The functions of the Administration of Justice Commission are the general supervision of the administration of justice in Nigeria.⁶⁰ Accordingly, the Administration of Justice Commission has the mandate to ensure that the court system in Nigeria is generally maintained and adequately financed; judges and officers of the court conform with the code of ethics of their

⁵⁴Ibid, s 19(1)

⁵⁵Ibid, s 19(3)

⁵⁶Ibid, s 19(4)

⁵⁷Ibid, s 19(5)

⁵⁸ Administration of Justice Commission Act 1991, s 1

⁵⁹Ibid, s 2(1)

⁶⁰Ibid, s 3(1)



office; criminal matters are speedily dealt with; congestion of cases in court is drastically reduced; congestion in the correctional centre is reduced to the barest minimum; persons awaiting trial are as far as possible, not detained in correctional custody and the relationship between the organs charged with responsibility for all aspect of the administration of justice is cordial and their exists maximum cooperation amongst the organs for effectiveness of the system of administration of justice in Nigeria.⁶¹

Further, the Administration of Justice Committee is established in each state of the federation.⁶² The Administration of Justice Committee is headed by the Chief Judge of the State as Chairman and the Attorney-General of the State; the Commissioner of Police of the State, Chairman of the State Branch of the Nigerian Bar Association and State Controller of Nigerian Correctional Service as members.⁶³ The Administration of Justice Committee is charged with the responsibility of the general supervision of all aspects of the administration of justice in the state and the effective performance of the functions of all organs charged with responsibility for the administration of Justice in the state.⁶⁴ The Administration of Criminal Justice Commission and the Administration of Criminal Justice Committee are saddled with the responsibility of the protection of the rights of inmates in Nigeria.

Administration of Criminal Justice Monitoring Committee

The Administration of Criminal Justice Monitoring Committee was established by the Administration of Criminal Justice Act.⁶⁵ The Administration of Criminal Justice Monitoring Committee is headed by the Chief Judge of the Federal Capital Territory as the Chairman, the Attorney-General of the Federation, the Inspector-General of Police, the Controller-General of the Nigerian Correctional Service and others as members.⁶⁶ The Administration of Criminal Justice Monitoring Committee is charged with the responsibility of ensuring the effective and efficient

⁶¹Ibid, s 3(2)

⁶²Ibid, s 4

⁶³Ibid, s 5(1)

⁶⁴Ibid, s 6

⁶⁵ ACJA (n7) s 469(1)

⁶⁶Ibid, s 469(2)



application of the Administration of Criminal Justice Act by the relevant agencies.⁶⁷ Accordingly, the Administration of Criminal Justice Monitoring Committee has the mandate of ensuring that criminal matters are speedily dealt with; congestion of criminal cases in court is drastically reduced; congestion of custodial centres is reduced to the barest minimum; persons awaiting trial are, as far as possible, not detained in correctional custody; the relationship between the organs charged with the responsibility for all aspects of the administration of justice is cordial and there exists maximum co-operation amongst the organs in the administration of criminal justice in Nigeria and to collate, analyze and publish information concerning the administration of criminal justice sector in Nigeria, among others.⁶⁸

Consequently, for the purpose of carrying out the functions conferred on the Administration of Criminal Justice Monitoring Committee under the Administration of Criminal Justice Act, the committee shall have the right of access to all the records of any of the organs in the Administration of Justice sector and may by notice in writing served on any person in charge of any such organs require that person to furnish information on such matters as may be specified in the notice.⁶⁹ The Administration of Criminal Justice Monitoring Committee monitors and protects Nigerian inmates' rights.

Independent National Electoral Commission

The Independent National Electoral Commission was established by the Nigerian Constitution⁷⁰ and reiterated in the Electoral Act.⁷¹ The Commission is constituted of a chairman, who shall be the Chief Electoral Commissioner and twelve other members to be known as National Electoral Commissioners.⁷² The commission has the mandate to organize, undertake and supervise all elections to the offices of the President, Vice-president, Governor, Deputy-Governor, membership of the Senate, House of Representatives and House of Assembly, and also, to arrange and conduct

⁶⁷Ibid, s 470(1)

⁶⁸Ibid, s 470(2)

⁶⁹Ibid, s 475(1)

⁷⁰ CFRN (n5) s 153(1)

⁷¹ Electoral Act 2022, s 1

⁷² CFRN (n5) Third Schedule, Part 1, Item 14(1)(a)(b)



the registration of persons qualified to vote and prepare, maintain and revise the register of voters for the purpose of any election under the constitution.⁷³ The commission also has the mandate to conduct voter and civic education and promote knowledge of sound democratic election processes.⁷⁴

The commissions' mandate to arrange and conduct the registration of persons qualified to vote for the purposes of any election in Nigeria is for all Nigerian citizens qualified to be registered, including inmates. The walls of the correctional centres in Nigeria are not barriers to carrying out this hallowed primary mandate. Obviously, the Independent National Electoral Commission has the responsibility to protect the electoral/voting rights of the inmates in Nigeria.

REGIONAL INSTITUTIONAL FRAMEWORKS PROTECTING THE RIGHTS OF INMATES IN NIGERIA

The Nigerian inmate rights are also protected by regional institutions, which are the African Commission and the Africa Court. This section shall examine these institutions and their operations in the protection of Nigerian inmates' rights. The Special Rapporteur on Prisons and Conditions of Detention in Africa shall also be x-rayed hereunder.

African Commission on Human and Peoples' Rights

The African Commission on Human and Peoples' Rights was established by the African Charter for the promotion and protection of human and people's rights in Africa.⁷⁵ The commission is made up of eleven members chosen from amongst African personalities of the highest reputation known for their high morality, integrity, impartiality and competence in matters of human and people's rights.⁷⁶ The commission is headed by a Chairman elected among the members of the

⁷³Ibid Third Schedule, Part 1, Item 15(a)(e)

⁷⁴ Electoral Act (n71) s 2(a)(b)

⁷⁵ ACHPR (n9) art 30(1)

⁷⁶Ibid, art 13(1)



commission.⁷⁷ Also, members of the commission are elected by the Assembly of Heads of State and Government from a list of persons nominated by the state parties.⁷⁸

The commission has the functions and mandates to promote human and peoples' rights and in particular to collect documents, undertake studies and research on African problems in the field of human and peoples' rights; organize seminars, symposia and conferences; disseminate information, encourage national and local Institutions concerned with human and peoples' rights, and should the case arise, give its views or make recommendations to Government.⁷⁹ The commission also has the mandate to formulate and lay down principles and rules aimed at solving legal problems relating to human and people's rights and co-operate with other African and international institutions concerned with the promotion and protection of human and people's rights.⁸⁰ Further, the commission has the mandate to ensure the protection of human and people's rights and interpret all the provisions of the African Charter.⁸¹

The commission may upon complaints of the violation of human and peoples' rights resort to any appropriate method of investigation by hearing from the Secretary-General of the African Union or any other person.⁸² State parties may lodge complaints to the Commission on the violation of any of the provisions of the African Charter affecting human and people's rights.⁸³ Accordingly, the Commission can only deal with matters submitted to it after making sure that all local remedies, if they exist, have been exhausted, unless it is obvious to the Commission that the procedure of achieving these remedies would be unduly prolonged.⁸⁴

Further, in pursuit of the mandate contained in Article 30 of the African Charter and to ensure that the rights of inmates are protected, the African Commission in 1995 adopted Resolution 19 on Prisons in Africa at its 17th Ordinary Session held on the 13th to 22nd March 1995 in Lome,

⁷⁷Ibid, art 42(1)

⁷⁸Ibid, art 33

⁷⁹ ACHPR (n9)art 45(1)(a)

⁸⁰Ibid, art 45(1)(b)(c)

⁸¹Ibid, art 45(2)(3)

⁸²Ibid, art 46

⁸³Ibid, art 47, 49

⁸⁴Ibid, art 50



Togo.⁸⁵ The Resolution stipulates that the rights established and guaranteed under the African Charter shall extend to all categories of persons including the inmates that are detainees and other persons deprived of liberty.⁸⁶

African Court on Humans and Peoples' Rights

The African Courts on Human and Peoples' Rights was established by the Protocol to the African Charter on Human and Peoples Rights in 1988.⁸⁷ The Protocol to the African Charter on Human and Peoples' Rights came into force on the 25th of January, 2004, after being ratified by 15 member states. The African Court on Human and Peoples' Rights is made for the attainment of the objectives of the Africa Commission on Humans and Peoples' Rights.⁸⁸ The African Court is properly constituted with eleven judges⁸⁹ headed by the President of the Court.⁹⁰

The jurisdiction of the African Court extends to all cases and disputes submitted to the court concerning the interpretation and application of the African Charter, the Protocol to the African Charter and any other relevant human rights instrument ratified by the states,⁹¹ and every member state, the commission, citizens of human right violation of member state and African Intergovernmental Organization.⁹² Also, the African Court may entitle relevant Non-Governmental Organizations (NGOs) with observation status before the commission, and individuals to institute cases directly before it, in accordance with Article 34(6) of the Protocol to the African Charter.⁹³ The court is empowered to apply the provision of the African Charter and any other relevant human rights instruments ratified by the states concerned,⁹⁴ and where the court

⁸⁵ African Commission on Human and Peoples Right, 'Resolution 19 on Prisons in Africa'
<<https://www.achpr.org/session/17th/resolution/19/>> accessed 20 February, 2025

⁸⁶Ibid

⁸⁷ Protocol to the African Charter on Human and Peoples' Right 1988, art 1

⁸⁸ PACHPR (n87) art 2

⁸⁹Ibid, art 11(1)

⁹⁰Ibid, art 21(1)

⁹¹Ibid, art 3

⁹²Ibid, art 5(1)(a)-(e)

⁹³Ibid, art 5(3)

⁹⁴Ibid, art 7



finds that there has been a violation of a human or people's rights, it shall make appropriate orders to remedy the violation, including the payment of fair compensation or reparation.⁹⁵

Special Rapporteur on Prisons and Conditions of Detention in Africa

The Special Rapporteur on Prisons and Conditions of Detention in Africa was created by the African Commission on Human and Peoples' Rights during its 20th Ordinary session held in Kampala in 1996, with the sole purpose of examining the conditions in correctional centres and other detention centres in Africa to ensure that they comply with African Union member States international obligations toward persons deprived of liberty.⁹⁶ The Special Rapporteur on Prisons and Conditions of Detention in Africa is appointed by the African Commission either by a consensus or vote.⁹⁷ The term of office of the Special Rapporteur was originally authorized for two years but has been renewed by the African Commission on Human and Peoples Rights several times via Resolution 244 on the Renewal of the Mandate of the Special Rapporteur on Prisons and Conditions of Detention in Africa of 5th December 2013.⁹⁸

The Special Rapporteur undertakes several duties, including providing guidance on alleged violations, proposing urgent action measures to the African Commission, analysing the State's domestic laws and their compliance with international standards, conducting visits to members' States, and studying relevant human rights conditions or situations.⁹⁹ The Special Rapporteur also provides the African Commission with guidance in responding to communications that concern the deprivation of liberty and may propose that the African Commission send an urgent appeal to a State party concerning an emergency matter in line with the Rules of Procedure.¹⁰⁰ The Special Rapporteur further has the mandate to evaluate member State laws and make recommendations

⁹⁵Ibid, art 27

⁹⁶ ACommHPR, 'Tenth Annual Activity Report of the African Commission on Human and Peoples' Rights 1996/97' <<https://www.achpr.org/doc/annual-report/1996/97>> accessed 21 February, 2025

⁹⁷ Rules of Procedure of the African Commission on Human and Peoples' Right 2010, Rule 23(2)

⁹⁸ ACommHPR, 'Resolution on the Renewal of the Mandate of the Special Rapporteur on Prisons and Condition of Detention in Africa' <<https://www.achpr.org/documents/special-rapporteur/resolution244>> accessed 22 February, 2025

⁹⁹ M S K Kaggwa, 'Report of the Special Rapporteur of Prisons and Conditions of Detention in Africa' <<https://www.achpr.org/documents/special-rapporteur...>> accessed 22 February, 2025

¹⁰⁰ RPACHPR (n87) Rule 79



encouraging the States to better align their policies with their obligations under the African Charter and other international standards, including the training of different individuals who impact correctional centres conditions, law enforcement officers, Police officers, correctional centres guards and administrators, and so on.¹⁰¹

Further, the Special Rapporteur undertakes country visits to member States with their consent examines the human rights conditions in correctional and detention centres, and makes recommendations to the State on how to improve them.¹⁰² Accordingly, after the completion of a mission or visit, the Special Rapporteur has to publish the mission report which contains general recommendations to the State, correctional officials, police, African Union, international community, civil society organizations and so on.¹⁰³ Furthermore, the Special Rapporteur is responsible for seeking and receiving information from individuals, governmental and non-governmental organizations and institutions, and other stakeholders concerning cases or situations that involve the deprivation of liberty and on the basis of information received, proposes that the Commission take a certain action or decision, or may raise awareness of an issue in his reports, press release or other activities.¹⁰⁴

Consequently, the Special Rapporteur submits Intersession Activity Reports to the African Commission each year, and the African Commission also prepares annual activity reports which it submits to the African Union, which contain information gathered from the Special Rapporteur, summarizing developments and areas of concern regard human rights in Africa.¹⁰⁵

INTERNATIONAL INSTITUTIONAL FRAMEWORKS PROTECTING THE RIGHTS OF INMATES IN NIGERIA

The rights of Nigerian inmates are protected by some international institutions on the international front. The international institutional frameworks relevant to this article protecting the rights of Nigerian inmates shall therefore be examined hereunder.

¹⁰¹ Kaggwa (n99)

¹⁰² Ibid

¹⁰³ RPACHPR (n87) Rule 60

¹⁰⁴ F Viljoen, 'The Special Rapporteur on Prisons and Conditions of Detention in Africa. Achievements and Possibilities' [2005](27) *Human Rights Quarterly Journal*, 125

¹⁰⁵ Ibid



United Nations Office of the High Commissioner for Human Rights

The United Nations Office of the High Commissioner for Human Rights was established by the United Nations General Assembly on the 20th of December 1993, in the wake of the 1993 World Conference on Human Rights by Resolution A/RES/48/141 of the United Nations.¹⁰⁶ The United Nations Office of the High Commissioner for Human Rights is a department of the Secretariat of the United Nations that works to promote and protect human rights that are guaranteed and protected under international law and stipulated in the United Nations Declaration of Humans 1948.¹⁰⁷ The office of the United Nations High Commissioner for Human Rights is headed by the High Commissioner for Human Rights with the rank of Under-Secretary-General, who coordinates human rights activities throughout the United Nations system being appointed by the Secretary-General of the United Nations.¹⁰⁸

The mandate of the office of the High Commissioner for Human Rights is derived from the provisions of Articles 1, 13 and 55 of the Charter of the United Nations, the Vienna Declaration and Programme of Action on Human Rights 1993 and the United Nations General Assembly Resolution 48/141 of 1993, through which the General Assembly established the Office of the United Nations High Commissioner for Human Rights.¹⁰⁹ Accordingly, the mandate of the Office of the High Commissioner for Human Rights includes the promotion of universal enjoyment of all human rights by giving practical effect to the will and resolve of the world community as expressed by the United Nations; play the leading role on human rights at the international and national levels; promote international cooperation for human rights; stimulate and coordinate action for human rights throughout the United Nations systems; promote universal ratification and implementation of international standards; support human rights organs and treaty monitoring bodies; respond to serious violation of human rights; undertake preventive human rights action; promote the establishment of national human rights infrastructures; undertake human rights field

¹⁰⁶ United Nations, 'UN General Assembly Resolution A/RES/48/148, para 1'
<<https://www.ohchr.org/doc./ga/res/48/148...>> accessed 30 June, 2024

¹⁰⁷Ibid

¹⁰⁸Ibid

¹⁰⁹Ibid, para 2(b)



activities and operations, provide education, information advisory services and technical assistance in the field of human rights; implementation of human rights programme within the United Nations, among others.¹¹⁰

United Nations Human Rights Council

The United Nations Human Rights Council was established by the United Nations General Assembly on the 15th of March 2006, by Resolution A/RES/60/251 of the United Nations to replace the United Nations Commission on Human Rights,¹¹¹ whose mission is to promote and protect human rights around the world.¹¹² The United Nations Human Rights Council consists of 47 members drawn from member states of the United Nations. The United Nations Human Rights Council is the main inter-governmental body within the United Nations system responsible for addressing situations of human rights violation.¹¹³

The mandate of the United Nations Human Rights Council includes the promotion of human rights education, dialogue on human rights issues, making recommendations for the development of human rights to the United Nations, promoting the full implementation of human rights, prevention of human rights violation and so on.¹¹⁴ The United Nations Human Rights Council also has the mandate to investigate allegations of breaches of human rights in United Nations member States and addresses thematic human rights issues, such as freedom of association and assembly, freedom of expression, freedom of belief and religion, women's rights, LGBT's rights and the rights of racial and ethnic minorities.¹¹⁵

Committee on Economic, Social and Cultural Rights

The Committee on Economic, Social and Cultural Rights was established by the United Nations Economic and Social Council on the 28th of May 1985, by ECOSOC Resolution 1985/17, to carry

¹¹⁰UN General Assembly Resolution (n106) para 2

¹¹¹ United Nations, 'UN General Assembly Resolution A/RES/60/251, para 1
<<https://www.ohchr.org/doc/ga/res/60/251>> accessed 24 February, 2025.

¹¹²Ibid, para 3

¹¹³Ibid, para 7

¹¹⁴Ibid, para 4

¹¹⁵Ibid, para 5



out the monitoring functions assigned to the United Nations Economic and Social Council, in Part IV of the International Covenant of Economic, Social and Cultural Rights 1966.¹¹⁶ The Committee on Economic, Social and Cultural Rights is a body consisting of 18 independent experts that monitor the implementation of the International Covenant on Economic, Social and Cultural Rights by State parties.¹¹⁷

Thus, the Committee on Economic, Social and Cultural Rights carries out its mandate by reviewing periodically the implementation of the treaty in each country that interprets specific provisions of the treaty and adjudicates on individual complaints.¹¹⁸ Accordingly, all State parties are expected to submit regular reports to the Committee on how economic, social and cultural rights are being implemented and the Committee will examine each report and address its concerns and recommendations in the form of ‘Concluding Observations’.¹¹⁹ Also, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights which was adopted on the 10th December 2008 by the United Nations General Assembly by Resolution A/RES/63/117, which came into force on 5th May 2013, gives the committee on Economic, Social and Cultural Rights the competence to receive and consider communications from individuals claiming that their right created in the International Covenant on Economic, Social and Cultural Rights has been violated.¹²⁰

Furthermore, the Committee on Economic, Social and Cultural Rights on 12th May 1999 adopted General Comment No.12 (1999) on the right to adequate food.¹²¹ Also, on 26th November 2002, the Committee adopted General Comment No.15 (2002) on the right to water.¹²² Thus, both the

¹¹⁶United Nations, ‘UN General Assembly ECOSOC Resolution 1985/17, para (a)
<<https://www.ohchr.org/doc/UNESC/res/1985/17>> accessed 30 June, 2024

¹¹⁷Ibid, para (b)

¹¹⁸Ibid

¹¹⁹Ibid

¹²⁰Ibid,para (f); Optional Protocol to the International Covenant on Economic, Social and Cultural Rights 2008, art 1.

¹²¹UN Committee on Economic, Social and Cultural Rights, ‘General Comment No.12: The Right to Adequate Food-E/c. 12/1999/5’ <<https://www.escr.net.org/doc/gc/E/c./12/1999/5>> accessed 25 February, 2025

¹²² UN Committee on Economic, Social and Cultural Rights, ‘General Comment No.15: The Right to Water-E/C 12/2002/11’ <<https://www.escr.net.org/doc/gc/E/c.12/2002/11>> accessed 25 February, 2025



right to adequate food and the right to drinking water are relevant to the condition of imprisonment and detention.

Human Rights Committee

The Human Rights Committee was established by the International Covenant on Civil and Political Rights in 1966.¹²³ The Human Rights Committee consists of eighteen members that monitor the implementation of the provision of the International Covenant on Civil and Political Rights by its State parties.¹²⁴ Consequently, the committee is composed of nationals of the state parties, who shall be persons of high moral character and recognized competence in the field of human rights.¹²⁵ Accordingly, state parties are required to submit regular reports to the Committee on how civil and political rights are being implemented in their states.¹²⁶ The Committee shall examine each report address its concerns and make recommendations to the state parties in the form of ‘Concluding Observations’.¹²⁷

Further, the First Optional Protocol to the International Covenant on Civil and Political Rights, which was adopted on the 16th December 1966 by the United Nations General Assembly by Resolution 220 A(XXI), which came into force on the 23rd March 1976, gives the Human Rights Committee competence to examine individual complaints regarding alleged violation of the covenant by State parties to the protocol.¹²⁸ Also, the Second Optional Protocol to the International Covenant on Civil and Political Rights which was adopted by the United Nations General Assembly on the 15th of December 1989 and entered into force on 11th July, 1991, abolishes the death penalty,¹²⁹ also gives the Human Rights Committee competence to receive reports on State parties relating to the abolition of the death penalty and make recommendations in the form of concluding observation.¹³⁰

¹²³ ICCPR (n11) art 28(1)

¹²⁴ Ibid

¹²⁵ Ibid art 28(2)

¹²⁶ Ibid, art 40, 41; First Optional Protocol to the International Covenant on Civil and Political Rights 1966, art 1

¹²⁷ Optional Protocol (n126) art 5

¹²⁸ Ibid, art 2

¹²⁹ Second Optional Protocol to the International Covenant on Civil and Political Rights 1989, art 1.

¹³⁰ Ibid, art 3, 4



Committee Against Torture

The Committee Against Torture was established by the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment 1984, consisting of 20 independent experts that monitor the implementation of the provision of the Convention Against Torture and other Cruel Inhuman or Degrading Treatment or Punishment by its State parties.¹³¹ Accordingly, State parties are required to submit a report to the committee on the measure undertaken for the implementation of the rights protected under the Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment in their states.¹³² The committee is empowered to examine each report, address its concerns and make recommendations to the state party in the form of ‘General Comments.’¹³³ Also, the committee is authorized to receive information from states, intergovernmental organizations, non-governmental organizations and individuals.¹³⁴

Furthermore, the Optional Protocol to the Covenant Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment which was adopted on the 18th December 2002, by the United Nations General Assembly by Resolution A/RES/57/199, which came into force on the 22nd June, 2006, created a sub-committee on the Prevention of Torture (SPT) with the mandate to visit places where persons are deprived of their liberty in the states.¹³⁵

CONCLUSION

The rights of Nigerian inmates are protected by various institutions both at the domestic, regional and international front, with the responsibility of ensuring the protection of the rights of the inmates guaranteed under the relevant Nigerian Laws¹³⁶ and other regional¹³⁷ and international human

¹³¹ CAT (n11) art 17

¹³² Ibid, art 18

¹³³ Ibid, art 19

¹³⁴ Ibid, art 20

¹³⁵ Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment 2002, art 2

¹³⁶ CFRN (n5), ss 15(2), 17(2)(b) 33, 18(3), 34, 36, 37, 38, 39, 42, 77(2), 117(2), 175(1), 241, 242. NCSA (n1), ss 2, 4(2), 9(1)(b), 10, 12(2)(c), 14, 15(1), 17(1) 18(1)(a), 23(1), 24(1), 30(1)(3), 34(1)(2), 35. ACJA (n7), ss 8(1), 14(2), 110, 396, 401(2)(c), 468. Anti-Torture Act 2017, ss 1, 2. ACHPR (n9) art 2, 3, 4, 5, 7, 8, 9, 15, 16, 17

¹³⁷ Ouagadougou Declaration; Arusha Declarations; Kampala Declarations; Robben Island Guidelines (n9)



rights instruments and inmate rights protection laws.¹³⁸ Thus, institutions, such as the Judiciary, Nigerian Police, National Human Rights Commission, Nigerian Correction Service, Legal Aid Council, and Administration of Justice Committee, among others, are saddled with the responsibility in Nigeria to ensure the protection of the rights of inmates. At the African regional scene, the African Commission on Human and Peoples' Rights and Special Rapporteur on Prisons and Detention in Africa are the institutional frameworks protecting the rights of inmates in Nigeria. Further, the United Nations Office of the High Commissioner for Human Rights, United Nations Human Rights Council, Committee on Economic, Social and Cultural Rights, Human Rights Committee and Committee Against Torture are institutional frameworks saddled with the responsibility of protecting the inmates' rights in Nigeria. Consequently, the effective use of these institutional frameworks aids effectively in protecting the rights of Nigerian inmates guaranteed under the relevant laws.

RECOMMENDATIONS

The following recommendations have been made based on the findings of this article:

1. The National Human Rights Commission, Legal Aid Council, Nigeria Correctional Service and other institutional frameworks should be more proactive in ensuring the monitoring and protection of the Nigerian inmates' rights.
2. Sections 8 and 9 of the Legal Aid Act 2011, dealing with the mandate of the Legal Aid Council should be amended to create a special section of the Legal Aid Council to be a special section of the Legal Aid Council to be specifically in charge of inmates' rights enforcement with the responsibility to provide mandatory legal aid services to all awaiting trial inmates, save in circumstances it is lawfully rejected by the inmates. This will ensure that all awaiting trial inmates have a proper legal representation in court in the defense of their cases.

¹³⁸UN Charter (n11), ss 1, 55, 56; UDHR (11), art 2,3,4,5,7,8,9,10,11,12,18,19,21,23,24,25,26; ICCPR (n11), art 6,7,8,10,14,17(1), 18, 19, 25 and 26; ICESCR (n11), art 10(1), 11; CAT (n11) art 1, 216(1); UNSMR (n11) Rule 1,11, 12(1), 18, 19, 22, 23,24,47,58,64,65,91,93,96,104,106; Basic Principles; UNSMRNM and Body of Principles (n11).



3. A commission to be called, the ‘Nigerian Correctional Service Commission’ should be set up by the Nigerian Government with sole responsibility to manage and direct the Nigerian Correctional Service, which will be removed from the Ministry of Interior.