NIGERIAN JUSTICE SYSTEM: THE IDEAL, HOPE AND REALITY

Mohammed Isah Shehu¹
Asso. Prof Dr Muhammad Fuad Bin Othman²
Email: mfuad@uum.edu.my

Dr Nazariah Binti Osman²
Email: nazariah@uum.edu.my

Abstract

Justice system and its administration in every state is the reflection of that state’s extent of civilisation, the dispensation of justice and development. Nigeria’s justice system (the Police, Courts and Prison) largely derived from the colonial/English background and orientations also reflects the Nigerian state and society. This study explored the Nigerian justice system in relation to the dispensation of justice among citizens as a panacea to peace, stability and development of the Nigerian state and societies. The administrators and operators of the Nigerian justice system are collectively and separately responsible for most of the problems facing the Nigerian justice system, while the government, on the other hand, has failed in its responsibility by neglecting the system through underfunding, negligence, excessive politics and incompetence. Indeed, the rot in the justice system is a major threat to Nigeria’s socio-societal security and stability. The study used secondary sources of data and made recommendations, which include complete overhaul of the prisons to reflect changing realities, curbing corruption in the entire justice system, strengthening the constitutional provisions and procedural enforcement of fundamental rights, extensive and adequate civic education, strengthening the works of civil societies organisations, timely and efficient dispensation of justice in the courts, ensuring full independence of the judiciary and creation of conducive atmosphere for legal aid providers among others.

Keywords: Congestion, Corruption, Judiciary, Justice System, Police, Prison

¹ General Studies Department, School of General Studies, the Federal Polytechnic Bauchi, Bauchi State – Nigeria. zababa72@yahoo.com +2348061557546/+2348025770679
² School of International Studies, Ghazalie Shafie Graduate School of Government, 06010 UUM, Sintok, Kedah Darul Aman, Universiti Utara, Malaysia.
Introduction
The role of justice in every state and society cannot be emphasized, being the first and good quality of all human and social institutions, likewise all laws, their establishments and maintenance/regulation would have to be transformed if they fail to dispense justice and it is so for every state and society that cherishes sustainable peace, order and prosperity (Rwals, 2008:3). This is the fact of all societies and in any stable society, justice is not bargained or left to the dictates of social interests. Justice system and its operation in every state and society is a reflection of its extent of civilisation, the ability to proper dispensation of justice, stability and development (Petersmann, 2003; Kymlicka, 1990; Fullinwider, 1977 & Van der Veen & Van Parijs, 1985; Kolm, 2002; Ray, 2015; Churchill, 1992; Kelly, 1994). The Nigerian justice system comprises of the Police which serves as the main law enforcement agent, the Courts, which is an institution for adjudication, arbitration and punishing offenders and Prisons, which are basically state centres established for punishment, correction and keeping in custody those being accused or convicted of various offenses. The Nigeria Police Force established by Section (214) of the 1999 Constitution of Nigeria is the most strategic public law enforcement agency but is today faced with several and complicated problems which have characteristically undermined all its institutional performance and the Nigerian justice system.

The Courts also established by Sections (6 [1-3], 230-294) of the 1999 Constitution of the Federal Republic Nigeria as the only state institution with hierarchy, jurisdictions and constitutional powers to try and convict the citizens for various offences against the public and private individuals, are also in turbulence because of problems related to abuse of office, corruption and incompetence with overall negative effects on the justice system; and the Prisons, which are established as punishment and correction centres with specified capacities of inmates to be accommodated at every particular time, and found in virtually every major town or city, have become centres of infection with diseases, stacking people, keeping away opponents and enemies, as well as a sophisticated training ground for inmates and detainees to specialise in various criminal activities such as armed robbery, drug addiction, e.t.c., partly as a result of congestion which has become an issue of grave concern to both state and civil societies all over the country in view of the impending consequences associated with it and the justice system.

Statement of the Problem
The justice system of any society, its efficiency and otherwise reflect the confidence the public has and outlays the extent to which state and authorities are able to achieve regulative capability among the citizens. Nigeria as a state is trapped in a justice system where both the common man and the state authorities do not have confidence in it. There exist a wide gap between the ideal on one hand and the real happenings on the other, especially
as regards the inadequacy of the justice system (Hope, 2017; Michael, 2016; Fischer, 2016; Onapajo & Uzodike, 2012).

The Nigeria Police Force and its operations have been largely politicized, while corruption, ethno-religious bigotry have permeated through both the rank and file and the officers’ cadre; poor working condition and operations, bribery and corruption within and outside the Force have circumvented the dispensation of duties and justice to Nigerians (Afon & Badiora, 2016); most Nigerian Prisons are congested, the inmates records poorly managed, feeding, health and other services for the inmates have collapsed, recurring cases of indiscipline, rape and drug abuse have taken over the institutional roles of the prisons (Akinnawo & Akpunne, 2016; Nnam, 2016); the courts have become business centres where people go in for services to be done as they pay for, corruption has become order of the day and no working facilities (stationeries, accommodation/offices, security), the judicial service has become politicised and bastardised by politicians, the judges are themselves confused, over-worked and uncoordinated thus contradicting one another in their actions and verdicts (Salawu, 2016). These have led to a situation where the general public and other state authorities themselves despise and have lost confidence in the justice system (see also Oduntan & Oduntan, 2017; Imam, 2016; Michael, 2016; Supreme Court of Nigeria Report, October 2016).

**Objectives of the Paper**

The objectives of this paper are to:

i. exhume the problems as well as the extent to which such problems have undermined the performance of the Nigerian justice system (the Police, Courts and the Prison).

ii. identify the general and specific effects inflicted on the Nigerian state and society.

iii. proffer short and long-term remedies towards the resuscitation of the Nigerian justice system for a just, secure, stable and prosperous state and society.

**Justification for the Paper**

For Nigeria to attain the much desired socio-economic, political development, stability and sustainability, it has to have an effective and efficient justice system, which will establish and guarantee the maintenance of laws and regulation of the state and citizens behaviours and relations. For the fact that the Nigerian justice system is faced with numerous problems, proper explorations need to made into the system, the ideal, what the citizens hope to gain from it, and the real situation. This is in order to uncover the trend, institutional roles and impediments, and make recommendations on how to achieve optimum effectiveness and efficiency of the system for the overall development of the Nigerian state and citizenry.
Literature Review

Background of Nigerian Legal System

The present Nigerian legal system originated from the British colonial legacies, though it also contains Sharia (Islamic) and Customary laws (originally from the natives) as components. However, prior to the colonial contact, conquest and independence, the various areas of what is now Nigeria had their peculiar traditional and or religious legal systems with Courts, Prisons and traditional Police. Thus, the popular Sharia/Islamic legal system (for both civil and criminal) of the Sokoto Caliphate for example, as maintained by Akinbiyi (2003:1-2 & 2000:332) with an institutionalised and professional judicial system. In fact, there existed, for example, a comprehensive justice system in Northern Nigeria long before the arrival and conquest by colonial masters as submitted by Ajayi, (1971:166). That also characterised the Igbo, Yoruba and other pre-colonial societies based on respective cultures, traditional religions and at various levels of development.

Akinbiyi (2001:69) has stated that the history of Nigerian laws is traced to 1863 when Britain introduced the British Ordinance No. 3 introduced English law into Lagos colony. From there, the laws were gradually extended to Southern and Northern parts of what later became one and united Nigeria. The present Nigerian legal and justice system is thus largely formed along the English common laws model and is characterized by tremendous English laws upon its growth and development (Obilade, 2001:4; Akinbiyi, 2003:1). The system, in part involves both civil and criminal procedures. Civil procedure is the entire process employed in civil actions to redress civil wrongs involving the methods, styles and practices used in civil actions with court rules and constitutional provisions (Akinbiyi, 2000:2). Criminal proceedings are meant and instituted to punish offenders, while civil proceedings are instituted to enable individuals to enforce their rights or receive compensation from others. Similarly, criminal offenses and proceedings are usually controlled by the states, while civil proceedings are taken up by individuals depending on circumstances and peculiarities, but sometimes with no clear distinction between the two (Obilade, 2001:5).

The Nigerian justice system like any other comprises of three main components (the Police, the Courts and Prison) and the role of the trio in the justice dispensation or otherwise to any state and society cannot be overemphasised (Bellessa, 2012: VI). A lot of literature has been written on justice system, especially because of its strategic role in portraying the extent of social-societal and legal maturity and development (Fairbairn & Fairbairn, 2016; Hyden, 2015; King & Murphy, 2014; Bright, Kohl & Jonson-Reid, 2014; Alkali, Jimeta, Magashi, & Buba, 2014). Justice system is greatly influenced by the major objective of protecting the public from various incidents and the degrees of what is perceived as a danger to the state and society (Nash, 1999:51). The Courts comprising of judges, e.t.c. are the interpreters of the laws, arbiters of disputes and have a unique role in the
protection of human rights, and in the ideal sense, they are a fundamental cornerstone of democracy and protection of human rights. As such, the courts and judges, e.t.c. have to play a unique and expected role in the administration of justice. Similarly, the judges must be experienced in law and life, objective, disciplined, uncompromising, independent and fearless, constant and impartial. In discharging their functions meritoriously, Akinbiyi (2003:133-52) noted that the court or a presiding judge has duties of controlling court proceedings, doing justice between parties, upholding the independence of the judiciary and principles of fair hearing, politeness and courtesy to all, especially the two parties and maintenance of high standards of behaviour.

Competence and hard work are the therefore, the indispensable tools for the effective performance of judicial functions. The judiciary/courts have strategic roles of guarding and enforcing the constitutional limitations on power, guardians and dispensers of justice for all as enshrined in laws and resolution of conflicts between, among individuals and between individuals and state (Nwabueze, 2007:1). The courts and their presiding officers (judges, e.t.c.) have challenges of developing and enhancing their judicial knowledge and skills, developing and up keeping personal qualities, being current with happenings and trends, especially in the judicature and then observe independence and impartiality (Salman & Ayankogbe, 2016; Luck, Chumbley & Rodriguez, 2016).

Imprisonment is one of the alternatives to punishment and according to Sanda (2007:17-20), the objectives of sending one to prison are the reformation of character, punishment (with a particular penalty) of the offender and containment of the offender (to bring to an end his/her excesses) and to deprive the individual of his/her certain rights all in order to ensure correction of the person. Berlatsky (2010:14-21) and many others have admitted that prison is the standard for anyone who commits a serious crime. He also concurred that there are four justifications for establishing prisons and imprisonment as punishment, deterrence, rehabilitation and public protection. Jewkes (2008:194-6) has noted that punitive imprisonment is rationally meant to prevent an individual from further committing offense/crime, retribution or denunciation of the act, deterrence committing such offense or crime in the future, rehabilitatiing or treating the prisoner to reduce his/her criminal tendency. He further observed that there is no universal scale of imprisonment, but rather, it is relatively determined by factors as crime rates, public opinion towards crime, penal principles in operation, population, economic factors and levels to which illicit drugs are used.

Currently, there are about 10.2 million prisoners worldwide while in Europe, Britain and Wales has the highest rate of imprisonment with about 84,372 inmates (Farley, Pike, Demiray & Tanglang, 2016). Jokes (2008: xvi; xvii & 197) has noted that about half of all the prisons in the world are in the United States with more than 2.19 million inmates and that of all penalties, imprisonment is the most expensive economically and on human right and
families. He further asserted that, contrary to the thinking of politicians and the public, there is no direct correspondence between crime rates and imprisonment, i.e. there is no direct relationship between the increase in crime rate and increase in the rate of imprisonment, while levels of imprisonment cannot be explained in terms of crime rates. He then raised questions as to cases where and why the rate of imprisonment continues to rise, while the crime rate is not falling? Do imprisoning more people reduce crime? It is worth mentioning on this note that there hardly any specific statistics or figure to reveal Nigerian prisons’ population. Regarding prisons conditions, Miller (as cited in Liebling & Maruna, 2005:1) lament that today’s prison system and arrangements are most terrible and capable of breeding the wrongs it is established for and meant to correct. The situation is typical in Nigeria as also lamented by Adeagbo, Asubiojo, Obadare & Akindojetimi, (2016) and Akinnawo & Akpunne, (2016). According to the Nigerian Prison Service statistics (as cited in Farley, Pike, Demiray & Tanglang, 2016), Nigeria has 240 prisons, which altogether comprise of about 57, 000 inmates (about 98% males and 2% females), while 69% of the total inmates are un-convicted, and the rate of imprisonment is 31 per 100, 000 persons.

The role of the Police to every justice system is first and most strategic as noted by Forst (2004:69-70), the Police who are called first to receive complaints, call for help or redress against any injustice. Inciardi (1996:177) has also acknowledges the strategic role of the Police, which he maintained is the largest and most visible part of justice process, but decries the Police (discretion), which he lamented poses a problem, especially to the community being served and in the process of discharging their functions as agents of law enforcement, prevention and detection of crime, apprehension of criminal offenders, protecting constitutional rights, promotion of civil order and resolution of domestic and community conflicts. It is admitted that Police is unique and strategic for the fact that they work round the clock with unlimited jurisdiction and substantial authority; while serving as the hope for all with the highest expectations of them (Grant & Toch, 2005:6). The Police functions in modern society are categorised into three as law enforcement, order maintenance and community service. However, because of the importance and strategy of Police to any state and society, its functions are complex as observed and identified as ‘policie dilemma’ (challenges facing the Police) such as political pressure within the police itself, problems of the community and other external elements that it is serving and domestic or interpersonal violence, which require service or response at any time from the Police (Bellessa, 2012: 64 & 84).

Nigerian Justice System

The Nigerian justice system which comprises of the Police, Courts and the Prisons established with great influence of colonial orientation is currently bedevilled by several problems as delay in police investigations, overuse of prison sentences by the courts, non-adherence to the complainant, accused and
prisoner rights, prisons congestions, and shortages of funds to the components of the system (Cooper-Knock & Owen, 2015; John & Musa, 2014; Badamasiuy & Bello, 2013). The system has over years, suffered a refuting neglect leading to near total decay of the and culminating into several other linked problems, while there is a geometric increase in the population of the country without a commensurate increase in related facilities/infrastructures and services. Like in other systems, however, errors of justice (through interpretation, procedure and or laws execution) are part of human nature, and thus very common in every justice system as noted by (Forst, 2004:69-70), who also maintained that it (errors) often begin with the Police who are called first after an alarm is raised. Likewise, sentencing is very crucial in every justice system being the stage where and when a judge determines how a convicted person is to be punished for the offence he/she is convicted of; it is thus where policy and practice clash or complement each other and where different sentences (minimum and maximum) interplay as maintained by Carlson et al. (1999:96), while the punishments are imposed in order to achieve social control, social change and also maintains order in the society (Miethe & Lu, 2005: xi). Nigeria’s criminal/civil justice system is, therefore, not up to the reality in relation to the enormity of its dynamic and institutional roles alongside the endemic problems it is facing. For example, up to this moment, issues of forensic investigations, tests and analysis are either not or poorly conducted, which are a great material for the justice system to rely on.

According to Malemi (2010:416), injustice, whether at the Police, Courts or Prison comes in various forms such as abuse of power, exclusion of the members of the Armed Forces or paramilitary, misuse of discretion, arbitrary arrest and unlawful detention, unfair denial of bail, torture, criminal punishment without fair trial, discrimination, unwarranted dismissal, misappropriation of another’s property, outright oppression and unfair or inhuman conduct. Two of the main components of the Nigerian justice system (Police and the Prisons) are directly and constitutionally controlled by the federal government under exclusive powers (Section 214 of the 1999 Constitution of Nigeria), while the third (judiciary) is partly controlled by both federal and states with various establishments (National Judicial Council) and hierarchies of courts (Federal, States, Appeal Courts, etc.) at federal and state levels with different jurisdictions and both original and appellate. But the extent to which all the trio discharge their functions is hinged on both federal and states domineering and at all the three levels of government. Therefore, in terms of success and failure, all the three levels of government are affected and also feel the effects.

The Courts

The Judiciary/Courts (of various types and hierarchies) are established by Sections (6 & 230) of the 1999 Constitution of the Federal Republic of Nigeria and vested with the powers of the dispensation of justice among citizens and governments all over the federation (Malemi, 2010:120-121). But
over time, the Nigerian Courts’ performance has been declining due to the rots from a gross abuse of power (corruption) as stated by Nwabueze (2007:335). Aboki & Ayua in Peters et al. (2009:32-48) also identified some of the misdoings in Nigerian courts as manufacturing of facts, too many questions during proceedings, open hostility to either of the parties, delay in trial, excessive speed during trial; unnecessary adjournments, refusal to take or grant applications, refusal to allow for or block attempts to reconciliation, refusal to make trial records available, instant execution of judgment to frustrate appeals; conversion of civil to criminal cases/offences, allowing a party to benefit from wrongdoing, refusal to grant an accused persons on bail, threats of committal for contempt; use of private information to make and reach court decisions. In other words, corruption has set in, which Akinbiyi (2003:203-4) describes as “the act of an official or judiciary person who unlawfully and wrongfully uses his station to procure some benefit for himself or for another person contrary to duty and the rights of others” and where a judicial officer uses his status or position in such a way as to gain an advantage or secure a benefit for others, such a judicial officer is corrupt (see also Supreme Court of Nigeria Report, October, 2016).

Similarly, the processes of compensation, restitution and restoration to victims have been deliberately embedded by corruption in our courts. There is also congestion in virtually all the courts, thereby becoming a carryover to the prisons (congestion) which are attributed to adjournments and slow hearing of the charges. According to Ajomo & Okagbue (1991:195), the courts are also an integral part of the justice system problem as they are responsible for excessive and unnecessary adjournments of cases, the inadequacy of personnel on one hand and unlawful arrests and stern conditions attached to bail processes. Most of the Courts are also over-burdened with cases, some of which are deliberately delayed, frustrated, neglected. To surface the gravity of judges predicaments in Nigeria, a recent report from the Supreme Court of Nigeria reveals that there are over 5, 000 cases pending in the apex Court and many of them which relate to politics and appeal date as far back as the year 2005 (Supreme Court Report, Abuja, 2016). To give a vivid picture of this trend, Akinbiyi, (2003:205) has admitted that corruption has crept into the Nigerian judiciary and urgent steps need to be taken as it is no longer discussed under closed doors. For example, a field research has shown that 43% of Nigerians have agreed and insisted that the Nigerian judiciary is mostly corrupt (Johnston & Shearing, 2001:44).

**The Police**

The term ‘Police’ is coined from the Greek word ‘politiea’ which means government citizenship and exercise of authority over the citizens of a state and the effective sustenance of every state and society is determined by the efficiency of its law enforcement processes of which police is the key (Stevens, 2003:3; Obasanjo & Mabogunje, 1992:27). The Police are keys in any justice system with the first assignment (arrests and prosecution of
suspects) and enforcement of laws lie with them. Policing functions form the basis and bedrock of every justice system for the fact that the police plays first and more strategic role in the whole system and the functions of the other two (Courts and Prison) substantially depend on the police and its primary functions and in terms of the dispensation of the justice itself. On both constitutional and technical grounds of administering justice, the Police possess extensive and instant powers of effecting arrests, conducting searches, granting bail, observing and enforcing rights and rational prosecutions. Good leadership and organizational structure are key to the effectiveness and efficiency of every police establishment to ensure proper guidance in operations and provide a strong mechanism for motivation and discipline in the police service. The Nigeria Police is the singular Police Force in Nigeria established by Section (214) of the 1999 Constitution of Nigeria, which also spells out its major functions as contained in Section (4) of the Police Act as: prevention and detection of crime, apprehension of law offenders, preservation of public laws and orders, enforcement of laws, protection of lives and properties and performance of other military services upon requirement. As per as the Nigerian Constitution is concerned, the appointment of the top echelon of the Police is made by the Executive President of Nigeria upon receipt of the advice of the National Police Council and confirmation by the Nigerian Senate (Sections 215 [1, 2, 3, 4, 5] of the Constitution of the Federal Republic of Nigeria, 1999).

The Nigeria Police Force like the other components of the justice system is bedeviled with multifaceted problems of incompetence, corruption within and outside it, shortage of logistics and qualified personnel, poor remuneration, excessive politicization of the force and its services, commercialization of recruitment and promotion in the force and gross abuse of fundamental human rights, and has also been hit by ethno-religious and class interest and differences. Police administrators in Nigeria have reduced and left a financial aspect of police service to clerical works, but only to hijack everything when budgetary allocations and expenditures are to be made. These have resulted in poor performance of the Nigeria Police and consequent on the justice system with negatively dramatic consequences as observed by Swanson et al. (1998:550) that poor financial allocation, administration and management on the Police results in the corruption, limiting service delivery, inadequacy of logistics, inadequate and up to date training and generally poor service delivery to the public.

For the Nigeria Police Force to meet the current realities of the Nigerian state and societies, protect their integrity, image and uphold the ideals of the Nigerian justice system, the Police, Courts and the Prison must restructure their services, evolve standard ethical competence and rise to meet up with impending challenges of the contemporary justice system and delivery. Similarly, policing the police should be given a top priority by the public so that the police itself can be patrolled and investigations on matters
carried out while any or all offenders of laws in the police itself be made to account for their actions and where appropriate, be prosecuted as opined by Gottschalk (2009:2). This is because the Police are in highly distrusted in Nigeria due to their apparent dishonesty, corrupt tendencies, partiality in their service delivery and a general reluctance to efficiency and effectiveness. A survey conducted in 2005 has revealed that 59% of the respondents in Nigeria do not trust the police at all; 71% say most police in Nigeria are corrupt (see Johnston & Shearing, 2001:44 & 76). Similarly, recent studies have also shown no improvement during the succeeding years from the above study (see also Cooper-Knock & Karekwaivanane, 2016; Eke & Tonwe, 2016; Hickman, Powell, Piquero & Greene, 2016; Hope, 2017; Agbiboa, 2015).

The general public in Nigeria thus sees the Police as an emblem of discrediting and treachery. Miller & Blacker (2005:158) have also admitted that all over the world, the problems of wrong and harmful methods used by the Police are both routine and inescapable. However, both the state and society can do much to check the unprecedented rate of Police abuse and damage to the Nigerian justice system.

But on a fairground, Nigerians themselves have misunderstood and or over-burdened the Police work as that of crime prevention, arrests of suspects, prosecution of suspects and related services but those are only a meager portion of police work in any state and society as there are key and strategic to maintenance of laws, public order and safety, regulating traffic, mediating in conflicts, bridging other social services provisions (child abuse, prostitution, abandoned children, cases of teenage and unwanted pregnancies etc.). Additionally, the public does little in terms of civic responsibilities which may aid the Police in the discharge of their functions (see Chater III of the 1999 Constitution of the Federal Republic of Nigeria). This misunderstanding and over-burdening are negatively affecting the functions and image of the Police before the Nigerian public. But all the same, the Police is also to blame for partly shaping their image negatively through misuse their powers in what Lustgarten (as cited in Miller, 2006:105) referred to as ‘decisional maneuver’ meaning a Police officer’s discretion to decide what to, arrest, charge or make choice out the options available, e.t.c.

The following have been identified as the major factors responsible for poor Police service in Nigeria and other African states: politicisation of the police and its services; ineffective and inefficient communication mechanisms; poor system of crime prevention, detection, investigation and control; corruption, none or untimely response to distress calls and services, extortion and police brutality on suspects; poor system of lodging complaints against the police conduct (Johnston & Shearing, 2001:76-77). Alemika (as cited in Johnston & Shearing, 2001:74) has lamented the nature and trend of police service (recruitment, promotion, deployment) in states like Nigeria as generally politicized, masked by ethnoreligious manipulations for the defense of specific interests. One of the major challenges facing the police work in
terms of justice administration is the issue of outdated Criminal and Penal Codes Laws which also encompass different crimes, but not categorically differentiated and therefore misleading both the police and the public as noted by Grant & Toch (2005:7) thereby making the Police work more problematic as result of masking different behaviours and crime incidents into one, for example, similar crime, but committed by different individuals under different circumstances and influences. Most of the times, manners of police and their misconducts undermine proper discharge of their duties and damages police-public relations while the more they do such, the more public perceive and judge them with skepticism (Roberts, 2003:148-149).

The capacity, facilities and Police administration are some of the most important and challenging issues in modern society given the weight and expectations from such office such as playing interpersonal (leadership, liaison, figurehead) and informal (monitoring and inspecting, dissemination and spokesman), decision-making roles and communal roles and expectations (Peak, 2004). Generally, the extent to which a society achieves a public order, justice and stability are dependent upon its ability to forego or limit its rights, commit substantial human material resources towards efficient Police service delivery and citizens’ ability to watch over the police work to ensure justice to all (Swanson, et al., 1998:1). For the justice system to function well the Nigeria police and the judiciary must establish and maintain a philosophy of being the public and the public being them with the ultimate objective of protecting public interests.

**The Prisons**

McCorkle & Korn (1954) have defined prison as an erected structure with a specified number of confined inmates and living under a specially provided state of affairs in a social environment that is uniquely dissimilar to the general and free societal life. The British colonial masters began the establishment of their justice system by building their own model of prisons and courts around 1861 in Lagos which is what the present justice system is bearing with of course structural and functional changes. With the increase in population, crime rate and development, however, the number of prisons keeps increasing. Prisons congestion (with poor records nationwide) now constitutes the prime problem with the efficiency of the Nigerian prisons as virtually all the country’s prisons are filled beyond capacity. The prisons are further devastated by shortages of medical, health and sanitary facilities, loss of the essence of the establishment (as correction centres) and instead are now places for breeding hard criminals, drug addicts, and centres for sale and consumption of hard drugs. According to Sanda (2007:9), congestion of prison rears its ugly head right from the inadequacies of the police in adhering to their statutory duties.

Many other scholars attribute prisons congestion to high increase in crime rate, which in turn are caused by a decline in religious beliefs and practices among Nigerians; fragmentation in families with cases of divorces
and abandoned children, children given birth to outside marriage leading to delinquency, drug abuse/addiction, prostitution; and excessive materialism which is manifested in many Nigerians’ desire to get rich without recourse to legal or moral means (Sanda, 2007:4-6). One other main reason for prison congestion is the failure of the courts to effectively discharge their functions, thereby leading to the detention of more suspects as the only alternative to keep them under the law as applicable to the police who most often have congested cells and also resort to the alternative of remand in prison custody. It is also worthy of note that the largest number of inmates in Nigerian prisons are those awaiting trial or under prosecution, which signifies that only a small proportion of the inmates are those convicted and sentenced for one offence or the other and for various prison terms (Akinnawo & Akpunne, 2016; Sanda, 2007:10).

Prisons in Nigeria have become a pipe for diverting public resources; the prisons have become centres of excelling in crime, hot spots for drug abuse, addiction and trade, female criminals becoming victims of rape, e.t.c., (Lawan, Amole & Shuaib, 2016; Omili, Ofili & Omuemu, 2013). While the inmates live an idle and unproductive correctional life. Because of these multitude factors, Nigerian prisons are more on producing further deviants than the corrected individuals, thus setting a negative trend (Salaam, 2013). It is not the high rate of crime alone that actually results in prisons congestion or fluctuation of the prison population, but also the efficiency and effectiveness of the judicial system. In Nigeria, although crime rates are becoming higher by the day, the justice system contributes to the high or low population in prisons as alternative preferences before the courts to (state’s interest on the suspects/criminals, fine, imprison, both or discharge/acquit a person) play a key role.

Recent experience has shown that most Nigerian prisons are now centres for excelling in both individual, corporate and sophisticated crime commissions and abuse of rights, while the state resources allocated for maintaining them has become overbearing on the public purse thus the dilapidating conditions of prisons all over the country (Olashore, Akanni & Olashore, 2017; Lawan, Amole & Shuaib, 2016; Osasona & Koleoso, 2015; Joshua, Dangata, Audu & Nmadu, 2014). A fundamental damage resulting from congestion in Nigerian prisons is a reduction of qualitative control on inmates as the numbers of personnel (prison warders) employed and meant to oversee the inmates and manage the prisons is overburdened. Internally and among the inmates, there exist a gap between ideal prison condition and reality reflecting the less reformative role, deteriorating medical, health and hygienic conditions and the possibility of an increased loose relationship among the inmates, which itself breeds more criminals both within and outside the prison environment (Cohen, Chatterjee & Minas, 2016; Armigya’u & Adole, 2015). From the fiscal/economic point of view, the costs of maintaining prisons are always rapidly increasing when compared to other
public expenditures due to the fact that the prison service is labour intensive (Finkelstein, 1993:1).

Complainant, Accused/Suspects, and their Constitutional Rights - An Overview

Human rights are natural, inherent and innate in every individual born with it and such rights are given to every person as humankind is created with rights and no individual needs anything to be able to exercise his human and fundamental rights such as those of life, dignity, personal liberty and private life, association, thought and conscience, movement and religion among others (Joshua, et al., 2014; Salaam, 2013; Malemi, 2010:113). In the Nigerian constitution and legal system, both the complainant and defendant/accused/suspect have certain fundamental rights as enshrined in the constitution which include among others: rights to obtain the services of a counsel, to rehabilitation and re-integration into the society, fair hearing during trial, call and or cross-examine witnesses brought against one, make/file an appeal when a sentence passed is unsatisfactory, early notice of the charges against one, and one should not be compelled to excessive punishment that is greater than the offense committed, should not be forced to confess or plead guilty, and should not be arrested until there are sufficient reasons to do so.

The rights of an accused person in a trial, according to Malemi (2010:293) include: pre-trial (life, human dignity, personal liberty), trial (fair hearing/natural justice) and post-trial (inclusive of all constitutional rights), especially where the person (convict) is appealing a court’s decision. Going by the constitutional provisions, an arrested person should be informed in writing and orally in the language he/she understands why he/she is being arrested, detained or on what charges (Section 33 of the 1999 Constitution of Nigeria). According to Section (36 [c]), everyone charged with a criminal offense is automatically entitled to be given adequate time, the necessary and required facilities to prepare for defense which can be by oneself or any counsel of choice. But because of the problems which have embedded the Nigerian justice system, instead of this constitutional rights and provisions, it is economic, political status and influence/connection of complainants/suspects that determine the extent to which their rights to bail, fair hearing up to the final judgment are observed. The Police, Courts and Prison are separately and collectively responsible for both flagrant cases of abuse of human rights, corruption and prisons congestion in Nigeria. The dispensation of justice is further complicated by poor communication and road networks, especially in the rural and agrarian areas, availability of jurisdictional courts, shortage of personnel (especially the police in rural areas), and incompetence of the personnel, corruption and political interference.

The Nigerian justice system personnel employ means of intimidation, induced confessions, torture, denial of granting bail, playing the accused against one
another, distortion of information and exhibits, deliberately confusing and frustrating witnesses and leaking information to suspects etc., to manipulate cases to their advantages. In Nigeria, a suspect or an accused person is generally faced by and confronted with legal abuses, societal stigmatization and various manipulations of technicalities of law enforcement processes which often confuse the suspects and create a feeling of psychological defeat, shame and guilt. Although the various constitutions make vivid provisions on the rights of individuals, the extent to which these rights are observed is determined by the willingness and commitment of the operators of the justice system to ensure strict compliance. Every generation of people must seek to advance and extend human rights. Any country or society that respects and protects human rights will be freer, safer and more prosperous and therefore, every country and society must incorporate human rights into its legal practices and general lifestyle (Malemi, 2006:120-1).

**Nigerian Justice System and Legal Aid Services**

Legal aid is the provision of free legal services and support to persons who cannot afford to have such on their own due to poverty, illiteracy etc. According to Section (46 [4]) of the 1999 Constitution of Nigeria, Nigerian citizens are to have such legal services free of any charge so that their rights could be fully respected and preserved irrespective of whatever may be their status, especially the poor and uneducated ones and de-emphasise materialism in dispensation of justice to the citizens. This, as Malemi (2010:415) has noted, started in Nigeria with private legal practitioners gesture until the official establishment of the government’s Legal Aid Council during the Murtala / Obasanjo regime through Decree No. 56, 1976. It was a milestone towards observance and enforcement of rights, but Nigeria has one of the worst legal aid services in services because injustice, corruption, ignorance of existing laws, rights and privileges have rendered the services of both the Nigerian Legal Aid Council and those of other private and Non-Governmental organizations as well as charitable organizations insignificant. In fact, as far as the Nigerian Legal Council (established and managed by public fund) is concerned, the essence of the establishment and functions are waning over the time due to other additional problems of negligence, poor or no awareness of the council’s existence and services, geometric increase in population and Nigerian system dynamics.

**Conclusion**

The hopes of both the state and society rest squarely in the justice system to ensure peace, security and protection for all. There cannot be any peace, stability, progress and development without a sound justice system in any nation or state and ability to dispense justice squarely rests with the justice system. Any state or society that lacks an efficient justice system has potential threats to its socio-societal security and stability. The Nigerian justice system has been marred by the actions and inactions of its components through
among others in violation of rights such as deliberate and calculated dawdling trials, torture and extortion of suspects, deliberate complication in bailing process and or refusal to grant so, the incessant transfer of suspects in custody from one Police Station to another and deliberate call for external interference are the main marring factors. The rights of complainants, suspects and detainees are grossly violated despite numerous legal provisions against such; those awaiting trials are large in number and mostly fall victims of the inadequacies of the Nigerian justice system and remain in the worst conditions in comparison to those convicted and sentenced. Congestion in Nigerian prisons is attributed to the roles of all the components of the entire justice system (the Police, Courts and Prisons) - attitude to work, incompetence, shortage of personnel and poor management of and access to and records as well as corruption.

All the respective Constitutions of Nigeria have made elaborate provisions and guaranteed observance and enforcement of fundamental rights but there are turbulent problems in the observance and enforcement procedures. Something tangible has to be done immediately to save the system from total collapse and also save the image of Nigeria, restore hope in the common man and ensure a just and an orderly society. For every justice deferred, delayed or derailed by anyone through whatever means is justice denied and injustice in whatever form breeds instability. For the Justice system to be effective and efficient the Police must realise its strategic role and importance and live up to same, the judiciary must in addition to its knowledge and experience be versatile in knowing the reality of prisons conditions of feeding, accommodation, health, inmates carrying in relation to prison workers and government’s strength to maintain the prisons; with effective information flow and feedback of past sentences and resultant effects of same in relation to subsequent past sentences, judgements and commission of crime; while the prisons must strictly serve their purposes of establishment.

**Recommendations**

This article has made the following recommendations for future studies and the government in order for the Nigerian justice system to be dynamic, efficient and relevant to the Nigerian state and society:

i. A new study focused on why there is an increase in the rate of crime in Nigeria, despite the high rate of imprisonment and prison congestion and why the number of female inmates is on the increase in Nigerian prisons should be carried.

ii. There should be the immediate and proper rehabilitation of all the country prisons and detention centres to ensure the steady provision of basic infrastructures.
iii. Components of the justice system should put hands together and ensure efficiency in the works of the system, especially in the related processes of arrests, detention, bail and prosecution.

iv. Greater and extensive enlightenment should be carried out to specially sensitize citizens on the works of Civil Liberties Organizations, Legal Aid Councils and Human Rights Commissions so as to check the extent of human rights abuses at the Police custody, prisons and courts.

v. The general rehabilitation and reintegration policies and programmes of the government should be improved and popularized more to ensure optimum utilization of such by the prisoners, convicts and ex-convicts.

vi. The rulings of the judiciary should be strictly adhered to especially by governments and the police.

vii. There should be a standard and maintained population statistics of all inmates in the various Nigerian prisons in order to ensure proper planning of logistics and manpower to manage the prisons.

viii. Those who may be erroneously or deliberately made victims of crime, detention or torture should be made to enjoy substantial compensation from either the state or those who inflicted such damages on them.

ix. Courts should henceforth be located within short proximity from the police stations and posts to ensure easy and effective conveyance of the accused.

References


Fischer, J. (2016). 2016 Annual report for digital commons: The legal scholarship repository@ Golden Gate University School of Law.


